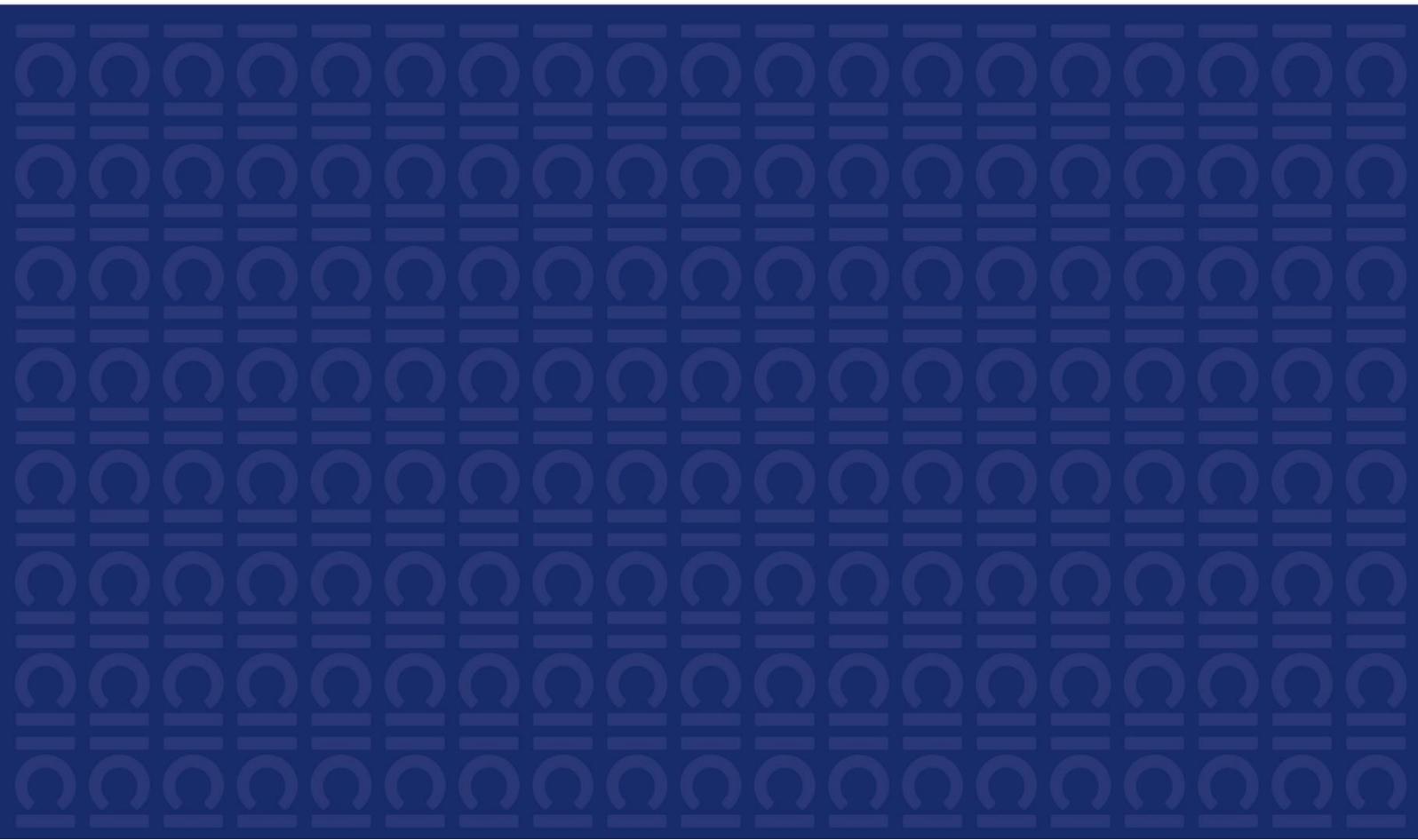


UN CERD Alternative Report

By the Immigrant Council of Ireland

31 October 2019

Working for **equality**



Alternative Report for Ireland's examination by the UN Committee for the Elimination of Racial Discrimination

INTRODUCTION

The Immigrant Council of Ireland is an independent human rights organisation. It advocates for the rights of immigrants and their families, and acts as a catalyst for public debate and policy change. It works with and for immigrants, promoting their rights through its information and support helpline, Independent Law Centre, national advocacy, campaigning and research, as well as providing training in a number of areas, including unconscious bias and diversity matters. The Immigrant Council believes immigration is a permanent and positive reality in Ireland and continues to lobby for integrated, transparent, rights-based immigration and integration legislation and policies which reflect this reality. We have a racist incident support and referral line and have undertaken research into the experiences of racism in Ireland, in areas including public transport, social housing and on Islamophobia. We are partners in an annual joint campaign with Transport for Ireland to tackle racism on public transport and run many smaller scale campaigns with the aim of challenging racism.¹

Arising from our knowledge and experience, a central problem we identify in Ireland is the under-reporting of incidents of racial discrimination and resulting lack of data. Small scale reports and anecdotal evidence point to systemic issues of racial discrimination in all aspects of life, including access to and while in employment; in education; housing; healthcare; social welfare and also engaging in local life for example while participating in sports, cultural activities, on public transport and in public spaces.

There is an overwhelming need for strategies to promote anti-discrimination nationally because of the lack of effective tools to tackle racism. The impact from the loss of the National Consultative Committee on Racism and Interculturalism (NCCRI) and neglect in renewing the National Action Plan Against Racism (NAPAR) is keenly felt in a society which, while welcoming, is not immune to fear and division. There is significant under-reporting of racist incidents – and the State itself acknowledged in its report to the Committee that the Central Statistics Office cannot analyse data from the Garda PULSE system. The lack of convictions resulting from the Incitement to Hatred Act 1989 and repeated delays in the publication of an ongoing legislative review on Ireland's hate crime laws mean too many victims cannot access justice.

The Irish State has yet to incorporate ICERD into the domestic legal order. Little has been done to effectively assess or address racism and discrimination faced by Black and ethnic minority groups across a range of areas including access to housing, education, employment and while at work. This has resulted in a denial of rights and significant under-representation in all aspects of public life.

¹ <https://www.immigrantcouncil.ie/campaign/anti-racism>

ARTICLE 1

Data collection on Black and minority ethnic groups in Ireland relating to various aspects of their lives, including child protection and children received into State care, employment, health, accommodation and housing, is lacking. More options should be available in surveys by the Central Statistics Office to better capture the migrant identities within Irish society. The State must publish gender and racially disaggregated data in these areas. This information is key to the design and implementation of effective law and policy relating to these groups and in particular those demographics within these groups that face multiple discrimination in Irish society such as minority ethnic women.

Recommendation

- The State should ensure sufficient racially disaggregated data is collected on migrant identity to inform law and policy to effectively tackle racial discrimination, including liaison with the Central Statistics Office to ensure all national surveys collect this data.

ARTICLE 2

The Irish State refuses to incorporate ICERD into its domestic legal order on the grounds there is sufficient provision to address racism and racial discrimination under current legislation.² However, an audit of current legislation is well overdue. Ireland adopts a wide interpretation of the Constitutional provision relating to freedom of expression and has lodged a declaration under Article 4 of the Convention. It has a further declaration lodged in relation to Article 14. The State should provide evidence of its review of its reservation to Article 4 and explain its justification for its continued declaration to Article 14. The State has said employment protections envisaged in the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families are already extensively incorporated into Irish employment law.³ Aside from incitement to hatred, racist behaviour is not explicitly criminalised in Irish law, despite repeated recommendations from the Committee to introduce criminal law provisions which allow for more robust responses to hate-related crime. Efforts to combat and monitor racism in Ireland were seriously undermined in 2008 when the State discontinued funding to the National Consultative Committee on Racism and Interculturalism, which led to its subsequent closure. The closure of the NCCRI left the State without a countrywide independent monitoring body of racist incidents or national provider of anti-racism training - gaps which NGOs have been forced to try and fill but without sufficient resources. It also deprived Ireland of an independent expert body focused on policy development on racism and interculturalism. In June 2019, the Department of Justice and Equality announced it would be establishing an Anti-Racism Committee. The focus and remit of the proposed committee have not been confirmed, but no budget has been allocated and its scope will be necessarily limited. In the same year the NCCRI closed, the most recent National Action Plan Against Racism⁴ expired. The loss of an active NAPAR represents a huge loss of momentum in the area of tackling racism, and means Ireland has no integrated, strategic mechanism or stated goals for government action. The

² Combined fifth to ninth periodic reports submitted by Ireland under article 9 of the Convention, due in 2014, para 71, UN doc CERD/C/IRL/5-9, http://www.integration.ie/en/ISEC/ICERD_C_IRL_5-9_6513_E.pdf/Files/ICERD_C_IRL_5-9_6513_E.pdf

³ Combined fifth to ninth periodic reports submitted by Ireland under article 9 of the Convention, due in 2014, para 116, UN doc CERD/C/IRL/5-9, http://www.integration.ie/en/ISEC/ICERD_C_IRL_5-9_6513_E.pdf/Files/ICERD_C_IRL_5-9_6513_E.pdf

⁴ <http://www.justice.ie/en/JELR/NPAREn.pdf/Files/NPAREn.pdf>

National Migrant Integration Strategy, launched in 2017, does not include sufficient focus or dedicated resources to effectively tackle racial discrimination.

Recent developments in public discourse, including rhetoric in recent political elections and on the subject of the direct provision system⁵ (which accommodates those seeking international protection) show the increasing and very pressing need for proactive efforts to tackle racist attitudes and behaviour within Irish society. A new NAPAR is needed, informed by those directly affected, best practice approaches and including a clear objective about improving the recording of hate crimes and effective anti-racism public messaging campaigns. Research from the EU Agency for Fundamental Rights found Ireland is one of three countries with the worst records in the EU of racism based on skin colour.⁶ Research from the Irish Human Rights and Equality Commission and Economic and Social Research Institute found just under half of adults born in Ireland believe some cultures to be superior to others while 45% believe some races are born harder working than others. The same research found support for Muslim and Roma immigration is lower in Ireland than the average for ten other Western European countries surveyed.⁷

The International Protection Act 2015 significantly amended the family reunification entitlements of persons granted protection in Ireland.⁸ Applications can no longer be made on behalf of dependent family members. Applications must be submitted within a 12-month period following the grant of status and no exceptions are permitted, including applications by unaccompanied children who were unable to trace family members within that period. There are several legal challenges against the absolute nature of the 12 month rule pending before the Irish High Court. The legislation also stipulates that applications on behalf of unaccompanied minors to be reunited with parents must be submitted before the applicant turns 18 years old. Although some applicants have successfully challenged applications that were initially refused as the applicant had aged out, the legislation has not been amended and the Irish Naturalisation and Immigration Service has not published any guidance to the effect that applications may be submitted by aged-out minors. There is no right of appeal against any family reunification decision. Civil legal aid is not available to assist during the administrative application process or during judicial review proceedings.

Recommendations

- ICERD should be given full effect in Irish law.
- The State should withdraw the declaration to Articles 4.
- The State should ratify the UN Migrant Workers Convention 1990 and the related International Labour Organisation Migration for Employment Convention (Revised) 1949.
- The State should develop a comprehensive National Action Plan Against Racism to include:
 - Cultural competency training for public services frontline staff;
 - Mandatory diversity strategies in all sectors;
 - Ring-fenced funding for an independent support/ helpline for victims of racism;

⁵ <https://www.independent.ie/irish-news/presidential-election/listen-presidential-candidate-peter-casey-sparks-outrage-with-his-racist-remarks-on-travellers-37428508.html>; <https://www.irishexaminer.com/breakingnews/views/columnists/michael-clifford/racist-politics-wont-get-you-far-here-938208.html>

⁶ <https://www.irishtimes.com/news/crime-and-law/ireland-among-worst-eu-states-for-racial-violence-based-on-skin-colour-1.3889478>; <https://fra.europa.eu/en/publication/2018/eumidis-ii-being-black>

⁷ <https://www.ihrec.ie/irish-attitudes-to-diversity-highlighted-by-new-study/>

⁸ Sections 56-58 International Protection Act 2015, <http://www.irishstatutebook.ie/eli/2015/act/66/section/56/enacted/en/html>

- Public awareness campaigns tackling unconscious bias and promoting the benefits of cultural diversity.
- For the purposes of documenting the type and frequency of discriminatory or racist acts, the State should support the creation of a national independent entity to which racist incidents can be reported and should actively promote this entity once it is established.
- The institutions of the State that monitor and promote human rights and anti-discrimination should be provided with adequate funding to carry out their functions effectively.
- The International Protection Act 2015 should be amended.

ARTICLE 3

The commencement of the International Protection Act 2015 at the end of 2016 streamlined the application procedure.⁹ It introduced a single application procedure where an applicant has all grounds for seeking international protection or permission to remain examined and determined in one process, rather than in successive applications as was the case under previous legislation. The intention was that the streamlined process would result in efficient processing of applications, ideally within six months.¹⁰ However, the most recent information indicates the average waiting time is 15.7 months; 8.7 months for prioritised cases. Since July 2018 applicants waiting longer than nine months for a first instance decision have been granted access to the labour market by way of an employment permit application procedure.¹¹

Those seeking international protection are provided board and lodging in the direct provision system, which is overseen by the Reception and Integration Agency within the Department of Justice and Equality. It was established in late 1999. Direct provision centres¹² are run under contract by private companies and there are currently 38 direct provision centres in operation at locations across the State. The direct provision system is not fit for purpose. The direct provision centres are run by private entities under a public procurement process, which results in inconsistencies and inadequacies in the quality of accommodation plus does not represent the best value for money. It also results in sudden closures and severe upheaval for the individuals and families living in the centres, who may have built up local connections through schooling, volunteering and shared interests.¹³ There is a significant problem with overcrowding and currently over 6,000 are housed in the system. Further, more than 1,000 asylum seekers are being housed in emergency accommodation,¹⁴ which does not provide the necessary supports required by asylum seekers. It is unsustainable and not best serving the asylum seeker or the State.¹⁵

⁹ <http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html>

¹⁰ See section 39 (5) International Protection Act 2015 which provides that where a recommendation cannot be made within 6 months of the date of application, the Minister shall, upon request from the applicant, provide the applicant with information on the estimated time within which a recommendation may be made

¹¹ <http://www.justice.ie/en/JELR/Pages/PR18000213>

¹² <https://www.nascireland.org/campaigns/asylum-process-direct-provision>

¹³ <https://www.irishtimes.com/news/ireland/irish-news/single-asylum-seekers-leave-hotel-in-court-town-to-make-way-for-families-1.3974615>; <https://www.breakingnews.ie/ireland/firm-shutting-down-dublins-largest-direct-provision-centre-received-275m-in-11-years-875680.html>

¹⁴ <https://www.thejournal.ie/direct-provision-centres-4785367-Aug2019/>

¹⁵ <https://www.thejournal.ie/direct-provision-costs-emergency-accommodation-4782558-Aug2019/>

The State commissioned a comprehensive review of the direct provision system, which resulted in the McMahon Report, published in June 2015.¹⁶ The third and final progress report found 98% of the recommendations had been implemented or were in train¹⁷, but this has been strongly contested by civil society groups working in the area.¹⁸ There are serious concerns especially in relation to more vulnerable asylum seekers, including children and victims of gender based violence. Civil society groups have undertaken research into alternative accommodation systems for those seeking international protection in Ireland, which promote the dignity of the individual, respect human rights and make economic sense for the State.¹⁹ Despite opting in to the provisions of Directive 2013/33/EU, laying down standards for the reception of applicants for international protection (recast),²⁰ frontline organisations have highlighted concerns regarding the absence of a vulnerability assessment for identifying special reception needs at the beginning of the asylum procedure, including suspected victims of human trafficking.²¹ A recent response to a parliamentary question²² indicates that an assessment at the initial application stage takes into account specific needs of individuals but from frontline service delivery the Immigrant Council is aware that individuals require legal intervention to ensure that an assessment is carried out and for more appropriate reception conditions to be provided. Following on from a recommendation in Justice McMahon's report, the Office of the Ombudsman's remit was extended to examine complaints about the experience of residents of direct provision centres in June 2017.²³ In September 2019 the Ombudsman requested his remit be expanded to include complaints relating to the international protection application process.²⁴

In 2015, the Irish High Court²⁵ found that there was State failure to identify a victim of human trafficking and held that the administrative immigration arrangements were inadequate in respect of the State's legal obligations to formally identify victims. Although the State engaged with civil society organisations by way of reviewing the situation, the State has failed to make any changes to the identification process and the administrative immigration arrangements have not been revised. In 2017, the Council of Europe report on Ireland's action against trafficking in human beings has pointed to continued State failings in actions to identify and sufficiently protect trafficking victims in Ireland.²⁶ Ireland was downgraded by the US State Department to Tier 2 in 2018. In

16

<http://www.justice.ie/en/JELR/Report%20to%20Government%20on%20Improvements%20to%20the%20Protection%20Process,%20including%20Direct%20Provision%20and%20Supports%20to%20Asylum%20Seekers.pdf/Files/Report%20to%20Government%20on%20Improvements%20to%20the%20Protection%20Process,%20including%20Direct%20Provision%20and%20Supports%20to%20Asylum%20Seekers.pdf>

¹⁷ http://www.justice.ie/en/JELR/3rd_WG_Progress_Report_-_July_2017.pdf/Files/3rd_WG_Progress_Report_-_July_2017.pdf

¹⁸ <https://nascireland.org/news/2019/nasc-publish-working-paper-governments-progress-mcmahon-report>

¹⁹ <https://www.irishrefugeecouncil.ie/news-media/direct-provision-framing-an-alternative-reception-system-for-people-seeking-international-protection>

²⁰ <http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print>

²¹ <https://www.irishrefugeecouncil.ie/news/refugee-organisations-highlight-absence-of-vulnerability-assessment-in-irish-asylum-procedure/7094>

²² <https://www.kildarestreet.com/wrans/?id=2019-10-03a.19>

²³ <https://www.ombudsman.ie/publications/reports/the-ombudsman-and-direct/>

²⁴ <https://www.ombudsman.ie/news/oireachtas-joint-committee/index.xml>

²⁵ P. v the Chief Superintendent of the Garda National Immigration Bureau, https://www.ihrec.ie/app/uploads/download/pdf/amicus_curiae_submission_p_v_chief_superintendent_of_the_garda_national_immigration_bureau_ors.pdf

²⁶ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland, July 2017, <https://rm.coe.int/greta-2017-28-fgr-irl-en/168074b426>

2019, the Tier 2 grading was reiterated and Ireland was again deemed not to fully meet the minimum standards for the elimination of trafficking. Key deficiencies included the chronic deficiencies in victim identification, referral, and assistance, as well as the lack of specialised accommodation and adequate services for victims. The failure of the Irish Government to initiate prosecutions or obtain convictions was also highlighted.²⁷

Recommendations

- The State should ensure the International Protection Office is adequately resourced so applications can be processed in a more timely manner and within the six month period identified in the International Protection Act.
- The State should explore alternatives to direct provision in consultation with stakeholders (NGOs, residents, housing experts, etc.) in order to minimise institutionalisation, and physical and mental health problems.
- The State should ensure that Directive 2013/33/EU is fully transposed and that vulnerability assessments are conducted appropriately.

ARTICLE 4

The current legislative and policy framework for tackling racial discrimination and hate crime is unfit for purpose. Just five convictions have been secured under the Incitement to Hatred Act 1989 since its enactment.²⁸ In November 2015 11 new categories were added to An Garda Síochána's PULSE system,²⁹ but in the Government's report to the Committee it acknowledged data collection under these categories is not of a quality the Central Statistics Office can analyse. There is no dedicated hate crime legislation and a long-mooted legislative review relating to hate crime and incitement to hatred is yet to be published.³⁰ Lack of effective hate crime laws mean the hate aspect of a crime is filtered out as it progresses through the justice system, which precludes justice from being served either to those affected or for wider society. The issues arising were comprehensively addressed by the Hate and Hostility Research Group.³¹ In October 2019 An Garda Síochána launched its Diversity and Integration Strategy 2019-21, which includes recommendations to improve data collection relating to hate crime, delivering training to staff to improve diversity and equality skills.³² On 24 October 2019 the Minister for Justice and Equality, Mr Charles Flanagan alongside the Minister of State for Immigration, Integration and Equality, Mr David Stanton launched a public consultation into hate speech and how Ireland's laws could be improved.³³ At the same time the Department for Justice and Equality said it was finalising research on the effectiveness of the different legislative approaches to tackling hate crime in other countries to identify the approach that will be most suitable for Ireland.³⁴ This research is to be completed in November 2019 and following this, a second consultation on the related issue of hate crime will be published by the Department of Justice in the new year.

²⁷ US State Department, 2019 Trafficking in Persons Report, Ireland,

<https://www.state.gov/reports/2019-trafficking-in-persons-report-2/ireland/>

²⁸ <https://www.irishtimes.com/news/crime-and-law/courts-service-reveals-five-convictions-for-hate-crime-since-1989-1.3124352>

²⁹ <https://www.irishtimes.com/news/crime-and-law/garda-urged-to-review-crime-data-recording-methods-1.3166815>

³⁰ <https://www.kildarestreet.com/wrans/?id=2019-07-09a.728&s=%22Incitement+to+hatred%22#g729.g>

³¹ <https://ulir.ul.ie/handle/10344/6950>

³² <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/news-media/an-garda-siochana-diversity-and-integration-strategy-2019-2021.html>

³³ http://www.justice.ie/en/JELR/Pages/Hate_Speech_Public_Consultation

³⁴ <http://www.justice.ie/en/JELR/Pages/PR19000263>

Online racism is a significant problem in Ireland as elsewhere.³⁵ In July 2019 Google terminated the YouTube account of a self-styled ‘anti-corruption’ campaigner and European Union election candidate for violating its policies on hate speech and harassment.³⁶ But such proactivity is rare. The Irish State is well placed to pursue this issue as a number of prominent social media companies have their European headquarters in the country, including Facebook, Twitter and Google, and our Taoiseach has said he takes Ireland’s role as tech watchdog “very seriously”.³⁷ For example, our then Minister for Communications followed up with Facebook after a news documentary revealed a chaotic system of moderating harmful and illegal content on Facebook, including racist material.³⁸

Recommendations

- The State should release to the public the conclusions that have been drawn from the decade long review of the Incitement to Hatred Act. It should publish its considered response to the research on racism and criminal law and explain the steps that are taken to strengthen anti-incitement and anti-racism legislation in light of these conclusions.
- The State should collect and publish details of reported crimes and the nationality and ethnicity of those reporting such crimes, as well as reasons for non-prosecution.
- The State should enact effective hate crime legislation.
- The State should publish details of reported crimes and nationality and ethnicity of those reporting such crimes and reasons for non-prosecution.
- The State should take steps to hold social media businesses accountable for harmful and illegal online content and should consider the appointment of a digital safety commissioner.

ARTICLE 5

The right to education and training

The Economic and Social Research Institute has undertaken research on various aspects of access to education for migrants, identifying the need for further research into both access to and educational outcomes for migrants.³⁹ Migrant students are at a higher likelihood to experience racist incidences in the school system than their Irish-born counterparts.⁴⁰

English language provision: The National Migrant Integration Strategy 2017-21⁴¹ commits to monitoring the numbers of non-English speaking migrant children in schools but this data is not yet available. There is no research on the adequacy of the support provided and no

³⁵ <https://www.irishtimes.com/news/education/hate-speech-against-immigrants-and-travellers-widespread-online-1.3713762>

³⁶ <https://www.thejournal.ie/gemma-odoherty-youtube-ban-4727835-Jul2019/>

³⁷ <https://www.independent.ie/irish-news/politics/ireland-takes-responsibility-as-tech-watchdog-seriously-and-is-working-to-tackle-the-spread-of-online-terror-leo-varadkar-tells-un-38527823.html>

³⁸ <https://www.irishtimes.com/news/politics/naughten-told-facebook-he-was-appalled-by-dispatches-revelations-1.3592370>

³⁹ https://www.maynoothuniversity.ie/sites/default/files/assets/document/Fran%20McGinnity%20June%202017_0.pdf

⁴⁰ <https://www.irishexaminer.com/ireland/migrant-children-suffer-cultural-racism-in-irish-schools-362535.html>

⁴¹ http://www.justice.ie/en/JELR/Migrant_Integration_Strategy_English.pdf/Files/Migrant_Integration_Strategy_English.pdf

data collected regarding the adequacy of language supports in schools to cater for the language needs of children from ethnic minorities. All 16 Education and Training Boards (ETBs) reported high and unmet demand for English language classes provision, particularly those ETBs located in large urban conurbations.⁴²

Asylum seekers: Recently the Government announced a reduction from five to three years of the minimum time spent in the Irish education system for young people in direct provision to qualify for a grant to study at third level. Before this announcement asylum seekers were not entitled to free third-level education and were treated as non-EU/EAA international students who must pay fees. There are approximately 2,000 children living in direct provision and the lack of clear and accessible information on the education rights of these young people is a barrier to integration and a source of racial discrimination.

Undocumented young people: There are an estimated 2-3,000 undocumented children in Ireland.⁴³ Accessing third level for this cohort of young people is difficult because of their immigration status. Most of them have spent all their lives in Ireland but still they are excluded from education. The National Plan for Equity of Access to Higher Education 2015-2019 does not mention asylum seekers and undocumented young people as their “targeted under-represented groups”. This is an oversight and should be amended to include these disadvantaged groups.

Only certain categories of legally resident non-nationals have access to higher education financial support grants⁴⁴ and as a result a large number of people who do not hold such residence permissions are effectively excluded from accessing third level education. Despite only being required to pay college fees at an equivalent rate to EU citizens (at best), due to the significant expense involved in attending college in Ireland, many are unable to meet the financial burden of doing so. This is particularly the case for persons holding “Stamp 3” residence permission, as they have no right to access the labour market and as a result have no ability to access employment which could supplement their own/ their family’s income.

It should further be noted that registration requirements are imposed on foreign national children from aged 16 years old. However, there is no published guidance by the State regarding the residence permission that should be issued to foreign national children, including children who have been received into full care of the State. This results in a lack of consistency regarding the type of permission that was granted, with young people, including siblings, in identical situations being dealt with in various different ways. The category of residence permission granted determines the rights and entitlements of the holder to access social protections, the labour market and higher educational supports.⁴⁵ It is imperative that this is addressed, especially as registration requirements have been extended to all non-EEA foreign national children regardless of age⁴⁶ and these provisions are expected to be operationalised by the State in the near future.⁴⁷

⁴²<http://www.solas.ie/SolasPdfLibrary/English%20language%20provision%20and%20language%20assessment.pdf>

⁴³ <https://www.rte.ie/news/education/2019/0703/1059809-migrants/>

⁴⁴ <https://susi.ie/wp-content/uploads/2019/04/Student-Support-Regulations-2019.pdf> see in particular paragraph 5

⁴⁵ See Child Migration Matters, Immigrant Council of Ireland, 2016, <https://www.immigrantcouncil.ie/sites/default/files/2017-10/CMM%202016%20Child%20Migration%20Matters.pdf>. See also Cosgrave, C. et al in Fanning, B. & Michaels, L. Immigrants as outsiders in the two Irelands (MUP, 2019).

⁴⁶ Section 35 Employment Permits Act, 2014

⁴⁷ Immigrant Council of Ireland submission to INIS Consultation on the Immigration Registration of Foreign National Children, 2018, <https://www.immigrantcouncil.ie/sites/default/files/2018-03/2018%20ICI%20Submission%20to%20INIS%20Consultation%20on%20the%20Immigration%20Registration%20of%20Foreign%20National%20Children.pdf>

The right to work

Research undertaken by the Economic and Social Research Institute has identified areas of racial discrimination relating the right to work, including access to employment and while in post.⁴⁸ The headline findings include:

- Black respondents are three times more likely to experience discrimination in the workplace compared with White Irish and in access to public services, are over four times more likely to experience discrimination in access to private services.
- The unemployment rate of Black Africans in Ireland is 43%.
- People from the Black non-Irish group are less than half (0.4 times) as likely to be employed than White Irish and five times as likely to experience discrimination when seeking work.
- People from the Black Irish group are twice as likely to experience discrimination seeking work and just under three and a half times (3.4 times) as likely to experience discrimination in the workplace as White Irish.
- Both the Black Non-Irish and Black Irish groups are much less likely to hold a managerial or professional job.
- The White EU-East nationals group are much less likely to hold a managerial or professional job but show no difference in their rates of employment.
- The Asian Irish group of people do not differ in terms of employment rates and are more likely to be working in professional/managerial occupations but are almost twice (1.9 times) as likely to experience workplace discrimination.

The Central Statistics Office found evidence of workplace discrimination with 17.1% of persons from non-white ethnic backgrounds reporting experience of discrimination in the workplace.⁴⁹ More than one in 10 (10.6%) people from non-white ethnic backgrounds experienced discrimination looking for work.

The right to housing

Ireland is in the midst of a severe and enduring housing crisis which has resulted in over 10,000 people being declared homeless and many thousands more in unstable and precarious housing situations.⁵⁰ As we have seen in other countries, there is emerging commentary which is scapegoating migrants during this crisis situation.⁵¹

Migrants are over-represented in the rental market⁵² and therefore more at risk of housing instability/ homelessness in the current housing crisis.⁵³ People from ethnic minorities/ non-EU/EEA nationals are among the groups disadvantaged in terms of high levels of discrimination, deficits across multiple measures of housing quality and higher risks of homelessness. The Black ethnic group are 3.5 times more likely than White Irish people to experience discrimination, and are significantly over-represented among homeless people (together with Travellers).⁵⁴ (NB There is a strong overlap between ethnicity and nationality; according to the QNHS, 89% of Black people in Ireland come from outside the EU.) Migrants from outside the EU are 2.5 times more likely than Irish nationals to live in over-crowded households. Members of equality groups are found to be unequally distributed across different housing tenures. E.g. Non-Irish nationals and

⁴⁸ [Who experiences discrimination in Ireland? 2017; Ethnicity and Nationality in the Irish workplace 2018](#)

⁴⁹ <https://www.cso.ie/en/statistics/socialconditions/equalityanddiscrimination/>

⁵⁰ <https://www.thejournal.ie/homelessness-homeless-housing-eoghan-murphy-4792178-Sep2019/>

⁵¹ <https://www.independent.ie/opinion/columnists/david-quinn/huge-scale-of-immigration-is-making-our-housing-crisis-worse-35498057.html>

⁵² <https://www.focusireland.ie/wp-content/uploads/2016/04/FI-ICI-2009-Making-a-Home-in-Ireland-FULL-REPORT.pdf>

⁵³ <https://www.rte.ie/news/dublin/2019/0815/1068870-housing/>

⁵⁴ <https://www.ihrec.ie/app/uploads/2018/06/Discrimination-and-Inequality-in-Housing-in-Ireland.pdf>

those of Black ethnicity are highly concentrated in the private rented sector.⁵⁵ There is a poor Local Authority response to racially motivated anti-social behaviour in social housing.⁵⁶

Freedom of religion

Islamophobia is an area of concern within Irish society. The Immigrant Council of Ireland commissioned a report into Islamophobia in Ireland which was published in 2016 provides documented evidence to back up these problems⁵⁷ and found it is experienced in: education; in the classroom; accessing work and in employment; public transport, shops and restaurants; An Garda Síochána; media discourse on Muslim communities. In the past couple of years there have been attacks on mosques,⁵⁸ concerted efforts to oppose planning permission for mosques,⁵⁹ and Islamophobic attacks.⁶⁰ There is reticence to treat some attacks as hate crimes.⁶¹

Migrant Representation in Politics

Migrant populations are not well represented in politics throughout the State. Naturalised Irish citizens have the same full right to vote in all elections in Ireland. Immigrants that have not been granted citizenship status are still able to vote but their rights are limited. EU citizens can vote in European and local elections. Non-EU citizens are only able to vote in local elections.⁶² While Ireland has a very progressive framework which allows anyone, regardless of their nationality, normally 'resident' in the state to vote and run in local elections, this has not translated into significant representation. In the 2019 local elections there were more than 55 candidates from a migrant background, with 9 elected in a total of 949 local councillors. While this is a significant increase on the previous figure of 3 from the previous cycle, it is still far from proportional representation in a society where one in eight are from a migrant background.

Recommendations

- Gather data on nationality and residence status of those refused access to services (social welfare, education, healthcare) so any trends of discrimination can be recognised and the appropriate remedies applied.
- The State should publish guidance on the residence permissions for all foreign national children.

Education

- The State should be proactive in their anti-racism approach to education. Training should be provided to teachers in order to help better identify incidences of racism as well as diffuse these situations. These incidences should be reported and monitored by the education system.

⁵⁵ Ibid

⁵⁶ <https://www.immigrantcouncil.ie/sites/default/files/2017-10/AR%202016%20Taking%20Racism%20Seriously%20-%20social%20housing.pdf>

⁵⁷ <https://www.immigrantcouncil.ie/sites/default/files/2017-10/AR%20INT%202016%20Islamophobia%20in%20Dublin%20-%20Experiences%20%26%20How%20to%20Respond.pdf>

⁵⁸ <https://www.irishtimes.com/news/crime-and-law/far-right-groups-suspected-of-involvement-in-galway-mosque-attack-1.3971205>

⁵⁹ <https://www.rte.ie/news/leinster/2019/0515/1049664-kilkenny-mosque/>

⁶⁰ <https://www.irishexaminer.com/breakingnews/ireland/limerick-racist-attack-three-men-lay-in-wait-for-two-muslim-asylum-seekers-923390.html>

⁶¹ <https://www.irishexaminer.com/breakingnews/ireland/gardai-rule-out-hate-element-to-attack-on-muslim-teen-in-dublin-945207.html>

⁶² https://www.citizensinformation.ie/en/moving_country/moving_to_ireland/introduction_to_the_irish_system/right_to_vote.html

- The State should undertake research on the barriers to access to education for asylum seekers; undocumented young people and young people from a migrant background to inform policy frameworks to ensure fair and equal access.
- The State must undertake a full review of the grants and financial supports available to minority groups including those from a migrant background and asylum seekers, information dissemination campaign so the groups who can avail of them area aware of their rights and entitlements.

Employment

- The State must undertake systematic research into the experience of people from migrant background accessing work and in the labour market to better understand the type of discrimination faced and inform policies to address racial discrimination.
- The State must explore and revise systems to better recognise foreign education qualifications, recognising the increasingly globalised society in which we live.

Housing

- The State needs to collect data on the proportion of migrants in different housing types to inform policy and practice regarding housing.
- The State must issue clear guidelines to local authorities on the housing rights and entitlements of immigrations and introduce monitoring mechanisms to ensure they are followed.
- The State should collect and publish data on country of birth and citizenship status of all social housing applications in each Local Authority, including failed applications and people on waiting lists. Changes to centralised forms should also be enacted to record ethnicity as, for example, Roma and Black Irish and other ethnicities will not be identified by the current information collected.

Freedom of religion

- The State should ensure all public service staff receive cultural diversity training.
- The State must ensure there is a dedicated section within the National Action Plan Against Racism focused on tackling Islamophobia.

Political participation

- Political parties should undertake greater outreach among new communities to drive membership and voter registration; collect and publish data of the ethnic background of their membership; the Taoiseach should include among their Seanad nominations an individual from a migrant background.

ARTICLE 6

In the Irish immigration system, non-visa required nationals of certain states have been refused entry on basis that they will be working without permission, despite prior good immigration history (discrimination on the basis of nationality). The Immigrant Council is concerned that no data is published regarding nationality/ ethnicity or religious beliefs of those refused entry by immigration officers, or those detained for the purpose of deportation or on visas granted or refused to visa required nationals.⁶³ Lack of data in these areas makes it impossible to recognise trends of discrimination and apply appropriate remedies.

⁶³ <https://www.irishtimes.com/news/social-affairs/more-than-28-000-non-eu-citizens-refused-entry-since-2008-1.3388429>

The lack of a statelessness determination procedure in Ireland⁶⁴ equates to a form of discrimination where minorities, whose ethnic status in their country of origin (e.g. Rohingya) is not recognised.⁶⁵ When attempting to engage with the Irish Naturalisation and Immigration Service, such an individual may be (and clients from the Immigrant Council of Ireland have been) repeatedly requested to provide documents from the state that has refused to recognise an individual's identity. It is extremely difficult in practice for a stateless person to access the provisions of Section 16(g)⁶⁶ of the Irish Nationality and Citizenship Act, which were enacted to facilitate access to naturalisation by stateless persons. The State insists that to avail of these provisions, the applicant must provide a Declaration of Statelessness but has no facility for applying for any such Declaration. The Committee has expressed concerns regarding the "fairly short time limit" that exists in respect of the judicial review of administrative immigration decisions. Generally, the current time limit for instituting an appeal of a decision by the International Protection Office currently stands at 15 working days.⁶⁷ An application for judicial review of a decision relating to an international protection matter must be lodged within 28 days of a decision. A recent High Court practise direction imposed a significantly higher administrative burden on applicants and their legal representatives seeking to judicially review a matter relating to a matter that falls within the remit of the High Court Immigration and Asylum list as opposed to applicants seeking judicial review in relation to matters not related to a person's immigration status.⁶⁸ Despite commitments since 2002, there has been no comprehensive legislative reform in the area of immigration and residence since the Irish State's last examination by the Committee, and draft legislation has been discarded.⁶⁹ Finally, it should be noted that there is no right of appeal against most immigration related decisions, including refusal to grant entry to the state, family reunion, deportation or citizenship related decisions.

Recommendations

- The State should gather and publish clear data regarding those refused entry to the State so any trends of discrimination can be recognised and the appropriate remedies applied.
- The State should implement a statelessness determination procedure.
- The State should establish an independent appeals mechanism for all immigration matters.

⁶⁴ <https://www.oireachtas.ie/en/debates/question/2018-07-10/342/>

⁶⁵ <https://www.statelessness.eu/blog/statelessness-ireland-%E2%80%93-international-obligations-and-national-reality>

⁶⁶ "where the applicant is a person who is a refugee within the meaning of the United Nations Convention relating to the Status of Refugees of the 28th day of July 1951 and the Protocol Relating to the Status of Refugees of the 31st day of January 1967 or is a Stateless person within the meaning of the United Nations Convention relating to the Status of Stateless Persons of the 28th day of September 1954"

<http://www.inis.gov.ie/en/INIS/INCA%20Dec2014.pdf/Files/INCA%20Dec2014.pdf>

⁶⁷ <http://www.inis.gov.ie/en/INIS/Pages/asylum-decisions-appeals>

⁶⁸ See link here for all matters falling within the Asylum, immigration and citizenship list <http://www.courts.ie/Courts.ie/Library3.nsf/pagecurrent/9692E4109DF84DF18025836A00371E82?op=endocument> and see also the High Court Practise Direction referred to and Explanatory note relating to same on that webpage and for commentary and the announcement of the decision see media article here <https://www.irishtimes.com/news/crime-and-law/courts/high-court/controversial-direction-on-high-court-asylum-cases-to-be-reviewed-1.3967741>

⁶⁹ "Due to persistent delays in the system and pressure on Government over direct provision, however, Minister for Justice Frances Fitzgerald has split the asylum reforms from the main immigration overhaul and plans to publish them in a shorter, dedicated Bill." <https://www.irishtimes.com/news/social-affairs/new-government-bill-to-speed-up-asylum-process-1.2056888>

- State should extend the current time limits on judicial review and provide procedural safeguards, including a right of appeal in immigration-related decisions.
- The State should ensure the provision of information about equality legislation is disseminated in a targeted manner to immigrant and resident communities so they are aware of the supports available to prevent discrimination.

ARTICLE 7

In its National Migrant Integration Strategy, published in February 2017,⁷⁰ the State committed to ensuring its civil service was fully representative of Irish society with the “aim to have 1% of the workforce from ethnic minorities”. The recent progress report found the State was “on track” in its goal with 4% of applications from migrant communities.⁷¹

Recommendations

- The State should track migrant representation in the fields of education, healthcare, and the public and civil services. It should set targets to improve diversity, including proactive recruitment drives and targeted approaches.

ENDS

© Immigrant Council of Ireland, 2019

⁷⁰

http://www.justice.ie/en/JELR/Migrant_Integration_Strategy_English.pdf/Files/Migrant_Integration_Strategy_English.pdf

⁷¹ <http://justice.ie/en/JELR/The%20Migrant%20Integration%20Strategy%202017-2020.pdf/Files/The%20Migrant%20Integration%20Strategy%202017-2020.pdf>