

“Some of my ancestors went on the road in the Famine but more of them have been travelling for hundreds of years - we’re not drop-outs like some people think. The Travellers have been in Ireland since St. Patrick’s time, there’s a lot of history behind them though there’s not much written down - it’s what you get from your grandfather and what he got from his grandfather.”

Nan Joyce, Traveller activist and author

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Introduction

The Irish Traveller Movement (ITM) welcomes the opportunity to respond to the First National Report by Ireland, as required under Article 9 of the United Nations International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

The Irish Traveller Movement and many other social NGOs working in the field of anti-discrimination and Racism welcomed the long delayed ratification of the Convention on the Elimination of all Forms of Racial Discrimination by Ireland in December 2000. The Convention with its broad and definitive description of racism contained in Article 1 is a seminal document in the protection of minorities from discrimination and ill treatment. The grounds under which Travellers have experienced racism within Ireland for generations plainly come within the ambit of Article 1. For this reason the Irish Traveller Movement welcomed the opportunity to address the very real and active discrimination experienced by Travellers, which the ratification of the Convention presents.

The First National Report presented by the Irish Government is in itself an almost complete audit of the measures taken by the State to show its compliance with the provisions of the Convention and as such is to be welcomed for its effort to show how the Irish State operates within the rule of law to ensure that a broad level of compliance with convention rights are experienced by Irish citizens. However, such a generic response to the Convention only sets out in a general way rights, which in theory are applicable to all.

The purpose of the convention and indeed the spirit of its provisions require the State to examine the *functioning* of its policies and provisions and guard against the State becoming a party to the continued exclusion and denial of human dignity which results from racial discrimination. It is regrettable that the first National Report from Ireland fails to perform this function and it is of further regret to the Irish Traveller Movement that Ireland has not taken the opportunity presented by the report to bring Travellers squarely within the ambit of the Convention.

The special treatment of Travellers, and subjective definition of the community as a socially disadvantaged group for political purposes within the National Report, is a clear indication that the very real discrimination experienced by Travellers is not accepted for the racial discrimination, which any objective criteria would clearly define as such. The Irish Traveller Movement regards the attachment of Appendix 1 (the specific report on the position of Travellers) by Ireland in its first National Report as indicative of the real life position of Travellers within Irish society, that of a community on the margin. The ITM reject this metaphoric and literal marginalisation of Travellers both within the National Report and within Irish society and view it as a result of the State's continued failure to seriously address the effects of racial discrimination against the Traveller community.

This shadow report will be divided into two parts, with an appendix, and will pay particular attention to Ireland's response on Travellers. In Part One the contradictions implicit in Ireland's position on the status of Travellers will be presented. Part Two will provide an article-by-article response to the State report paying particular regard to the special report on Travellers appended to the First National Report by Ireland. Appendix A is a summary of Legislative provision, which has a direct impact on Travellers measured against CERD Articles

PART ONE

Irish Traveller Movement Commentary on the Position of the Irish Government towards Travellers as an Ethnic Group

1.1 Introduction

It is in the context of the position taken by Ireland in regard to the question of Traveller ethnicity in its first State Report that the following section will present a discussion of the position of the Irish Traveller Movement (ITM) in regard to Traveller ethnicity.

ITM presents the following commentary on the position of the Irish Government having regard to the provisions of Article 1 of the Convention and the CERD committee General Recommendation VIII on self-identification of individuals as part of ethnic or racial groups. Regard will also be had to CERD General Recommendation XXVII, Discrimination against Roma. The above Article and recommendations, seem in general terms to have been disregarded by Ireland in the compilation of the State Report in relation to Travellers

The key issue of concern for ITM in relation to the report is the statement, which initially appeared in the draft National report, presented to NGOs in July 2003 that defined the Traveller community purely in terms of economic disadvantage within Irish society:

“In regard to the scope of the report it should be noted that Irish Travellers do not constitute a distinct group from the population as a whole in terms of race, colour, descent, or national or ethnic origin. However, the Government is aware that members of the Traveller Community suffer discrimination on the basis of their social origin.”

ITM views this statement as a serious attempt by the Irish government to curtail and limit the extent to which the provision of the Convention can and will be applied to the Traveller community. While the final National Report submitted to the CERD Committee had the “social origin” edited out, the ITM are concerned that this skewed analysis of the status of the Traveller community still fundamentally underlines the current Government’s policy on Travellers.

ITM regrets that Ireland did not use the occasion of the First National Report to engage in constructive dialogue with the Traveller community in regard to the question of the status of Travellers within Irish society. The ITM views this failure to engage with representatives of the Traveller community as regressive and an apparent rowing back on broader recognition given to Travellers in previous international submissions by Ireland.¹

The baldness of the statement contained in the National Report from Ireland is of concern to ITM in regard to its potential to be used as a mechanism to exclude legitimate complaints by Travellers.

¹ Ireland's National Report to The Framework Convention on National Minorities 2002

This lack of recognition has implications for Travellers across a wide range of areas and acts as a barrier to addressing the problems faced by the Traveller community. The Irish Human Rights Commission has succinctly identified the broad implications of the Governments position in its statement on the national Report:

*[...raises concerns that sufficient weight may not be given in policy making to the need to respect and promote that culture, while the lack of recognition may place obstacles in the way of Travellers accessing all the protections of CERD and other international human rights conventions. The lack of recognition may also have implications for the application to Travellers of the EU Directive of June 2000 on Equal Treatment between Persons Irrespective of Racial or Ethnic Origin (the Race Directive)].*²

The Irish Traveller Movement regards the position adopted by Ireland as a reversal and contradiction of the official policy taken by the Irish government over the last number of years. The government's denial of recognition of Travellers as an ethnic group for the purposes of the Convention emphasises the total lack of understanding of the centrality of culture and identity in addressing the issues faced by the Traveller community.

1. 2 Irish Travellers and Ethnicity

“In this Convention, the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”³

“the ways in which individuals are identified as being members of a particular racial or ethnic group or groups ... shall if no justification exists to the contrary be based upon self-identification by the individual concerned.”⁴

The Irish Government has shown scant regard for the arguments presented by Traveller representative organisations in regard to Traveller status by its insistence that:

*“The Government’s view is that Travellers do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin.”*⁵

The Governments initial insistence that the Traveller Community suffer discrimination on the basis of their social origin was a retrograde position, which attempted to present the Traveller community as an economically deprived subculture of poverty. The Government has taken this position without presenting a justification for it except to state that Traveller representative bodies have themselves presented an ethnic argument without foundation:

*“Bodies representing Travellers claim that members of the community constitute a distinct ethnic group. The exact basis for this claim is unclear”*⁶

² Travelers as minority ethnic group under CERD a discussion paper. IHRC March 2004.

³ CERD Article 1.1.

⁴ CERD General Recommendation VIII.

⁵ First Draft of National Report circulated to NGOs July, 2003

⁶ First Draft of National Report circulated to NGOs July, 2003.

In fact it is submitted that Irish Travellers are members of a cohesive ethnic group who retain many elements of their ancient language and culture that stretches back over many centuries. Travellers are a small indigenous minority documented as being part of Irish society for centuries. Travellers have a long shared history and value system, which make them a distinct group. They have their own language, customs and traditions. This argument does not come from some fanciful academic idea but from recognition of the reality of a historic and distinctive Traveller way of life and culture, based on a nomadic tradition that sets Travellers apart from the sedentary population or “settled people.”⁷

It is the opinion of ITM that the position of Irish Travellers falls squarely within the remit of Article 1 of the Convention, which clearly goes beyond the definition of racism as being based solely on colour. The recognition that racism and racially discriminatory practices can arise on grounds of “descent” and “national or ethnic origin” is clear acceptance by the Convention of the potential for “indigenous” forms of racism. Therefore, the Convention not only deals with the position and treatment of groups which are visibly distinguishable on the basis of colour, but also with national and ethnic minorities, and indigenous communities who have been victimised by persistent and entrenched discriminatory practices.

It is of concern to ITM that the denial and fudging by the current Government in regard to the ethnic status of Travellers marks a significant shift in attitude towards Travellers by the State. It is the opinion of the Irish Traveller Movement that the question of Traveller ethnicity is not one that can be decided at the whim of a Government Department or indeed by Ministers, without reference to the views or opinions of the community concerned.

It is submitted by ITM that the recognition of the status of any group in regard to whether they are, or are not, an ethnic group is not to be decided by a Government. It ought to be decided by people working in the area, through objective criteria. The objective characteristics arise from study of the minority group working out whether they are sufficiently distinct from the majority. There is a set of criteria on this point: ethnicity, linguistics, religion, and culture, very often considered central to the determination of minority identity.

1.3 Reversal Of Policy

The definition of Travellers adopted by the Government and the analysis that Travellers suffer discrimination “*on the basis of their social origin,*” is a clear attempt by the Government to categorise Travellers as a subculture of poverty within Irish society. This dictates that all policy in relation Travellers is directed to “curing” them of their “culture” and way of life. The stand adopted by the Irish Government is a return to the position, which defined the status of Travellers as an economically deprived social group. This position represents little change from the policy adopted by the Irish Government following the report of the Commission on Itinerancy in 1963. Travellers are still suffering the consequences of that policy based on the presumption that they are social dropouts and an economically deprived social group.

ITM rejects this analysis and questions the reason why the Irish Government is putting forward this view at this juncture when in recent times they have defined Travellers in terms of their cultural identity.

⁷ See supporting material.

Over the last number of years the Irish government has engaged in a more progressive acknowledgement of the position of the Traveller community in Ireland. Set-out below in general terms are areas where the government has moved further than the current blanket denial of the status of Travellers. It is worth highlighting the developments which have taken place at both domestic and international level to further emphasize the ITM's concern at the current government's attempt to define and redefine Traveller status to suit whichever international audience it is answering to.

It seems that the Irish Government is being highly political when deciding how the status of Travellers should or should not be acknowledged. The idea that a government can dictate status in such a subjective way is total anathema to the principle of minority rights. Where a government has discretion to decide what an ethnic group is, the principle and concept that universal human rights transcends the political is undermined. To what extent will a government exercise this particular discretion that will have negative effects on the groups concerned?

1.4 Domestic Level

At a domestic level, the first comprehensive policy initiative in response to the issues facing Travellers was the Task-Force on the Travelling Community published in 1995. The report contains many recommendations as to how the issues facing Travellers should be addressed. The Task-Force report for the first time spoke of the Traveller community in terms of being a community with a long shared history, with a distinct culture and traditional way of life. Following from the Task-Force report a number of positive policy initiatives recognising the distinct identity of Travellers were put in place. These included The Equal Status Act, 2000, which contains a definition of the "Traveller community" (Section 2):

" 'Traveller community' means the community of people who are commonly called Travellers and who are identified (both by themselves and others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland."

This definition of Travellers is the same as the definition used in the Northern Ireland Race Relations Order (NIRRO). This definition in the NIRRO is contained in their definition of racial groups and is based on the definition of 'ethnic group', which has evolved within the British legal system. This definition says:

"An ethnic group as an involuntary group which shares a common ancestry, culture, history, tradition, and sense of belonging or people-hood and that is a political and economic interest group. Ethnicity is a way of categorising people on the basis of self-identification and ascription by others."

Travellers are identified both by themselves and others as a separate community comprising a minority ethnic group.

All of these definitions describe Travellers as a distinct cultural group with distinct traditions, which would place Travellers firmly within the scope of Article 1.1 of the CERD Convention.

1.5 International Level

At an international level the government has accorded Travellers the status of an indigenous minority with a distinct culture and history. Under the International Covenant on Civil and Political Rights, Article 27 states:

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, or use to their own language.”

Ireland has reported on the issues facing Travellers and the progress made by the State in addressing these issues. This has been interpreted as an official recognition of Travellers as a minority ethnic group. Therefore, the Convention is applicable to all those who experience racism within Irish society because of the colour of their skin and/or their ethnic status.

In 1996, both Ireland’s Report under the Convention on the Rights of the Child and its Report under the International Covenant on Economic, Social and Cultural Rights referred to the claim that Travellers were an ethnic group.

By 2001, the Government’s First Report under the European Framework Convention for the Protection of National Minorities said:

“Their culture and way of life, of which nomadism is an important factor, distinguishes Travellers from the sedentary (settled) population. While Travellers do not constitute a distinct group from the population as a whole in terms of religion, language or race, they are, however, an indigenous minority who have been part of Irish society for centuries. The Government fully accepts the right of Travellers to their cultural identity, regardless of whether they may be described as an ethnic group or national minority.”

It follows from this statement that the government must have envisaged that Travellers would be entitled to protection under the European Framework Convention on National Minorities and by extension Article 1.1 of the CERD and the full protection offered by it.

Recommendations

- **The Government recognise the ethnic status of Travellers within Irish Society**
- **The Government extends the full influence of the provisions of the CERD on the basis of Article 1**
- **The Government pays regard to General Recommendation VIII**
- **The Government pays regard to General Recommendation XXVI**

PART TWO

The Irish Traveller Movement response to the National Report Appendix 1, “Legislative, Administrative and Other Initiatives taken to Combat Discrimination Against the Traveller Community.”

2.1 Introduction

The State titles Appendix 1 “*Administrative and Other Initiatives taken to Combat Discrimination Against the Traveller Community*,” it sets out under 12 headings developments specific to Travellers which Ireland seems to attest are positive measures which contribute to its commitment to address the exclusion of the Traveller community. The Irish Traveller Movement (ITM) welcomes initiatives taken by the State that will in effect combat the discrimination against Travellers. However, the content of what is presented under Appendix 1 falls far short of addressing the reality for Travellers. The content outlined within Appendix 1 can be distilled down to three essential points

- The level of financial resources targeted at the Traveller community
- The plethora of sub-legislative policy aimed at Travellers
- A tacit acceptance that the above continues to fail to address the discrimination experienced by Travellers.

The Irish Traveller Movement regards the attachment of Appendix 1 by Ireland in its first National Report as indicative of the real life position of Travellers within Irish society, that of a community on the margin. The ITM rejects this metaphoric and literal marginalisation of Travellers both within the National Report and within Irish society and views it as a result of the State’s continued failure to seriously address the effects of racial discrimination against the Traveller community.

While the attachment of Appendix 1 is problematic, the ITM will take the opportunity to comment on Ireland’s specific report in regard to Travellers under the headings identified by the State itself in Appendix 1. This response will have regard to the provisions of Article 2.2 of the Convention, which places an express obligation on a State, party to the Convention, to take positive measures in relation to eliminating racial discrimination in all its forms. It is the opinion of the ITM that the measures outlined under Appendix 1 cannot be considered as actions, which can be relied on by Ireland as fulfilling its obligations under Article 2.

2.2 Appendix 1 Headings

The format for the response to Appendix 1 will consist of the identification of the relevant Convention Article or General Recommendations of the CERD Committee in respect of the headings outlined by the State Report, followed by the ITM response to the national report text and where appropriate the making of recommendations under each of the headings, having regard to the provisions of CERD.

In this commentary the ITM intend to respond to 9 of the 12 headings set out in the National Report’s appendix on Travellers. These headings are:

- | | | |
|---------------------------|-------------------------|---------------|
| 1. Background | 4. Accommodation | 7. Elections |
| 2. Demographic Background | 5. Employment | 8. Media |
| 3. Education | 6. Cross Cutting Issues | 9. Conclusion |

Re: 'Background'

Having considered reports from States parties concerning information about the ways in which individuals are identified as being members of a particular racial or ethnic group or groups, is of the opinion that the individual concerned shall if no justification exists to the contrary, base such identification upon self-identification.⁸

Traveller Ethnicity

It is under this heading the State sets out categorically its position in regard to the question of Traveller ethnicity. The State makes no attempt under this heading to set out a rational or logical justification for its rejection of the ethnic status of Travellers.⁹ In effect the State only questions the basis on which Traveller representative organisations make the claim in the first instance. The States' only attempt to provide supporting objective content to its rejection is a footnote reference to a sociology textbook primarily targeted at first year sociology students.¹⁰ The government does include a caveat under this heading that the government is:

“committed to applying all the protections afforded to ethnic minorities by the CERD equally to Travellers.”

ITM is genuinely perplexed by the position adopted by the State in Appendix 1. While part of the content portrays a positive acceptance of the indigenous historical and cultural legitimacy of the Traveller community, the defensive and narrow attitude presented by the rejection of ethnic status is an unjustifiable statement of a subjective political belief.

ITM supports the contention of the Irish Human Rights Commission (IHRC) that the only explicable reason for such defensiveness is an attempt by the State to exclude Travellers from the individual complaints procedure under Article 14 of the Convention and the requirement to take positive measures under Article 2.2.¹¹

Of note under this heading apart from the question of ethnicity is the only reference within the entire National report to the “Citizen Traveller Campaign” one of the only Government initiatives, which could truly be described as a measure falling under the ambit of Convention Article 2.2. The demise of the campaign, which was funded by the Government to “*support Travellers as an ethnic group,*” will be dealt with elsewhere in this shadow report.

Finally, under this heading The Irish Traveller Movement welcomes the government's acknowledgement of the fundamental lack of progress in the situation of Travellers.¹² Since the publication of the Task-Force report in 1995, further acknowledgement that the monitoring of progress in regard to Travellers has been difficult due to the failure of the State to put in place effective data collection across a plethora of State provision is a welcome sign that the State intends to put in place effective mechanisms to deal with its concerns

⁸ CERD General Recommendation VIII

⁹ General Recommendation VIII requires justification for the states position.

¹⁰ Footnote 26 Tovey and Share “A Sociology of Ireland” see also comments of Deputy Michael D Higgins Parliamentary committee 2004

¹¹ IHRC; Travellers as an Ethnic Group under the CERD. Discussion Paper March 2004 p16 paras 3 and 6

¹² First National Report page 92 Para 6.

Recommendations

- That Government give full recognition to the Ethnic status of Travellers.
- That the Government address its own concerns in relation to data collection by putting in place data collection systems which enable effective monitoring of the uptake by Travellers of state services and their participation in education and other sectors of society.

Re: 'Demographic Background'

[CERD]... invites State parties to endeavour to include in their reports under article 9 relevant information on the demographic composition of the population referred to in the provisions of article 1 of the Convention.¹³

The Committee recalls General Recommendation IV, which it adopted at its eighth session in 1973, and paragraph 8 of the general guidelines regarding the form and contents of reports to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/70/Rev.3), inviting States parties to endeavour to include in their periodic reports relevant information on the demographic composition of their population, in the light of the provisions of article 1 of the Convention, that is, as appropriate, information on race, colour, descent and national or ethnic origin.¹⁴

In the 2002 National Census the Government included a self-identification question on membership of the Traveller community. The Central Statistics Office has disseminated the figures returned by the census¹⁵. The figures released by the CSO number the Traveller community in Ireland at 23,700. While the ITM welcomed the inclusion of a question on Travellers in the census, the organisation was not surprised by the apparently low population figure for Travellers. The experience of many vulnerable and marginalised communities when left with the option of self-identification in official census forms is to leave this option blank. This has been shown to be the case in particular regard to the Roma community in many European countries where census figures in some cases are 70% less than other reliable estimates.¹⁶ The experience of Travellers as a marginalised group is no different.

¹³ CERD Article. 9

¹⁴ CERD General Recommendation XXIV Reporting of persons belonging to different races, national/ethnic groups, or indigenous peoples (Art. 1) Paragraph 4

¹⁵ CSO Bulletin 2003 http://www.cso.ie/census/vol8_index.htm

¹⁶ Slovakia, 80,627 Roma (1.52% of the citizens of Slovakia) officially declared themselves as such. According to estimates of the urban and communal offices of the state administration from 1989, however, as many as 253,943 Roma live in Slovakia, Romania The 1991 Romanian census shows there are 409,700 Roma in Romania. Roma groups and other sources estimate the actual number to be between 1.4 million and 2.5 million Roma, Czech Republic, In the 1991 census only about 33,000 persons declared themselves to be of Romani nationality in The Czech Republic. estimates of the total size of the Roma community in 1991 were around 150,000.

The figure of 23,700 returned by the census was significantly lower than the figure derived from another official source of data on the Traveller population. This information is collected by the Local Authority Assessment of Accommodation, and is collated by the Department of the Environment, Heritage and Local Government (DEHLG) on an annual basis. The figure produced by the DEHLG for 2003 indicates a Traveller population of 36,034.¹⁷ The official census figure was also substantially lower than estimates by Traveller organisations

The disparity between the two official population figures for Travellers further highlights the significant problems that arise when specifically targeted data collection is not properly carried out.

The ITM submits that the State must as a matter of urgency review the method of data collection in regard to the Traveller community. The ITM considers that while the annual count of Traveller families taken by local authorities and collated by the DEHLG is currently flawed¹⁸. It is still considered as having the potential to offer the most comprehensive method of data collection if it is modified. The infrastructure in place within Local Authorities for the collection of the Traveller count should be broader in its focus. The count is currently taken in a designated week in November by social workers employed specifically within local authorities; the State should seek to coordinate this annual count across Government Departments including Health, Education, and the Environment. In consultation with locally based Traveller organisations it is envisaged that a comprehensive survey could be designed and executed through the current infrastructure.

Recommendations

- **That the State put in place a comprehensive data collection and dissemination of information through targeted surveys among the Traveller Community**
- **The State should coordinate the annual Traveller count across Government departments including Health, Education, and the Environment. In consultation with locally based Traveller organisations**

¹⁷ Local Authority Assessment of Accommodation gathers statistics on the Number of Traveller Families in each local authority area. The DEHLG and the CSO estimate the average Traveller family size to be 5.3 multiplied by 6,799 families, which equals a Traveller population of 36034.

¹⁸ The annual count as a mechanism has been in existence since the 1970s

Re: 'Education

*General Recommendation XXVII, Discrimination against Roma
Measures in the field of education*

17. To support the inclusion in the school system of all children of Roma origin and to act to reduce drop-out rates, in particular among Roma girls, and, for these purposes, to cooperate actively with Roma parents, associations and local communities.

18. To prevent and avoid as much as possible the segregation of Roma students, while keeping open the possibility for bilingual or mother-tongue tuition; to this end, to endeavour to raise the quality of education in all schools and the level of achievement in schools by the minority community, to recruit school personnel from among members of Roma communities and to promote intercultural education.

19. To consider adopting measures in favour of Roma children, in cooperation with their parents, in the field of education.

20. To act with determination to eliminate any discrimination or racial harassment of Roma students.

21. To take the necessary measures to ensure a process of basic education for Roma children of travelling communities, including by admitting them temporarily to local schools, by temporary classes in their places of encampment, or by using new technologies for distance education.

22. To ensure that their programmes, projects and campaigns in the field of education take into account the disadvantaged situation of Roma girls and women.

23. To take urgent and sustained measures in training teachers, educators and assistants from among Roma students.

24. To act to improve dialogue and communication between the teaching personnel and Roma children, Roma communities and parents, using more often assistants chosen from among the Roma.

25. To ensure adequate forms and schemes of education for members of Roma communities beyond school age, in order to improve adult literacy among them

26. To include in textbooks, at all appropriate levels, chapters about the history and culture of Roma, and encourage and support the publication and distribution of books and other print materials as well as the broadcasting of television and radio programmes, as appropriate, about their history and culture, including in languages spoken by them.

Traveller Education

Appendix 1 of the State Report states that the Government's objective in relation to Traveller education is the "*full participation of traveller children in an intercultural education system.*" Paragraphs 10 to 19 of Appendix 1 set out measures taken by the State in regard to Traveller education. The bulk of these measures are focussed on primary education and are in themselves disappointingly focused on quantitative input in terms of financial resources on education with little emphasis on the qualitative outcome of the measures. Paragraph 18 is a stark admission by the State that no data is collected in regard to the impact measures are having on the attainment level of Travellers in education. The State accepts the view of the Visiting Teacher Service (VTS) that there is overwhelming evidence that Travellers are being left behind by the Education system.

To date, the debate and action in relation to Travellers and education continues to be centred on the numbers of Travellers participating in school. This has resulted in almost 5000 Travellers in primary school. This represents most but not all Travellers of this school going age. In recent years there has been an increase in the numbers of Travellers transferring to post primary school and at present about 1500 Travellers are enrolled, however, very few Travellers remain until the final year of the school system.¹⁹

Incredibly, there are less than 20 Travellers currently in the third level education system.

The establishment and expansion to a national level of a Visiting Teacher Service to Travellers has contributed to the increased participation of Travellers in primary schools and its continued development should be a key consideration of the State. The role played by locally based Traveller organisations has also been a significant support to the increased participation of Traveller children in education.²⁰ However, the specific projects developed at local level by Traveller organisations including homework clubs and other forms of support remain severely under resourced.

Primary Level Education

The principle form of support currently offered to Travellers in education is the employment of resource teachers in primary schools with a specified threshold of Traveller pupils. This scheme operates on the basis that where schools have at least 14 pupils of a Traveller background the school may apply to the Department of Education for funding to employ a Resource Teacher for Travellers. The financial outlay on this scheme is not quoted specifically in the State report; however, the employment of 465 additional resource teachers on an average teacher salary represents an estimated 50% of the overall €40 million budget outlined by the State report.

While the scheme to employ Resource Teachers to support Travellers in primary school is welcome, the failure of the Department of Education and Science to keep under review the qualitative outcome of the scheme is of concern to the Irish Traveller Movement.

Matters of specific concern to the Irish Traveller Movement in relation to the scheme are:

- Currently none of the 465 Resource teachers employed come from the Traveller community.
- The existence of a resource teacher within a school is used by many schools to withdraw all Travellers from mainstream classes for remedial support. In many cases

¹⁹ See "Travellers In Education Strategies for Equality," Irish Traveller Movement 2004

²⁰ See case studies in "Travellers In Education Strategies for Equality" ITM 2004 pages 19-24 included in information pack accompanying this Shadow Report

this is done without a formal assessment of the academic ability of the child and purely on the basis of the child being a Traveller.

- The withdrawal of Traveller children from mainstream classes to resource teachers takes place in many cases without consultation with parents.
- Furthermore, the withdrawal of Traveller children to Resource Teachers in many cases takes place during Irish language lessons on the assumption that Travellers have no need to learn Irish. The impact of this policy even if only informally pursued by individual schools is obvious when it is considered that further advancement through the education system and into key sectors of state employment is reliant on an understanding of the Irish language²¹.
- The existence of resource teachers in one particular school in a town may be used as an excuse by other schools in the area to direct Travellers toward that school on the basis they don't have specific expertise for "Traveller education." This indirectly results in Traveller children being concentrated in a limited number of schools in an area.
- The provision of the systematic teaching of human rights and anti-racist education is a major concern. The provision of special training for teachers in this regard is still only provided on a voluntary and limited basis. The question of early years education is presently receiving much attention in Ireland and anti-racist and intercultural education should be central to this development.

The provision of the Special Resource Teachers Scheme appears to be underpinned by a belief that Travellers per se are an educational problem and that schools must be specifically rewarded for taking on this burden. In some cases this leads to genuine efforts by schools to fulfil their obligation to Traveller education. However, there is an increasing concern that specific resources put into Traveller education is abused in many schools. The failure of the Department to collect hard data on how Travellers fare in the education system contributes to the continued flaws within the provision of education.

While an increasing number of children are participating it is impossible to know what Traveller children are achieving through participation and qualitative evaluations cannot be made of the level of equality of outcomes between Travellers and other groups.

Second Level Education

Appendix 1 deals fleetingly with Traveller participation in second level education. The current figure given for Traveller participation in second level is 1500 individuals. This figure represents a significant non-transfer rate from primary to second level. Of the estimated Traveller population of 4000 *eligible* secondary school attendees, this figure represents less than 35%. Of these the Department has no figure for the number of Traveller pupils who complete the second level cycle. The only reliable figures available to indicate the numbers who complete the second level cycle indicates the figure to be as low as 5%, which means that less than 200 Traveller children are leaving school each year with any formal qualification.²²

²¹ For example all teachers in the public education sector are required to have the Ceard Taisteas Irish language qualification

²² First report of the Monitoring Committee on the Implementation of the Task force Report on the Travelling Community 2000

The lack of appropriate transfer and retention schemes targeted specially at Travellers must be addressed. The methods suggested by the State in Appendix 1 are completely failing to address the dismal participation of Travellers in second level education. The suggestion within Appendix 1 that Traveller Training Centres meet this need is entirely unfounded as the majority of Training Centres are delivering substandard vocational skills courses and do not offer the wide range of academic subjects required to provide young Travellers with basic compulsory second level qualifications.

Third Level Education.

No reference is made to Traveller participation in third level education within Appendix 1 of the National Report. Current estimates suggest that less than 20 Travellers are engaged in third level education. Of these students the majority are attending third level institutions as mature students, this suggests that there is a minute transfer from second level education directly into third level institutions.²³

The majority of Travellers who currently hold a formal third level qualification is estimated at less than 60; moreover, most of these students have attained qualifications as mature students and primarily through involvement with local Traveller organisations that have supported these students as part of their staff development training. In light of the lack of any formal state supported schemes to secure greater Traveller participation in third level education greater recognition should be given to the role played by Traveller organisations in providing access routes into third level education for Travellers.

The Travellers in Third Level Education Trust (TITLE) established in 1999 was a private initiative set-up to provide support for Travellers to create access to third level education. Between 2000 and 2003 when the trust ceased due to lack of financial support. 15 Traveller students were grant aided by the Trust to pursue third level education.

Recommendations

- **Equality in Education policies and action plans need to be developed in full consultation with Travellers and other ethnic groups at local and national level.**
- **Schools should pilot initiatives with the Department of Education and Science and local Traveller organisations to develop tracking systems that are culturally appropriate and sensitive.**
- **The State should ensure attainment is prioritised as an integral component in the Traveller Education Strategy.**
- **The State should provide better support to allow local Traveller organisations develop initiatives to attain Traveller retention in education at all levels.**
- **The State should, where appropriate, record and document the work and success of Traveller organisations work in education.**

²³ Survey conducted to assist the production of "Moving On" Travellers in Third Level. ITM video 2004

- **The State should support and provide resources for research into access to third level education.**
- **The State should provide a statutory third level education fund to support Traveller access.**
- **Access Programmes in third level institutions should work in Traveller organisations to conduct research into access issues and supports at third level**
- **The State should commit to the immediate resourcing of Education Workers and resources to support the work of National Traveller organisations in education**

Re: ‘Accommodation’

31. To act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; to act firmly against local measures denying residence to and unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities.²⁴

32. To take the necessary measures, as appropriate, for offering Roma nomadic groups or Travellers camping places for their caravans, with all necessary facilities.

Traveller Accommodation

Appropriate accommodation is essential for a community’s survival, health and education. Hence, the provision of good quality, appropriate accommodation to members of the Traveller community including serviced halting sites, group housing schemes and transient sites, is essential for the protection of their distinct identity.

Statistics /Data

Appendix 1 of the National Report states on page 95, paragraph 27 that:

“In the period 1996 to 2001 inclusive a total of 1,098 units of accommodation were provided for Traveller families. Of these, 642 were standard local authority houses, 237 were new halting site bays (including permanent and emergency bays) and 219 were new group houses. A total of 493 units of Traveller specific accommodation were also completely refurbished to modern standards during the period (375 halting site bays and 118 group houses)”.

The figures presented by the Government do not provide a clear analysis of the reality of the situation. Particularly at issue is the figure of 237 for new Halting Site Bays of a permanent and temporary nature. It is an important distinction as temporary halting sites are in the main

²⁴General Recommendation XXVII, Discrimination against Roma

basic bays with makeshift services. While they may be listed as an expenditure item they should not be listed as part of government achievement in the provision of halting site accommodation. ITM has asked the DEHLG on many occasions to list this separately as the difference in standard between permanent and temporary bays is significant. The following chart, which is taken from DEHLG figures, sets out what was actually provided between 1996 and 2001 excluding temporary bays.

Figures of the number of Traveller families accommodated Traveller specific Accommodation between 1996 and 2001

	1996	1997	1998	1999	2000	2001	Total Increase in the Number of Families accommodated
Total Number of Families accommodated in Halting sites	1143	1134	1148	1100	1152	1192	49
Total Number of families accommodated in Group Housing	321	324	339	356	380	456	135
Total							184

Most of the progress has been made in relation to providing standard housing as the following figures illustrate:

Figures of the number of Traveller families accommodated in standard housing between 1996 and 2001

	1996	1997	1998	1999	2000	2001	Actual increase
Total Number of Families accommodated in Standard Housing	1741	1817	1900	1973	2110	2272	531

These figures highlight the lack of commitment that exists to provide accommodation for Travellers that meets their needs as a nomadic ethnic group in Irish society. The overemphasis on standard housing provision is having a detrimental effect on the Traveller community. In many areas Travellers are being encouraged to accept housing by local authorities where their first accommodation choice is a halting site.²⁵

²⁵ In 2003 Dublin City Council announced it was to abandon its programme to provide Traveller Halting sites in the capital in favour of housing: Irish Times.

As stated in the 'First Progress Report of the Committee to Monitor and Co-ordinate the Implementation of the Recommendations of the Report of the Task Force on the Travelling Community':²⁶

“the distinct culture and identity of the Traveller community is a central issue to Travellers and should receive proper recognition. It is not fully understood and accepted by officials and elected representatives at local level who are responsible for the implementation of many of the Task Force Recommendations.”

Racism towards Travellers throughout society is one of the key factors that contribute to the lack of progress in Traveller accommodation, which is reflected in the institutions charged with the delivery of Traveller accommodation. The lack of support for Travellers as an ethnic group directly contributes to the lack of provision of Traveller accommodation, which meets their specific needs.

The publication of the Review of the National Anti-Poverty Strategy further highlights the government inaction on the matter. The target for Traveller Accommodation in this document states:

“all Travellers’ families identified in the local authority five-year Traveller accommodation programme process, as being in need of accommodation will be appropriately accommodated by the end of 2004.”

This merely re-states Government policy, and has been legislation since 1998. In any case this target has not been achieved.²⁷

Statutory Framework for Traveller Accommodation

Notwithstanding the fact that there is a statutory obligation to provide Traveller accommodation, there are a number of obvious gaps in the statutory framework introduced to address the accommodation needs of Travellers. The primary deficiency with the statutory provisions is the lack of sanction on local authorities that fail to meet their statutory obligations. The reluctance of the central government to develop effective remedies to address local authorities failure to meet their targets further compounds the problem.

The lack of a centrally driven approach has proven to be a fundamental weakness in the National Traveller Accommodation Strategy. This is reflected in the fact that even though some of the Traveller Accommodation Programmes, which were adopted in 2000 are not adequate, no steps were taken by the DEHLG to rectify the situation. Likewise, progress on implementation is inadequate but nothing has been put in place to ensure local authorities fulfil their obligations. This is compounded by the fact that there are no provisions contained within the Housing (Traveller Accommodation) Act, 1998 to ensure that accommodation programmes are actually implemented.

There are three aspects of the legislation, which are of concern. First, the way in which implementation is dealt with in the Traveller Accommodation Programmes is unsatisfactory. Under section 10, a local authority is required to include measures for implementation of the programme. There is no express requirement to specify a timescale within which implementation steps are to be taken. This has contributed, in part, to a situation where the

²⁶ Government Publications 2001

²⁷ See further “Heading Cross Cutting Issues” below

programmes drawn up by local authorities are so vague as to allow the local authorities to ignore their own objectives.

Secondly, the local authority is required to take only ‘reasonable steps’ to implement the programme. The duty to implement should be put in explicit terms, given that the local authority itself has drawn up the programme and in the ordinary course of events there would appear to be no particular reason as to why it should not be in a position to implement it according to its terms. The European Commission against Racism and Intolerance Second Report on Ireland noted that:

“the fact that no sanctions are provided for in the Housing (Traveller Accommodation) Act, against authorities who do not take measures to provide accommodation for Travellers may weaken its effectiveness”

The report goes on to recommend that measures should be taken to improve implementation.

Thirdly, a practice has developed whereby elected members require the manager to revert back to them during the course of implementation of the programme. Most of the programmes do not contain specific locations for the development of halting sites; therefore, certain local authorities have a requirement that the elected members must approve each development. This in effect gives councillors a veto on Traveller accommodation provision. This practice undermines the safeguards built into the legislation. In particular Section 14, which ensures that Traveller Accommodation Programmes (TAPs) are adopted within a specified time frame. Section 14 was intended to prevent Council members from frustrating Traveller accommodation provision. It is therefore a contradiction to allow elected members to interfere constantly with the implementation of the programme. Matters of policy should be determined at the stage of adoption of the Programme.

Forced Evictions

Section 10 of the 1998 Housing (Traveller Accommodation) Act, as amended, gave increased powers to local authorities to control unauthorized encampments. It was envisaged that these powers would enable the local authority to manage its accommodation stock more effectively when all the necessary accommodation had been built. In many cases these increased powers are being used to move Travellers out of areas rather than provide the necessary accommodation. Rather than pressing ahead on providing accommodation Travellers are being moved on against their will. There has been no recognition that this movement of Travellers constitutes an eviction. This needs to be addressed at Government level.

In the year 2000, approximately 500 families nationwide were served with eviction notices without been offered alternative accommodation.²⁸ The treatment of Travellers at the hands of Local Authorities falls within the definition of Forced Evictions developed by the UN Committee on Economic, Social and Cultural Rights and states that a forced eviction can be considered to be:

*“the removal of families against their will from land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”*²⁹

In circumstances where Section 10 notices are served on Travellers, they are given only 24 hours to move and must try to get legal representation and establish their case within this period. In practice it is impossible in most cases to get legal representation for Travellers who

²⁸ ITM Survey on use of Section 10 Notices 2001

²⁹ The UN Committee on Economic, Social and Cultural Rights definition of forced evictions

are facing eviction.³⁰ The persistence of evictions of Travellers with nowhere to go is incompatible with the Irish government's international commitments such as their commitment to the International Covenant on Economic, Social and Cultural Rights.

To further compound the situation for Travellers the Government introduced the Housing (Miscellaneous Provisions) Act, 2002 to 'deal with large encampments of Travellers'.³¹ This legislation criminalises trespass on public and private land. Section 24 which amends the Criminal Justice (Public Order) Act, 1994 provides:

“a person without the consent of the owner, shall not enter or occupy any land or bring on to that land any object which might either damage the land or effect any amenity attaching to the land or prevent other people using the land.”

At the time of its introduction 1,200 families were defacto trespassing on public land due to the failure of the State to meet its accommodation commitments. The introduction of this legislation also discriminates against Travellers' nomadic way of life, as Travellers are unable to travel due to fear of committing a criminal offence, which can mean a fine of €3,000 and one months imprisonment.

The introduction of the Housing (Miscellaneous Provisions) Act, 2002 cuts the tie between evictions and accommodation provision as it is the Gardaí, Irish Police Force, who are responsible for the implementation of criminal legislation.

The above legislation was introduced in spite of the statutory obligation placed on local authorities to provide for the 'annual patterns of movement of Travellers' (Housing (Traveller Accommodation) Act, 1998), which they have also failed to do. This means that over 1,200 families camped on public land are trespassing due to no fault of their own and are subject to criminal prosecution.

Recommendations

- **That the state recognise good quality culturally appropriate accommodation as a legally binding fundamental right open to all people, Traveller and settled people. The recognition of such a right would ensure government policy attention and resources should be adequately focussed on this essential requirement for human dignity.**
- **The State should review section 10 of the Housing (Miscellaneous Provisions) Act 1992 as amended by section 32 of the Housing (Traveller Accommodation) 1998 and place moratorium on the use of this section until all appropriate accommodation has been provided**
- **The State should repeal section 24 of the Housing (Miscellaneous Provisions) Act 2002, which criminalises Traveller way of life.**

³⁰ To date there are no recorded incidences of notices served on non-Travellers.

³¹ Dáil Debates

- **The Government should introduce sanctions and incentives for local authorities to enforce the implementation of the Traveller Accommodation Programmes. This may involve cutting local authority administrative budgets for poor performance and increasing these budgets for high performance on implementation of Traveller Accommodation Programmes**
- **The State should establish a National Traveller Accommodation Agency as outlined in the Report of the Task Force on the Travelling Community 1995 to ensure a centrally driven approach which would address the current fundamental weakness in the National Traveller Accommodation Strategy**
- **All evictions involve an interference with the constitutionally protected family home, and should not happen without judicial authority.**
- **The State should immediately undertake an equality audit on all legislation, which has a disproportionate impact on the culture and way of life of the Travellers.**
- **ITM calls for legislation to be introduced that compels all local authorities or the Gardaí to get a court order before they can evict a Traveller family from an unofficial site. There may be very heavily circumscribed circumstances where there is a threat to the life, health or safety of any person, if the family does not move immediately.**
- **The National Traveller Accommodation Consultative Committee should immediately draft guidelines, setting out the circumstances in which the new legislation referred to above should be implemented.**

Re: ‘Employment’

The 2002 Census highlights the depth and extent of unemployment amongst Travellers. The unemployment rate for Travellers is in direct contrast to the overall population: for Traveller men it is 73% and for Traveller women it is 62% against rates of 9% and 8% respectively.

Discrimination in the labour market is the major contributory factor to this experience. The introduction of the equality legislation helped to make this reality visible, however, there is a marked contrast between Travellers use of the Employment Equality Act (1998) and the Equal Status Act (2000). Very few Travellers have used the EEA in comparison to the ESA. Access to the labour market though still very low has increased over the past few years and Travellers like so many people experiencing discrimination are concerned that if they challenge discrimination it will only make things worse.

The changing nature of the wider economy has had an impact on the Traveller economy - the term used to describe work Travellers initiate themselves. What the Government’s report fails to note is the impact of draconian legislation on the Traveller economy. For example, research carried out on market trading in the late 1990’s ascertained that 20% of market traders were Travellers even though Travellers are less than 1% of the population. Yet legislation brought in around this time greatly curtailed access to this type of economic activity. At the time had the relevant Government department equality and poverty proofed this legislation it would have led to the introduction of measures to limit the impact on Travellers. Recently through the EU Community Initiative EQUAL Traveller organisations in partnership with other economic sectors ran a programme focusing on the development of the Traveller economy

and the inclusion of Traveller men. On one level it was a great success and led to the engagement of Traveller men, but it also highlighted the impossibility of making real progress without mainstream commitment to culturally diverse economic development. At present such commitment is missing and it is indeed questionable if the institutional capacity is there to deliver on it anyway.

Within NAPS targets were set to reduce long-term unemployment amongst 'vulnerable groups' compared to the overall rate. This sounds wonderful but there are two problems with this target: there is no definition of 'vulnerable groups' and there is no data collected in the labour market or by the Department administering social welfare payments on these groups or indeed on equality grounds. How can you judge progress if you have no baseline data against which to measure it? The rollout of the NEAP should have provided a mechanism to collect equality data and the progress or lack of it of groups traditionally excluded from the labour market. This opportunity was not availed of and one can only assume that much of it is hidden in the box called 'not progression ready.'

It should be noted that Paragraphs 40 and 41, pages 97 and 98 respectively of the government report are describing the same event. This was an important initiative but was a once off. What are required are longer-term pro-active initiatives to create more employment in particular at the sustainable end of the labour market. The State has a leading role to play both as an employer itself and in its role in encouraging other employers to provide employment. At present the main employer of Travellers is the community sector which is very reliant on funding coming from the State much of which is short term in nature."

Re: 'Cross Cutting Issues'

Appendix 1 refers to targets set under the National Anti Poverty Strategy (NAPS) in regard to Travellers as cross cutting issues. The state report sets out boldly the targets in regard to Travellers identified in NAPS.

The ITM will comment briefly on these targets and the obvious fact that none of the targets set specifically for Travellers with the National Anti-Poverty Strategy on Travellers have been met.

Target 1

- To reduce the gap in life expectancy between the Traveller community and the whole population by at least 10% by 2007

Note: The Target is unlikely to be met given the current health circumstances of Travellers. The All Ireland Traveller Health Survey is still to be commenced.

Target 2

- To Achieve age appropriate placement of all Travellers in primary schools by 2003

Note: This target has not been met; statistics are still not available from the Department of Education and Science to show the extent of age appropriate placement.

Target 3

- To increase the transfer rate of Travellers to post primary schools to 95% by 2004

Note: This target has not been achieved and the current rate of Transfer is still less than 35% (see preceding Education heading).

Target 4

- For each third level institution to double the participation by mature disadvantaged students including Travellers and refugees (within the 15% quota)

Note: This target has not been achieved, as the Government has not put any specific resources into ensuring that Travellers participate at third level. The majority of Traveller students at third level are supported by local Traveller organisations without any specific support from the state. (See preceding paragraphs on Education).

Target 5

- All Traveller families identified within the local authority five-year accommodation programmes process as being in need of accommodation will be appropriately accommodated by the end of 2004

Note: This target has not been met, most recent figures from the Department show more than 1500 families are still in need of appropriate accommodation³².

Re: 'Elections'

“Political rights, in particular the rights to participate in elections—to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level to have equal access to public service.”³³

41. To take the necessary steps, including special measures, to secure equal opportunities for the participation of Roma minorities or groups in all central and local governmental bodies.³⁴

Political Participation of Travellers

In relation to Travellers the National Report focuses on the electoral register and indicates that there are no obstacles to Travellers registering to vote. Unfortunately for Travellers the issue goes deeper than this.

In law there is one obvious impediment to prevent Travellers who are highly nomadic from being put on the electoral registrar. Provisions of the Electoral Acts do in fact require a permanent place of address before a voter is placed on an electoral registrar. While Travellers and Traveller organisations have taken a pragmatic approach to the legal exclusion of nomadic families from the electoral system local Traveller organisations have worked with local authorities to ensure all Traveller have the opportunity to register in one permanent place whether transient or not.

The work of the ITM and other national Traveller organisations in recent years has involved encouraging Travellers to register to vote, raising awareness among Travellers of the political system, and supporting Travellers to lobby and campaign to promote various issues through the political process. This work is necessary, as in mainstream politics Travellers do not have representation in either house of the Oireachtas.

³² Annual Assessment of Traveller Accommodation Department of Environment Heritage and Local Government November 2004

³³ Article 5 of the CERD Convention

³⁴ General Recommendation XXVII, Discrimination against Roma, Measures concerning participation in public life

Travellers have played a role in the political process through active lobbying and campaigning with various members of the Oireachtas as well as with various Departments, which have responsibility for issues affecting Travellers. Given the numbers of Travellers, it is unlikely that they will create a constituency that will have direct representation in the Dáil. It is only in recent years that they have made any progress at local level where Travellers have been elected to local authorities.³⁵

There is a need for Travellers to be given a voice in society and particularly the political process. The constituencies and electoral colleges that comprise the Seanad, the upper house of Oireachtas, should be examined with a view to addressing this.

In regard to Seanad representation, the 1937 Constitution envisaged representation from various sectors of society. The idea of vocational representation within the Seanad is clear and the various interests in society are named. It was indicative of Travellers at the time, and is indicative of their situation now, that the most visible minority - perhaps not numerically - was and still is excluded from the political system. This has had an impact on their position during the past 66 years. The exclusion has impacted in the sense that they are seen as outside the political system and have no role to play within the broader society in regard to policy development.

Recommendations

- **The State makes the necessary legislative provision to allow for the representation and the inclusion of Travellers in the Seanad by right through the creation of a Traveller electoral college.**
- **The State recognises and resource the role Traveller organisations play in raising political awareness, voter education and participation initiatives.**
- **The State expand and strengthen the consultation fora created at local level in regard to Traveller accommodation provision.**

Re: 'Media'

The manner in which funding for the Citizen Traveller Campaign was cut by the Government highlighted a serious lack of commitment from the State in addressing the portrayal of Travellers in the mainstream media. The campaign, which had the overriding objective of building a greater understanding between Travellers and the settled community and to address the underlying, causes of mistrust between both communities was widely lauded, as being a unique and positive step on the part of the State to allow for a Traveller voice to be represented within mainstream media. The sudden shutdown of the campaign by the Department of Justice (which up until the production of a billboard that questioned the wisdom of the introduction of the Trespass law, had the support of the Taoiseach), without a satisfactory explanation was a move that smacked of censorship. The Department held that the campaign was not achieving enough in terms of addressing the concerns of the settled community even though this was never within the terms of reference of the campaign. Following the removal of funding the campaign in October 2002 the State's commitment to

³⁵ There are currently only two Travellers elected on to a Town Council the lowest rung of local authority administration

secure funding for further public information campaigns aimed at addressing negative attitudes towards Travellers has not been realised.

During its two and a half year existence the Citizen Traveller Campaign undertook a media-monitoring project that collected more than 7000 items containing comment on Travellers across all forms of Irish media. Of these reports more than 60 % contained anti-Traveller bias.

Irish Travellers are widely reported on in the Irish media, but often in a way that promotes negative stereotypes of Travellers. Research has shown that the majority of settled people get their information on Travellers from the media.³⁶ Prejudiced reporting impacts negatively on Travellers having a decent place to live, a proper education, proper access to health services and equal opportunities in the workplace. Irish Travellers are among the groups that are most seriously maligned by the media in Ireland.

The lack of a statutory complaints procedure to deal with the increasing level of blatantly anti Traveller comment presented through the media leaves Travellers as community without any real protection from extremely racist reporting. The enactment of incitement to hatred legislation has proved to be effectively inoperative as a method to protect vulnerable minorities.

Recommendations

- **The State should immediately establish an Independent Press Complaints Council.**
- **The review of the Incitement to Hatred Act 1989 should be completed immediately and the necessary amendments to ensure full protection of Travellers under the Act put in place.**
- **The State fulfils its commitment to replace the Citizen Traveller Campaign with a comprehensive public awareness and anti-racism initiative.**

Re: ‘Conclusion’

In the States conclusion to Appendix 1 the Government attempts to separate the impact of legislative and policy changes on Travellers. The conclusion specifically names the enactment of the Housing (Miscellaneous Provisions) Act 2002 and the Liquor licensing Act 2003 and the failure to recognise Travellers as an ethnic group, as measures which the government consider as being unconnected to the position of the Travellers within Irish society. Appendix 1 also concludes, in the schizoid manner in which it began, by stating that the above issues should not be allowed to overshadow progress while at the same time acknowledging that:

“There is much that still needs to be done to make Ireland a better place for Travellers.”

The impact of the above changes combined with the closure of the Citizen Traveller Campaign have been negative in regard to the position of Travellers in Ireland and was not something which was simply the *“feelings of many Travellers.”* Numerous NGOs and

³⁶ Citizen Traveller Attitudinal Survey 2001

objective commentators recognised the introduction of the above measures as detrimental to the position of Travellers.³⁷ The introduction of the legislation has been highlighted by Amnesty International Irish Section as a clear breach of the commitment given by the Irish Government under the UN Declaration of the World Conference Against Racism. Amnesty further expressed concerns that:

“Travellers will be criminalised for the nonfeasance of the State, moreover, it is a criminalisation of their recognised right to live a nomadic lifestyle.”



³⁷ See Professor William Binchy’s Critique of the Housing (Miscellaneous Provisions) Act 2002. “The Criminal Trespass Legislation: What does it do and is it constitutional?” Trinity College Law School Conference July 2002

Appendix A

Summary of Irish Legislative provisions creating de jure and de facto discrimination against Travellers. In regard to Accommodation, Evictions, Access to Services, and the maintenance of cultural identity.

One of the main concerns of the Irish Traveller Movement is the number of evictions of Traveller families, living in unofficial sites that occur every year. As can be seen from an outline of the legislation below, practically all of these evictions happen without need for a Court Order, and are carried out by either local authorities or the Gardaí. The Housing (Miscellaneous Provisions) Act 2002, introduced a particularly draconian provision that allows the Gardaí to move families without notice, on demand. The failure to comply with such a demand may result in a heavy court fine or term of imprisonment. In the year ending May 2001, local authorities carried out 282 evictions. In y/e May 2002, 296 such evictions occurred, and in y/e May 2003, 452 were carried out.³⁸ This reflects the scale of the growing problem that faces Travellers living without official accommodation every day, and does not include the large number of evictions carried out by the Gardaí every year.

Local authorities are only obliged to give a minimum twenty-four hours notice of such evictions. It is all but impossible for most Traveller families to secure legal representation in such a brief time frame, and most evictions happen without legal challenge, in any event the civil legal aid scheme in Ireland would not cover such evictions. There are no provisos in the legislation setting out the circumstances within which it is impermissible to evict families, so evictions happen irrespective of the effect on the health, education and welfare of family members. The lack of judicial oversight of the actions of the Local Authorities or the Gardaí when evicting Traveller families, means that evictions occur in an ad hoc, arbitrary manner, which undermines the efforts to provide a coherent legislative basis at a national level for Traveller accommodation, both permanent and transient.

ACCOMMODATION

Housing Act 1988

Relevance: Specific provision for accommodation for Travellers

Specific Provisions:

Section 13, as amended by *section 29* of the Housing (Traveller Accommodation) Act, 1998, states that a housing authority may provide, improve, manage and control sites for caravans for Travellers, and do any ancillary works including the provision of services on sites. This function is the same as the power to provide houses under the Housing Act 1966 (the Principal Act). The amendment contained in the 1998 Act is to make further provision for transient and temporary sites with limited facilities (water, hard surfacing, and toilets).

Housing (Traveller Accommodation) Act 1998

Relevance: Accommodation programmes & extended powers to move on families.

Specific Provisions:

Section 5: This section obliges housing authorities to make an assessment of need for Traveller halting sites within its functional area. In doing so the housing authority

³⁸ Figures released by Local Authorities under a freedom of information request to Irish Times July 2003

must 'have regard to' the need for transient halting sites with limited facilities, and also the views of the local consultative committee.

Section 7: Each housing authority must adopt a Traveller Accommodation programme (TAPs), within a specified time, that enumerates the accommodation needs of Travellers in the area, and the provision required to address those needs, over the life of each programme (5 years). This is a reserved function.

Section 10: Each accommodation programme should include a statement of policy in relation to meeting the accommodation needs of Travellers, and specify a strategy for securing the implementation of the accommodation programmes, and include measures for implementation in relation to a range of provision. Housing authorities shall further have regard to the distinct needs and family circumstances of Travellers.

Section 16: A housing authority is obliged to “take any reasonable steps as are necessary for the purpose of...implementation” of an accommodation programme. (Although it is arguable that S.16 imposes an obligation on local authorities to implement the programmes they have adopted, it is notable that Section 16 is silent in relation to enforcement. The reference to “any reasonable steps” introduces a subjective element into the question of implementation. It is clear that the Act does not require full implementation of each programme, but what steps are necessary to satisfy the terms of the Act is less clear.)

Section 17: Each housing authority must review their TAP, at least once every three years, or at any time during the life of a programme, and on foot of such a review may amend or replace a TAP, this may also occur on the direction of the Minister for the Environment and Local Government.

Section 19: provides for the establishment of a National Traveller Accommodation Consultative Committee (NTACC), to act as an advisory committee to the Minister. This is a twelve-member group, including three Traveller representatives.

Section 21: provides for the establishment by each housing authority of a Local Traveller Accommodation Consultative Committee (LTACC), to advise the housing authority on the provision and management of accommodation for Travellers. Such committees include Traveller representation.

Section 23: Nothing in the Act is to prevent a housing authority on providing accommodation for Travellers generally, whether a TAP is adopted or not.

Section 25: A housing authority is empowered to provide loans to Travellers for the purchase or repair of caravans, or for the purchase and development of land as a halting site.

Without doubt the single biggest issue effecting Travellers is the lack of State provision of appropriate and adequate accommodation. Although only two Acts are referred to above, due to their specific relevance to Travellers, all the Housing Acts apply equally to Travellers as to the settled population. The above provisions are simply those that are added for the benefit of Travellers' specific needs, and should not be regarded as exhaustive of Travellers' entitlements to accommodation. One should also keep in mind provisions of landlord and tenant law, and also possibilities in relation to land law, such as adverse possession and/ or easements or profits.

EVICTIONS

Local Government (Sanitary Services) Act 1948

Relevance: Makes provision for Local Authorities to make bye- laws to govern use of temporary dwellings in its functional area.

Specific Provisions:

Section 30, confers powers on a sanitary authority to make byelaws regulating the use of temporary dwellings within their sanitary district. Bye-laws may encompass a number of objectives including, ensuring that temporary dwellings and their surroundings are clean and habitable; protecting the amenities of the surrounding areas from rubbish or noise and preventing the creation of a nuisance; securing the orderly and decent behaviour of inhabitants of temporary dwellings.

Section 31: A sanitary authority may, by order (known as a prohibition order), prohibit the erection or retention of a temporary dwelling on any land or water, if it is of the opinion that the temporary dwelling would be prejudicial to public health or the amenities of the locality or would interfere with traffic. The prohibition order can relate to a specific area, or all land or water of a specified class, and in particular may relate to land or water within a specific distance of the centre line of any road, or a specific road.

Section 31(4)&(5): (as amended by Section 113 Environmental protection Agency Act 1992) A person who contravenes an order (as referred to above), shall be guilty of an offence, and liable on summary conviction to a fine of €1,270, and in the case of a continuing offence of a further fine of €454, per day that the offence continues. A second or subsequent conviction in relation to the same temporary dwelling can result in the sanitary authority taking possession of the dwelling and dispose of it as they think fit.

Section 32: A temporary dwelling may be deemed to be a nuisance where it lacks sanitary facilities or is overcrowded or other cause, the sanitary authority can then serve a notice on the occupier for abatement of the nuisance.

Section 33: Where a notice has been served as above, or there is contravention of a prohibition order the court can make an order prohibiting the erection or retention of a temporary dwelling. A person, who contravenes such an order, shall be guilty of an offence and liable on summary conviction to a fine of €1,270 and to a further fine of €1,270 per day in the case of a continuing offence.

Housing (Miscellaneous Provisions) Act 1992

Relevance: Powers conferred on Local Authorities to move temporary Dwellings.

Specific Provisions:

Section 10, as amended by *Section 32* of the Housing (Traveller Accommodation) Act 1998 and *Section 21* of the Housing (Miscellaneous Provisions) Act, 2002, states that where a person erects, places or occupies, a temporary dwelling in a public place without lawful authority:

- (a) and it is within five miles of an official halting site, and in the opinion of the housing authority, the temporary dwelling could appropriately be accommodated

on that site, a housing authority can serve a notice on a that person, providing them with at least twenty four hours notice (a twenty four hour notice) to move their temporary dwelling to the said halting site, *or*

- (b) and the said temporary dwelling is unfit for human habitation, or likely to interfere with some amenity, or poses a health or safety risk, then the housing authority can serve a twenty four hour notice on the person requiring them to remove the dwelling to *any* halting site within its functional area (irrespective of distance), *or*
- (c) and the said temporary dwelling is within a one mile radius of any Traveller accommodation (either a halting site or housing), and in the opinion of the housing authority it is causing a nuisance to that Traveller accommodation, or other dwellings in the vicinity of that Traveller accommodation, or is interfering with some public or private amenity or service, then the housing authority can serve a twenty four hour notice requiring the person to remove the said temporary dwelling to at least a distance of one mile from the specified Traveller accommodation,

A person can either comply with the terms of the notice or move the temporary dwelling to same lawful location, where the housing authority would not be entitled to serve another notice. Where a person fails to comply with a notice, in the case of (a) and (b) above, the local authority can remove the temporary dwelling to the halting site specified, or in the case of (c) remove the temporary dwelling to a distance in excess of one mile from the specified site. If it is not possible to do either of these things, the local authority can take the temporary dwelling away for storage until such time as the owner claims it (and pays the cost of storage). Where a temporary dwelling remains unclaimed or unoccupied for over one month, the housing authority can dispose of it, subject to following a specified procedure.

Penalties: If the person, on whom a notice is served, fails to comply with its terms, then they are guilty of an offence and can be prosecuted. On summary conviction a fine of €1,270 and/or a term of imprisonment up to one month can be imposed. The same penalties apply to a person who obstructs or impedes or assists a person to obstruct or impede a housing authority in exercising their functions above. (Conceivably somebody could in the same circumstances be penalised, both for failure to comply with a notice, and for obstruction of a housing authority).

Notices served under this legislation must contain certain minimum requirements, as set down in the legislation as follows (i), the location and description of the temporary dwelling to which it relates, (ii) the location to which the temporary dwelling is to be removed, or where a notice is served under (c) that the temporary dwelling is required to be moved to at least a distance of one mile from the specified site (iii) the period within which the Notice is to be complied with not being less than 24 hours and (iv) the statutory consequences of failure to comply.

Relevance: Makes Trespass a Criminal Offence and allows for confiscation and impounding of caravans by the Gardaí.

Specific Provisions:

Section 24 amends the Criminal Justice (Public Order) Act 1994, by addition of a new *section 19*.

Section 19(C)(1): states that a person shall not, without consent (there is a presumption that consent is not given until otherwise proved), enter and occupy any land, or, bring an object (defined to include a temporary dwelling or animals) onto any land, where such an act is likely to:

- (1) substantially damage the land,
- (2) substantially and prejudicially affect any amenity in the land,
- (3) prevent persons so entitled from making reasonable use of the land or amenity therein,
- (4) otherwise render the land or amenity, or the use of same unsanitary or unsafe,
- (5) substantially interfere with the land or amenity, or lawful use thereof.

The above five subsections are not divided by an “or” at the end of each section, implying that they may be cumulative, rather than alternative.)

A person who contravenes this section is guilty of an offence. Where a Garda has reason to believe that a person is committing such an offence he/she may direct the person to leave the land taking any object with them, and shall inform the person of the nature of the offence, and the possible penalties for failure to comply with a direction.

Section 19D: Failure or refusal to provide a correct name and address or failure or refusal to comply with a direction above, is an offence.

Section 19F(2): Any person who obstructs or impedes or assists a person to obstruct or impede a Garda, carrying out their duties under the section is guilty of an offence.

Penalties: *Section 19E*, anyone who commits an offence under the legislation may be arrested without warrant, and under *section 19F*, the Gardaí may remove any object brought onto the land (more often than not a caravan, but could also be a motor vehicle or animal), and store same. The object may be recovered, and a fee may be imposed by the Gardaí for the storage of same. If the item is not claimed within one month it may be disposed of. If it is sold then the owner is entitled to an appropriate payment. On summary conviction a person is liable to a maximum fine of €3,000 and/or a term of imprisonment of not more than one month.

This legislation does not apply to any public road within the meaning of the Roads Act 1993.

Aside from the statutory provisions above, applications for interlocutory injunctions, on the basis of nuisance, are another common measure used to move Travellers from an unauthorised encampment.

Relevance: Prohibits the placing a temporary dwelling on inter alia a national road

Specific Provisions:

Section 69 states that any person who without lawful authority or consent erects, places or retains a temporary dwelling on a national road, busway, motorway, or protected road, (defined in section 45) shall be guilty of an offence. An authorised person, (authorised by road authority or a Garda), may remove the temporary dwelling, and store same until it is claimed by the owner. If not claimed it can be disposed of

Penalty: On summary conviction a fine of €1,270 and/or a term of imprisonment of not more than six months.

Although this piece of legislation specifically refers to temporary dwellings, there are numerous other instances in which Travellers, being parked on the side of the road or other public place, can be subjected to the road traffic laws, with the effect that they may be penalised for so parking, and also forced to move on.

Traveller Culture

Control Of Horses Act 1996

Relevance: Allows local authorities to draw up by laws to govern the keeping of horse in its functional area, also provision for impounding horses.

Specific provisions:

Section 17: A local authority may adopt a bye law declaring all or any part of its functional area to be a control area, where it is satisfied that horses in the area should be licensed to prevent a nuisance, annoyance or injury.

Section 18: All horses (with limited exceptions under section 19) kept in a control area must have a license.

Section 20: Local authorities may grant horse licenses on whatever terms and conditions it considers necessary. A license shall not be granted: (1) to anyone under the age of 16, (2) to a disqualified person, (3) to a person unfit in the opinion of the local authority to keep a horse or (4) to a person who fails to satisfy the local authority that it will be properly maintained.

Section 22: A local authority can prescribe the form and fee to accompany an application for a licence, and can inspect the premises where a horse is to be kept.

Section 23: deals with the refusal, suspension, revocation, or amendment of a licence, and appeals in relation to same.

Section 27: A Garda or authorised local authority officer may require a person to remove a horse from a public place or control area where they have a reasonable belief that there is no valid licence extant in relation to the horse. Failure to comply is an offence.

Section 37: An authorised person, or member of an Gardaí Síochana may seize and detain any horse, where there is reason to suspect, *inter alia*, that the horse is stray, or causing a nuisance, is a danger, is not under adequate control.

Sections 39 - 40: deal with the period for which a horse can be detained, and the manner in which it can be recovered or disposed of.

Section 45: A person, who recklessly or wilfully allows a horse to pose a danger, or cause an injury to a person or property, is guilty of a criminal offence.

Section 46: specifies the matters that can be dealt with by bye-laws under the legislation, and extends to the control and welfare of horse within its functional area, including the manner in which a horse is to be kept under control; the manner and conditions in which a horse is to be kept, and the measures to be taken to prevent a nuisance occurring.

Penalties: Section 6: On summary conviction a fine not exceeding €1,900 and/or a term of imprisonment not exceeding six months. Summary conviction for an offence under Section 45 can incur a fine not exceeding €1,900 and /or a term of imprisonment not exceeding six months. Conviction on indictment for an offence under Section 45 carries a maximum fine of €12,700 and/or a term of imprisonment not exceeding 2 years.

One of the main difficulties that arises for Travellers in relation to the Control of Horses Act, is that the byelaws adopted by local authorities often specify very detailed and expensive conditions for keeping horses, which makes it prohibitive to keep a horse.

