



european network against racism

ENAR Shadow Report 2008

ENAR SHADOW REPORT 2008

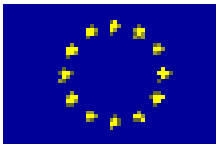
Racism in Ireland

Catherine Lynch

Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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I. Executive summary

Introduction

2008 was a turbulent and challenging year for those experiencing or working to address racism and inequality. The year started positively with the launch of the European Year of Intercultural Dialogue and ended with what has been termed the dismantling of the equality infrastructure including the “demise” of the National Consultative Committee on Racism and Interculturalism (NCCRI). These latter developments undermine progress made to date and come at a difficult time when an economic downturn itself threatens to give rise to increased manifestations of racism. At this time, it is of critical importance that member states increase rather than decrease their capacity to respond and to protect the rights of ethnic and religious minorities. This report demonstrates that racism is evident across all sectors of Irish society and impacts significantly on the lives of ethnic and religious minority groups. The report focuses on manifestations of racism as well as policy and legislative developments for the period January 2008 to December 2008 and complements previous Shadow Reports including the *2007 Shadow Report*.

Communities vulnerable to racism

Ireland is a multi-ethnic society with ethnic diversity having increased significantly since the 1990s and a notable increase in migration of EU nationals since accession of new member states in 2004. Travellers, migrants, Black Irish and religious minorities are among the communities vulnerable to racism in the Irish context.

Manifestations of racism

The report provides an overview of key issues and developments in eight key areas. In **employment**, issues relate to access to employment, retention, exploitation within employment and trafficking for forced labour. People becoming undocumented through no fault of their own, was also a critical issue. With regard to **housing**, key issues continue to be challenges in the provision of adequate and suitable accommodation for Travellers and the persisting policy of dispersal and direct provision.

In the area of **education**, issues include the role of religion in education, data collection and appropriate education provision including for children experiencing multiple forms of discrimination. The move to embark on a consultation process on the development of an Intercultural Education Strategy in 2008 was a positive move although it should be noted that a plan to implement a Traveller Education Strategy is still awaited. **Health** is a fundamental concern for all and is impacted on by issues relating to other areas such as education and accommodation. Two key developments in this area in 2008 included the launch of an intercultural health strategy and the ongoing work of the Traveller Health Strategy which promises to produce quantitative and qualitative data on Traveller health status,

an overdue development as the most comprehensive statistical data available at present is from 1987. A key challenge in the area of health is the negative impact that policies in other areas can have on health status, for example the impact of asylum policy on the mental health of asylum seekers.

Policing and racial profiling is an area where few conclusions can be drawn as mechanism and structures to monitor developments are relatively weak and therefore there is a lack of data available. The services of the police force are also not covered by equality legislation. **Racist violence and crime** has increased overall over the past number of years although there was a slight drop of incidents reported in 2008. The police recognise issues with regard to under-reporting and have identified some steps to help address this problem.

Access to goods and services continues to be problematic in all areas. Cross-cutting issues include the provision of accessible information, the exemptions within the equality legislation and adequacy of penalties and redress. With regard to the **media, including the internet**, the continuing lack of effective legislation in the area of incitement to hatred and in control of internet content is of serious concern.

Political and legal developments

Four key areas are the focus of the section on political and legal developments and include anti-discrimination; migration and integration; criminal justice and social inclusion.

Progress in the area of **anti-discrimination** is seriously under threat since the devastating cuts to equality infrastructure in the October budget 2008. **Migration and integration** is an area that has seen most political and legal developments in recent years and 2008 was no exception. The publication of the Immigration, Residence and Protection Bill 2008 which seeks to harmonise legislation in this area, was met with continuing dismay and an alliance has formed to explore the potential violations this Bill may present to constitutional and international law. **Criminal justice** is a critical area that has seen some progress through the Garda Ombudsman and changes to Criminal Justice and Garda Síochána Acts but the legislative framework with regard to racist crime remains weak.

Racism is the key barrier to ensuring **social inclusion** for ethnic and religious minorities; it must be named and acknowledged as such. There remain inconsistencies in policy where on the one hand national action plans seek to ensure inclusion but immigration related policies can effectively segregate and leave people at risk of poverty. The cessation of the National Action Plan Against Racism (NPAR) without evaluation and the closing of NCCRI are among the significant row-backs that threatens to undermine social inclusion initiatives.

Recommendations

The report makes a number of recommendations to Government, some of which are highlighted below. The Government should

- Restore equality infrastructure and capacity of equality bodies as a matter of urgency.
- Implement recommendations made by the Human Rights Committee with regard to the implementation of the International Covenant on Civil and Political Rights (CCPR), in relation to counter-terrorism, detention of asylum seekers, denominational education and representation and recognition of Travellers.
- Address limitations to NGOs that engage in advocacy work in the context of new legislation governing charitable status.
- Continue to improve existing data collection, to enable meaningful categorisation and data disaggregation.
- Recognise the distinct ethnic identity of Travellers.
- Extend the definition of services in the equality legislation to include immigration and law enforcement;
- Provide sufficient resources to equality bodies to ensure effective implementation of equality legislation.
- Secure family reunification rights for migrants.
- Ensure that all policies that impact on the lives of ethnic and religious minority groups are equality proofed and take account of multiple forms of discrimination, such as those experienced by women.

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III. Introduction

2008 was a challenging year in Ireland for those experiencing or working to combat racism. While the year started positively with the launch of the European Year of Intercultural Dialogue, it concluded with what has become termed the 'dismantling of the Equality Infrastructure'. The budget published in October 2008 saw the cessation of funding to the National Consultative Committee on Racism and Interculturalism and savage cuts to the funding to the Equality Authority, the specialised equality body whose budget was cut by 43%. The Irish Human Rights Commission also had its funding cut by 24% cut in its funding.

Racism is a phenomenon that is contrary to the values of the European Union. This report demonstrates that racism, as in other member states, is evident across all sectors of Irish society. While there has long been racism in Ireland as evident through the experience of Travellers, it is in the context of immigration that debate on racism has come more to the fore. Racism is a serious issue impacting severely on ethnic and religious minorities¹ directly but affects all of society at some level. State and other actors have a responsibility to address racism and therefore, this report documents both manifestations of racism and relevant policy and legal developments to address racism or that contribute to a negative environment for ethnic and religious minorities.

Ireland is a multi-ethnic society with ethnic diversity increasing significantly since the 1990's through immigration that largely coincided with the economic boom at that time. Ethnic minorities comprise up to 12%² of the population; the majority are also EEA³ nationals.

The time period covered by this report is from January 2008 to December 2008. The report focuses on manifestations of racism as well as policy and legislative developments evident during this period and complements previous Shadow Reports including the 2007 Shadow Report. The report does not focus on developments in 2009, though specific developments may be highlighted where these are relevant to the discussion of 2008.

Section III of the report provides information and data on communities that are vulnerable to racism in Ireland. Manifestations of racism and religious discrimination are outlined in Section IV, focusing on key problems in the areas of employment, housing, education, health, policing and racial profiling, racist violence and crime, access to goods and services and the media.

¹ See note on terminology at end of the report.

² For example, the report of the Office of the Minister for Integration, *Migration Nation*, estimates that up to 12% of the population are immigrants, pp 5.

³ Membership of the EEA includes Iceland, Liechtenstein, Norway and the 27 EU Member States.

Section V provides an overview of political and legislative developments in Ireland in 2008 in four key policy areas, namely anti-discrimination; migration, family reunification and integration; racist violence and crime; and social inclusion. On the basis of assessments by NGOs and building on recommendations from key bodies including relevant international bodies, the report offers a series of recommendations. The report concludes by highlighting particularly critical developments in 2008 and reflecting on the significance of civil society responses and contributions.

IV. Communities vulnerable to racism

Ireland is a multi-ethnic society with ethnic and religious diversity increasing significantly since the 1990s, with ethnic minorities comprising up to 12% of the population. Ethnic and religious minority groups in Ireland are vulnerable to racism. The Eurobarometer poll shows that more than half of Irish people (57%) believe that discrimination on the basis of ethnic origin is widespread. This compares with statistics at a European level which show that most respondents (54%) also feel that discrimination is widespread. On the other hand, 62% of respondents in Ireland said having people of different ethnic origin living in Ireland enriched culture⁴. A report published by the Economic and Social Research Institute (ESRI) and Equality Authority in May 2007, looks at subjective experiences of discrimination based on 2004 data. The study reports that just over 12% of Irish adults felt that they have been discriminated against in the preceding two years. Rates of reported discrimination rise to 31% among those of Black, Asian or other ethnicity and 24% among non-Irish nationals⁵.

A key development took place in 2006 with the inclusion for the first time in the census of a question on ethnic background. The 2006 census is the most comprehensive, available source of information on diversity in Ireland, collecting data on religious belief, nationality, country of birth and membership of the Traveller community⁶. The Census reveals that in 2006, 88.8% of the population were Irish nationals, 2.7% were from the UK, 3.9% were from other EU countries and 3.5% were from outside the EU. In 2006, there were 188 nationalities represented in Ireland. 96.5% of the population had a White ethnic background. People with a non-Irish white ethnic background⁷ were predominantly in the 25-44 age group (50.5%). People with Black ethnic backgrounds were concentrated in the 0-14 (40.9%) and 25-44 (44.5%) age groups. Census 2006 also revealed that the number of mixed nationality families had increased from 70,721 in 2002 to 95,635 in 2006. The census demonstrates that the majority of immigrants are young, single people. Of the 122,000 persons who immigrated into Ireland in the twelve months before the census, 68.2% were single and of these 62.2% were in their twenties.

There were 22,400 members of the Irish Traveller community, or just over 0.5% of the population. There was a very high proportion of Irish Travellers in the 0-14 age group (41.4%), this was twice the overall population rate of 20.4%⁸.

⁴ ec.europa.eu/employment_social/news/2007/jan/euro_baro_summary_en.pdf

⁵ <http://www.equality.ie/index.asp?locID=135&docID=724>

⁶ While the introduction of a question on ethnic background is significant, some have argued that the question formulation is limited and might be improved in the future.

⁷ Terminology used here reflects Census categories.

⁸ CSO Press Release, available at http://www.cso.ie/newsevents/pr_equalityinireland2007.htm

The question of the recognition of the distinct ethnic identity of the Traveller community has come again to the fore. The State acknowledges a distinct Traveller culture, that Travellers experience racism and provides protection to Travellers from discrimination through the equality legislation. However, it does not recognise Travellers as a distinct ethnic group. The Shadow Report 2007 reported that the UN Committee of the Elimination of Racial Discrimination (CERD) encourages the State to work more concretely towards recognising the Traveller community as an ethnic group⁹ and that this view was echoed in the Opinion of the Advisory Committee for the Protection of National Minorities (ACFC)¹⁰. In 2008, the Human Rights Committee, in its concluding observations after consideration of the report submitted by the Irish Government under article 40 of the International Covenant on Civil and Political Rights (ICCPR) also para 23, expresses concern that the State party does not intend to recognise the Traveller community as an ethnic minority (para 23). The Equality Authority also supports the recognition of the Traveller community as a distinct ethnic group. In 2008, the Irish Traveller Movement launched an online petition in an effort to lobby the government to recognise the distinct ethnic identity of the Traveller community.

The Roma community has long been represented in Ireland. The community has grown considerably with the recent wave of immigration since the 1990s. It is not possible, however, to indicate the size of the Roma community in Ireland as the main data collection mechanism, the Census, does not collect data specifically on the Roma community.

The total number of immigrants into the State in the year to the end of April 2008 fell by 26,000 persons to 83,800. The largest group of migrants coming to Ireland in 2008 were EU citizens although this figure fell considerably relative to previous years. There had been unprecedented growth in the number of EU citizens coming to Ireland since accession of new member states in 2004, as reflected in Census 2006 data. The Central Statistics Office (CSO) noted that while immigrants of all nationalities (apart from the UK) showed a decline, those from the EU 12 countries showed the greatest fall from 53,000 in April 2007 to 34,000 in April 2008¹¹.

EU citizens were followed by non-EEA migrant workers and then by a small and decreasing number of asylum seekers. In 2008, the Office of the Refugee Commissioner (ORAC) received 3807 claims for asylum. In 2007, ORAC

⁹ UN Committee on the Elimination of all forms of Racial Discrimination, *Concluding Observations on Ireland, Report of the Committee for the Elimination of All Forms of Racial Discrimination* (CERD, 10 March 2005) CERD/C/IRL/CO/2 at para. 20

¹⁰ Advisory Committee for the Protection of National Minorities, *Second opinion on Ireland* (Strasbourg: Council of Europe, October 2006). The opinion states, '31. The Irish authorities should refrain from conclusive statements affirming that the Travellers do not constitute an ethnic minority in so far as such a position is not based on clear criteria and does not result from a dialogue with the minority concerned, taking into account the principle of self-identification stemming from Article 3 of the Framework Convention...'

¹¹ CSO, Population and migration Estimates April 2008, published 20 August 2008, available on www.cso.ie

received 3933 applications and in 2006, 4241 claims for asylum were lodged¹². These figures represent a significant decrease on earlier figures, e.g. in 2003 when the number of claims stood at 7483. The top five nationalities of those seeking asylum in 2008 were Nigerian, Pakistani, Iraqi, Georgia and Chinese; these were also the top five nationalities in 2007.

Though Ireland continues to be a predominantly Christian, largely Catholic country, there is evidence of increasing religious diversity within the population. The Census 2006 reveals that Muslims are the third largest religious group in Ireland¹³. There was a 69.9% change in the Muslim population between 2002 and 2006, with 0.77% of the population identifying as Muslim in the 2006 compared with 0.49% in 2002. 0.05% of the population identify with the Jewish faith. There has been a very small but steady increase in the Jewish population since 1991, from 1581 persons in 1991 to 1790 in 2002 and to 1930 persons in 2006. 90.64% of the population identify as Christian, with 86.83% identifying as Roman Catholic.

Within ethnic minority communities, there are sections of the community that experience multiple and/or additional forms of discrimination, e.g. women, lesbian and gay people, people with a disability. There are some provisions for the disaggregation of data by gender across categories such as ethnic background, religious belief and membership of the Traveller community within the census data collection and reporting mechanisms. However, data collection mechanisms are not consistent across the board. Concerned by instances of multiple discrimination, CERD is amongst those who encourage the State to take measures regarding the special needs of women belonging to a minority and other vulnerable groups. Particularly vulnerable groups in Ireland in 2008 included victims of trafficking, undocumented workers, domestic workers, migrants in low paid employment and unaccompanied minors.

¹² ORAC, <http://www.orac.ie/pages/Stats/statistics.htm>, accessed 17 April 2008.

¹³ Census 2006, available at <http://www.cso.ie/statistics/Population.htm>

V. Manifestations of racism and religious discrimination

The overall purpose of this section is to provide an overview of the situation of racism and discrimination in the country. This section has been divided into eight subtopics: Employment, Housing, Education, Health, Policing and racial profiling, Racist violence and crime, Access to goods and services in the public and private sector, and Media including the internet. Each subtopic includes an overview of the key problem areas, highlighting relevant developments and, where available, statistics demonstrating discrimination during 2008. Examples of good practice in each key area are also identified.

V.i Employment

Discrimination in employment is outlawed in Ireland on the basis of nine grounds, including 'race', membership of the Traveller community and religion. Relevant legislation includes Employment Equality Act 1998 and Equality Act 2004. Relevant data on cases brought under the legislation is collected by two bodies established by the legislation, namely the Equality Authority and the Equality Tribunal. Statistics¹⁴ from the Equality Tribunal¹⁵ reveal that cases referred to the Equality Tribunal rose by 17% on the 'race' ground when compared with 2007 figures with 359 cases referred in 2008. This continued increase is of particular concern in light of the 106% increase in claims under the 'race' ground between 2006 and 2007, where it was noted that the 'race' ground continued to be the most frequently cited ground for claims in relation to employment equality¹⁶. One case was brought on grounds of membership of the Traveller community compared with three cases in 2007 and two cases were referred on the grounds of religion compared with five in 2007.

While the number of referrals brought by members of the Traveller community is relatively low, this does not reflect Travellers experience in the area of employment as Travellers experience high levels of unemployment. Census 2006 reveals that of the 7220 Travellers considered to be in the labour force, 1815 are at work while 5405, that is 75%, are unemployed¹⁷.

¹⁴ 2008 End of year Press Release. Available at <http://www.equalitytribunal.ie/index.asp?locID=80&docID=1959>, accessed 7 April 2009.

¹⁵ The Equality Tribunal was set up in 1999 as an impartial, independent, quasi-judicial body charged with hearing or mediating claims of alleged discrimination under the Employment Equality Acts, the Pensions Acts and the Equal Status Acts. The Tribunal decides or mediates claims of discrimination in relation to all aspects of employment including pensions and all goods and services (except licensed premises for incidents after 29 September 2003), including accommodation and education.

¹⁶ Equality Authority, *Annual Report 2007*, available on www.equality.ie accessed 10 April 2009.

¹⁷ Census 2006, Volume 5 – Ethnic or Cultural Background, table 19, p. 41, available at http://www.cso.ie/census/census2006results/volume_5/vol_5_2006_complete.pdf, accessed 11 April 2009.

Research conducted by the Irish Congress for Trade Unions (ICTU) revealed an 18% pay gap for migrants¹⁸. This gap rises to 31% for those coming from non-English speaking countries.

For migrants, their employment status is of particular importance as it impacts on other rights including the right to residency and family reunification. Many migrants working in Ireland continue to be disadvantaged with regard to family life as they are separated from their families experience difficulties with regard to their entitlement to and bureaucratic delays in securing family reunification.

NGOs have highlighted the problem of people becoming undocumented, including through no fault of their own. The Migrant Rights Centre Ireland (MRCI) for example campaigned for a bridging visa which would be issued to people who had become undocumented through no fault of their own. Progress seemingly was made in 2008 when the government announced its intention to bring in such a scheme. Regrettably however, this has not progressed further and to date, such a visa has not been implemented. MRCI analysis of cases suggests that an ad hoc arrangement continues to operate.

With regard to multiple forms of discrimination, female migrants work predominantly in the least regulated sectors including the agri-food sector and domestic work¹⁹. NGOs have highlighted the limited consideration given to female migrants in the workplace. While research has shown that 42% of female migrant workers have a higher degree, they are mainly employed in low skilled jobs²⁰. Also, it should be noted that organisations working with migrant workers in the area of work find that migrants may acquire disabilities while at work.

The 2007 Shadow Report highlighted concern around trafficking including trafficking for forced labour. The Immigration, Protection and Residency Bill 2008 (IPR) has the opportunity to address trafficking including providing protection for victims of trafficking. However, NGOs working in this area have highlighted that the IPR fails to sufficiently protect victims of trafficking. They note that provisions in Section 124 of the Bill which relate to protections for victims of trafficking “fall far short of Ireland’s obligations under the Council of Europe Convention on actions to Combat Human Trafficking”. Most significantly they note that the proactive measures would not apply to EEA citizens who have established their free movement rights. Also, there is an absence of provisions detailing the types of assistance which would be made available. Furthermore, temporary residence permits for victims would be issued only if linked to the victim assisting a prosecution²¹.

¹⁸ Article by David Joyce, ICTU in Equality News Autumn Winter 2007 – 2008, p. 12

¹⁹ MRCI caseload demonstrates exploitation of both women and men in the restaurant sector.

²⁰ ICI, 2007.

²¹ Press release, Wednesday 13 February 2008, “Groups claim Immigration Bill breaches Constitution and Ireland’s International Human Rights Obligations.”

Specific challenges in the context of reduced economic growth which was identified earlier on the year with the conclusion at the end of the year that the country, along with many others, is experiencing a recession. With this came concerns regarding the potential increase in racism and targeting of ethnic minorities as well as job security for ethnic minorities migrants and the need to monitor developments for a disproportionate affect on the migrant population. Other factors may also lead to a disproportionate impact on the migrant population, resulting in higher levels of unemployment for migrants. Migrants for example have been employed in industries such as the construction industry, which have been particularly affected by recession.

On a positive note, the National Employment Rights Agency (NERA) which was established in 2007 has employed a number of inspectors including employees with other languages which has helped improve their capacity to inspect workplaces where ethnic minorities are at risk of exploitation. Continued growth in NERA's capacity in this regard needs to be supported through government commitment, allocation of necessary resources and penalties.

Examples of NGO Good Practice

Bridging Visa Campaign, MRCI

MRCI's Bridging Visa Campaign Group is made up primarily of migrant workers who have become undocumented for reasons beyond their control who came together to work for change. The Campaign Goal is that the Department of Justice, Equality and Law Reform to provide a temporary 6-month residency stamp called a Bridging Visa for non-EU/EEA nationals who have entered Ireland lawfully but have become undocumented for reasons beyond their control.

Integrated Workplaces

An Action Strategy to support Integrated Workplaces is a social partner initiative organised by representatives of Irish Congress of Trade Unions (ICTU), Irish Business and Employers Confederation, the Small Firms Association, the Construction Industry Federation, Chambers Ireland, the Office of the Minister for Integration and the Equality Authority. The strategy is designed to assist employers to manage a culturally diverse workplace and to contribute to and develop an integrated workplace.

V.ii Housing

Accommodation is an important area for ethnic minorities, impacting on their access to and outcomes from services in other areas including for example education, health and also clearly correlating with their experience of social inclusion or exclusion.

Concern was expressed by the HCR in its concluding observations under the ICCPR, on the accommodation issues for Travellers and the State's response, specifically with regard to the criminalisation of trespassing on land in the 2002 Housing Act which disproportionately affects Travellers. It recommends that the State party amend its legislation to meet the specific accommodation requirements of Traveller families (para 23).

The government established the National Traveller Accommodation Committee (NTACC) on a statutory basis. It is acknowledged that there have been some outputs and that the quality of accommodation can be of a higher quality than heretofore, but overall progress has been limited and in practice demand for accommodation exceeds provision. A number of factors contribute to this situation including an increase in the Traveller population.

Dispersal and Direct Provision (DDP), the policies underpinning accommodation arrangements for asylum seekers in the State, have consistently been criticised by NGO and have received international attention, as identified in the 2007 Shadow Report. 2008 saw no positive change in this area.

The Habitual Residency Condition (HRC) continues despite lobbying by NGOs and the research findings of agencies such as the Homeless Agency reported in 2007 Shadow Report, which demonstrate that the HRC was impacting on homelessness and limiting the provision of emergency accommodation to migrants²². The Homeless Agency's report found that a small but growing number of EU 10 nationals are accessing homeless services and estimate that at any one time over 60 EU10 nationals access homeless services, including food and day services and to a lesser extent homeless accommodation, in the capital, Dublin²³.

Detention of asylum seekers and undocumented migrants has been highlighted by NGOs as inappropriate. Irregular migrants have been detained in ordinary prisons and in March 2009, the government announced plans to establish a separate detention centres such as the detention centre in New Thornton Hall. It is of particular concern that children can also be detained in New Thornton Hall, an adult complex, albeit as an interim measures. NGOs such as Children's Rights Alliances have been lobbying the government to abandon its plans to detain children in this facility. The HRC is concerned about the increased detention periods for asylum seekers under the Immigration Act 2003. It also notes that the present system which leaves age assessment to the immigration officer without these being verified by social services, could lead to a person under 18 being detained. It is concerned by the placement of persons detained for immigration-related reasons in ordinary prison facilities and their subjection to

²² See Homeless Agency's 2006 report, *Away From Home and Homeless*.

²³ The report found that of those accessing food services 57% considered themselves to be homeless but their circumstances ranged from sleeping rough at 33%; Squatting 6%; Homeless hostel 2%; with friends or relatives 15% to having their own accommodation 31%. 10% of this group had experienced homelessness in their own country.

prison rules. It advises that the State party should review its detention policy with regard to asylum-seekers and give priority to alternative forms of accommodation. The Government is advised to ensure that the principle of the best interests of the child be given due consideration (para 17).

Example of NGO Good Practice

Dispersal and Direct Provision Subcommittee of Integrating Ireland

A number of NGOs working in the area of asylum and other allies, have come together to develop a joint strategy and approach to highlighting the inadequacy of the policies of Dispersal and Direct Provision (DDP) and the problems associated with or caused by the implementation of DDP. This partnership initiative has been facilitated by Integrating Ireland, a national network.

V.iii Education

Education and educational institutions are covered under the equality legislation but with certain exemptions and cases taken under the legislation illustrate where some difficulties lie. Overall, there is no quantifiable means of assessing the extent to which existing education strategies are benefiting minorities nor of effectively evaluating new strategies. While some data is collected, it is inconsistent. For example, post-primary schools collect data on country of origin but primary schools may not. At primary level, the focus or motivation for the collection of data tends to be in relation to language needs rather than other factors relating to racism.

Specific issues arising in 2008 included the provision of non-denominational education, religious symbols in schools and access to education for children of International students. Relevant policy and legal developments including the Student Support Bill 2008 and the initiation of a consultation process on an intercultural education strategy, as proposed in the National Action Plan Against Racism.

The work and struggle of Travellers, Traveller activists and other actors in the area of educational equality was vindicated in 2008 with education statistics revealing a doubling in the number of Travellers transitioning into secondary education, and a five-fold increase in Travellers entering third-level education. There is no room for complacency however, as relatively speaking, Traveller participation in education is relatively low.

A concern for Traveller NGOs at present is the fact that while a useful reports with recommendations for a Traveller Education Strategy was launched in 2007, the strategy or implementation plan has not yet been published. Furthermore, the Advisory Committee which was established and informed the development of the strategy recommendations, disbanded after the launch and has not been

reactivated. Therefore, a formal space for Travellers to input into the finalisation of a strategy, implementation and monitoring of a Traveller education strategy is not available.

Discussion and debate with regard to the denominational nature of the provision of education remained on the agenda in 2008. The 2007 Shadow Report highlighted the concern identified by ECRI with regard to the provision of education to religious minority groups and similarly in the Resolution adopted by the Council of Ministers regarding the implementation of the Framework Convention on National Minorities. In 2008, this question again came to international attention through lobbying by NGOs and other actors as the HRC prepared its concluding observations on the implementation of the government's commitments under the ICCPR.

In its concluding observations, the HRC noted with concern that the vast majority of Ireland's primary schools are privately run denominational schools that have adopted a religious integrated curriculum thus depriving many parents and children who so wish to have access to secular education. It recommends that the state party increase its efforts to ensure that non-denominational primary education is widely available in all regions of the State party, in view of the increasingly diverse and multi-ethnic composition of the population (para 22).

By way of background information, primary schools in Ireland have been either of a single denomination or multi-denominational. The majority of schools in Ireland are Catholic with a small number of e.g. Protestant and Islamic schools. There are also multi-denominational schools but access can be an issue in certain areas, given the increased demand and short supply/resourcing to such schools. This is a particular issue in light of the intersectionality of discrimination on the basis of 'race' and religion. While some moves have been made - e.g. pilot programme of two non-denominational schools to be run by Vocational Education Committees (VECs) announced in 2007²⁴ and the announcement by the Catholic Archbishop of Dublin in 2008 of changes to the enrolment policy which heretofore had required schools to prioritise places for Catholics²⁵ - much more needs to be done.

Religious symbols and education received much attention in 2008, including the wearing of the Hijab. At the time (and to date), decisions on whether or not religious symbols were allowed in schools rested with the school principal. The Minister for Integration wrote to principals of 4000 primary and secondary schools in 2008 to ascertain their views on the wearing of the hijab. Subsequently, two national teachers unions issued a statement in which they

²⁴ As referenced in the 2007 Shadow Report.

²⁵ The Archdiocese of Dublin approved a new school enrolment policy, which shall see schools setting aside a quota of places for non Catholic pupils. The new admissions system is being introduced on a pilot basis in two primary schools in west Dublin. Until now all schools belonging to the Archdiocese were obliged to enrol Catholic applicants first. See NCCRI E-bulletin Feb 2009 and <http://www.rte.ie/news/2008/0123/schools.html>

communicated the need for reasonable accommodation of the hijab in Irish schools and advocated that the current policy which leaves the decision on this issue to individual schools, should remain²⁶.

The Student Supports Bill 2008 was critiqued by NGOs and other actors. It was noted that applicants would have to have lived in Ireland for three of the previous five years in order to qualify for a grant. Previously it was a requirement that the student's parent had to have lived in Ireland for one year previous²⁷.

On a positive note, the government embarked on initiated a consultation process on developing an Intercultural Education Strategy. It is hoped that the Strategy will be comprehensive, resourced and published as soon as possible. However, as noted above, the Traveller Education Strategy remains to be finalised and implemented. A continuing challenge structurally, as noted in the 2007 Shadow Report, is that while initiatives are being developed the Office of the Minister for Integration in the area of education, the remit of his Office is limited to migrants and does not include Travellers.

Examples of NGO Good Practice

EU Year of Intercultural Dialogue

The National Consultative Committee on Racism and Interculturalism was designated the Coordinating body for the European Year of Intercultural Dialogue. The NCCRI drew up a plan for the year focusing on six themes, following a four month consultation process. A steering group was established which comprises both non government and government representatives.

Sport Against Racism (SARI) 'Count Us In' Children and Youth Sports Integration Project

The aim of Count Us In is to generate intercultural dialogue and build social capital in and out of the classroom using the medium and universal language of sport. SARI has successfully conducted this programme in a number of areas in Dublin. To date over 800 children and young people have participated.

MRCI Resource Pack for Community Groups

The MRCI has developed a resource pack and poster for groups working with migrants entitled *Tools for Change*. Underpinned by community work principles, it demonstrates how community work principles and practices can be used by groups working with migrants.

²⁶ See NCCRI E-bulletin, April 2009.

²⁷ See for example NCCRI e-bulletin, February 2009.

V.iv Health

2008 began positively with the launch of an intercultural health strategy in February. On launching the Strategy the Health Service Executive (HSE) has noted that the backgrounds of healthcare staff and people to whom services are provided are also changing. It highlights for example, that 33% of those working in the medical/dental field are from overseas, as are 14% of nurses and midwives. In terms of service users, it points out that at one of the country's large Children's Hospitals, 10,000 of the 60,000 attendances annually to the out-patient department are from ethnic minorities²⁸.

The HSE also recognise the health inequalities experienced by ethnic minorities, noting that it is widely acknowledged that people from minority groups including Travellers, asylum seekers, refugees and migrant workers are especially vulnerable to poverty and social exclusion and may be exposed to racism; coupled with language and cultural barriers this may further compromise health and well-being. Progress continues to be made on the national Traveller health study which was launched in 2007²⁹.

However, other policies are having a negative effect on the health of ethnic minorities. Refugee organisations and other NGOs³⁰ including Amnesty International, highlighted the negative impact of the Dispersal and Direct Provision (DDP) policies on the mental health of asylum seekers. Indeed, the HSE has also acknowledged the mental health issues for asylum seekers in the Intercultural Health Strategy. A range of studies support the concerns of NGOs. For example, a study of the use of General Practitioner (GP) services and morbidity patterns found that asylum seekers were five times as likely to attend with a psychiatric condition as a matched Irish GMS patient and asylum seekers were three times more likely to have a diagnosis of anxiety³¹. A qualitative study in Galway identified length of time living under the direct provision accommodation system as one of the factors that had a negative impact on mental health³².

Language, interpretation and translation services continue to operate at a relatively low capacity. The International Medical Organisation (IMO) were among those who highlighted the deficiency in 2008, criticising in particular the language services provided to GPs³³.

²⁸ See 'National Intercultural Health Strategy, 21 February 2008', available at <http://www.healthfacts.ie/latest-news.html> accessed 17 April 2009.

^{29,29} Ibid.

³⁰ Including for example Amnesty International, Integrating Ireland and NASC.

³¹ McMahon J, MacFarlane A, Avalos G, Cantillon P, Murphy AW. A survey of asylum seekers' general practice (GP) service utilisation and morbidity patterns. *Irish Medical Journal* 2007; 100(5):461-464

³² Stewart, R. (2007) *The Mental Health Promotion Needs of Asylum Seekers and Refugees*, A qualitative study in Direct Provision Centres and Private Accommodation in Galway City, Galway City Development Board and Health Promotion Services, HSE West

³³ See article by Ian Mc Guinness in the Irish Medical Times entitled, "GP Services 'Poor'", Irish Medical Times, available at http://www.imt.ie/news/2008/03/gp_language_service_poor.html accessed 17 April 2009

Female Genital Mutilation (FGM) is a critical issue for ethnic minority women in Ireland. 2008 was a year that saw some important recognition of the FGM as a national issue. Ireland's might be described as being in the early stages of addressing this issue, politically, socially and through the health services. A steering group comprising a range of organisations including NGOs was established to advise in the development of a three year plan, Ireland's National Action Plan on FGM which was launched at the end of 2008.

The 2007 Shadow Report detailed the launch of the nationwide Traveller health study, research for which continued during 2008³⁴. While in its infancy, the study adopts a holistic approach to the definition of Traveller health and identifies the various challenges to addressing health issues for Travellers. It indicates that Health is an issue for all public policies, to be addressed across all government departments, requiring a multi-sectoral approach. It requires that Travellers are visible within planning and provision and that providers are sensitive to discrimination, the potential for discrimination and how this impacts. The determinants of Traveller health need to be addressed and health professionals need to take on a role of advocates to challenge these determinants. It recognises the need for Travellers to be identified in the context of their ethnicity on all health systems, if Traveller health is to be monitored effectively. Data which can be disaggregated can help monitor the impact of health initiatives and also enable targeting of resources to those most at risk³⁵.

Examples of NGO Good Practice

Akidwa Female Genital Mutilation (FGM) Project 2008 - 2009

A key outcome of this project was the development of an information resource for health care professionals working in Ireland on FGM, in conjunction with the Royal College of Surgeons and MSc Women's Health Programme³⁶.

Traveller Counselling Service

The Traveller Counselling Service was launched in 2008. It is an independent, culturally appropriate counselling service which has been set up specifically for Travellers in the Greater Dublin area. It is a one-year pilot project which hopes to lead to a more long-term culturally appropriate counselling service for Travellers. The launch was covered by the national television station, RTE, on the 6 o'clock news.

³⁴ Further information on the Traveller health study can be found on the website, <http://pavee.ie/ourgeels/>

³⁵ Summary of text of Traveller Health study available at <http://pavee.ie/ourgeels/traveller-population/population-structure/> accessed 3 May 2009.

³⁶ For further information, see www.akidwa.ie

V.v Policing and racial profiling

There have been some positive developments in this area in recent years including the establishment of the Garda Ombudsman and initiatives of An Garda Síochána to recruit people from ethnic minorities. However, there are also difficulties that need to be recorded.

The Prison Officer Association called for language support and training in 2008, noting that the language barrier hampers wardens in their work³⁷. This issue was highlighted as a priority in light of the notable increase of non-Irish nationals in Irish prisons, a figure that has risen by 36% over the past five years. This highest proportion of non-Irish nationals are in Clover Hill prison where many irregular migrants are held.

As well as issues with regard to the policing of ethnic minorities, there are also issues for ethnic and religious minorities within the police force. One issue that arose in 2008 was the wearing of the turban. In their Annual Report 2008, the Fundamental Rights Agency (FRA) notes developments on the issue of religious clothing and symbols at work which were generally restrictive in a number of EU members states and refers specifically to Ireland where An Garda Síochána refused permission for a Sikh volunteer to the Garda Reserve to wear a turban as part of his uniform. The reason given was that a standard of uniform requirement was necessary to 'retain an image' of impartiality while providing a state service to all citizens.

The use of detention is also problematic and one that has been highlighted by a range of bodies including international human rights bodies. The HRC in its concluding observations on the CCPR for example, drew attention to detention. The HRC expressed concern about the increased detention period for asylum seekers under the Immigration Act 2003. It also noted problems with the age assessment procedure which could lead to a person under 18 years being detained. It is also concerned that people are detained for immigration-related reasons in ordinary prison facilities (para 17). Arguably this is of particular concern, given the other issues raised by the HRC with regard to conditions in Irish prisons. The HRC recommends that the State party should review its detention policy with regard to asylum-seekers and give priority to alternative forms of accommodation. The State should take immediate and effective measures to ensure that people detained for immigration reasons are held in specifically designed facilities and that the principle of the best interests of the child is given due consideration (para 17).

The role of the judiciary is of critical importance with regard to justice. A disturbing case of bias among the judiciary came to our attention in 2007 and an

³⁷ See article by Patricia Mc Donagh in Irish Independent, 18 August 2008, available at www.independent.ie/national-news/language-barrier-ampers-warders-1457771.html, accessed 17 April 2009.

investigation was carried out in 2008. The Refugee Appeals Tribunal (RAT) was asked to review up to 1000 cases that had been a decision by a barrister, Mr. Nicholson, following the tribunal setting a case where three asylum seekers sought to have their cases heard by someone other than Mr. Nicholson because of this “perceived bias”. Mr. Nicholson resigned as a member of the Tribunal in November 2007 before the settlement of the case which was known as the Nyembo case³⁸. Statistics produced by the Tribunal following a ruling of the Supreme Court indicated that he had close to a 100% rejection rate³⁹.

The main problem with regard to racial profiling in Ireland is that we cannot concretely establish that it is taking place or the extent to which it is taking place, although there is anecdotal evidence to suggest this is the case. However, it is difficult to prove this or test cases due to the limited legislation to monitor the practice of the police force. For example, the police force is not covered under the equality legislation. Also, as highlighted in the 2007 Shadow Report, immigration legislation arguably enables some racial profiling. (See also section VI.iii below on Criminal Justice.) Also, as highlighted in the 2007 Shadow Report, immigration legislation arguably enables some racial profiling. (See also section VI.iii below on Criminal Justice.) Some legislative progress was made late in 2006 with regard to the establishment of a Garda Inspectorate and enactment of legislation to enable the establishment of a Garda Ombudsman.

ECRI recommends the close monitoring of the implementation of the Immigration Acts 2003 and 2004 in the interest of safeguarding against racial profiling⁴⁰. Racial profiling at entry points and border controls is a serious matter, accentuated by the extent of power given to immigration officers including discretionary powers, the lack of procedural safeguards or appeal mechanisms and the fact that the role or practice of immigration is not covered by equality legislation. It is positive to note that complaints can be made to the Garda Ombudsman with regard to behaviour of immigration officers, although there are some restrictions⁴¹.

³⁸ Nyembo –v- Refugee Appeals Tribunal and J Nicholson, [2007] IESC 25.

³⁹ See NCCRI e-bulletin March 2009 and their reference to *Irish Times* newspaper article, www.ireland.com/newspaper/frontpage/2008/0310/120510456425.html

⁴⁰ ECRI, *Third Report on Ireland*. The report which was made available to the public in May 2007, was adopted in December 2006.

⁴¹ All GNIB staff on documentation checking posts at entry points to the jurisdiction are Garda staff; therefore GSOC can receive and entertain complaints about GNIB Garda staff members where the complaint is solely about a decision to refuse entry/allow continuation to remain in the Irish jurisdiction. That is, GSOC has no power to overturn a GNIB officer decision. However, if the complaint is that a GNIB Garda officer abused their authority or acted in a discreditable manner (such as discriminatory behaviour) arriving at their decision to refuse entry/allow continuation to remain in the State then this could be accepted as a complaint to GSOC.

Examples of NGO Good Practice

NGOs offer training to An Garda Síochána on Trafficking. A number of NGOs are supporting An Garda Síochána through the provision of training on issues relating to Trafficking. NGOs providing the training include Ruhama - an organisation which amongst other activities, offers support to women working in the sex industry - and MRCI who have an expertise in the area of trafficking for forced labour⁴².

V.vi Racist violence and crime

The data available with regard to racist violence and crime can be collated through two sources, the Central Statistics Office (CSO) that releases data collected by An Garda Síochána (the national police force) and a “racist incidents” system developed by the NCCRI. The NCCRI notes that majority of incidents reported to them relate to crime. It should be noted that the Gardaí collect data relating to “offences with a racist motive” which, in the legal sense, are not necessarily defined as crimes.

Data collected through the PULSE system is available to the public through the Central Statistics Office. The most recent data available from CSO is shown in the table below. The data provided is broken down by motivation categories - i.e. racism, xenophobia or anti-semitism - and shows figures since the introduction of the PULSE system in 2003 to the end of 2008⁴³.

	Year					
	2003	2004	2005	2006	2007	2008
	N	N	N	N	N	N
MO Type						
Anti-Semitism	.	.	10	.	12	14
Racism	63	68	85	172	205	166
Xenophobia	.	.	5	.	11	.
All	63	68	100	172	228	180

Table 1: Yearly National Reported Racially motivated incidents – 2003 to 2008. All incidents are provisional and may be subject to revision.

The final report of racist incidents before it closed in December 2008, the NCCRI provides an overview of the number of reports it had received since 2005 and a summary analysis of incidents in 2008. In 2005, it received 119 reports; in 2006

⁴² While this is a very positive development, it should be noted that the IHRC has called for more resources and training of Gardaí to support victims of trafficking.

⁴³ While the scale clearly indicates an increase in offences, it is possible that some of the increase may be attributed to greater awareness of racist incidents reporting mechanisms.

it received 65 reports. For 2007 this figure was 106 and in 2008, they received 106 reports. The incidents are categorised into assaults, abuse and harassment; discrimination in the workplace and the delivery of public and private services; misinformation and the circulation of offensive materials. A noteworthy case highlighted in the NCCRI report, was that where a Limerick Judge imposed a three month sentence for a verbal attack on a non Irish national in Limerick city⁴⁴.

Migrants including EU nationals were among the growing number of murder victims in Ireland in 2008. While not necessarily a racist attack, there was shock and outrage at the murder of two young Polish men in Drimnagh, Dublin in February. The attacks which resulted in the death of both men were widely condemned including by An Taoiseach at the time, Bertie Ahern TD.

V.vii Access to goods and services in the public and private sector

Discrimination in the area of provision of goods and services in the public and private sectors is outlawed in Ireland on the basis of nine grounds, including 'race', membership of the Traveller community and religion. Relevant legislation includes the Equal Status Act 2000 and the Equality Act 2004. Relevant data on cases brought under the legislation is collected by two bodies established by the legislation, namely the Equality Authority and the Equality Tribunal. A number of important instruments facilitate the recording of experiences of racism in accessing goods and services in the public and private sectors. These include the case load of the equality bodies and the Labour Court as well as the racist incident recording system of NCCRI. The process of identifying the extent of racism in service provision has become more complicated since the introduction of the Intoxicating Liquor Act in 2005.

Statistics⁴⁵ from the Equality Tribunal⁴⁶ reveal that cases referred to the Equality Tribunal in 2008 rose by 80% under the 'race' ground (that is from 10 cases in 2007 to 18 cases in 2008), by 35% under membership of the Traveller community (that is 17 in 2007 to 23 in 2008) with no change under the grounds of religion (where there was one case referred in 2007 and similarly in 2008).

There are limitations evident in the legislation such as the exemption of a number of functions of public bodies from the provision of the legislation. Problematic in this context for example are those exemptions relating to the provision of public services to certain groups on non-Irish nationals. Nationality was covered in the

⁴⁴ See NCCRI e-bulletin Jan 2009, available at www.nccri.ie

⁴⁵ 2008 End of year Press Release. Available at <http://www.equalitytribunal.ie/index.asp?locID=80&docID=1959>, accessed 7 April 2009.

⁴⁶ The Equality Tribunal was set up in 1999 as an impartial, independent, quasi-judicial body charged with hearing or mediating claims of alleged discrimination under the Employment Equality Acts 1998 to 2008, the Pensions Acts 1990 to 2004 and the Equal Status Acts 2000 to 2008. The Tribunal decides or mediates claims of discrimination in relation to all aspects of employment including pensions and all goods and services (except licensed premises for incidents after 29 September 2003), including accommodation and education.

Equal Status Act 2000; however, exceptions were introduced in the Equality Act 2004 which saw the transposition of the EU 'Race' Directive which in the regard is weaker than earlier Irish legislation.

The introduction of the Intoxicating Liquor Act 2003, cases under which are heard in the District Court, continues to present a problem for vulnerable groups. Prior to 2004, cases relating to discrimination in licensed premises were heard by the Equality Tribunal which is a more accessible setting than the District Court. Also, vulnerable groups no longer have access to information and assistance from the Equality Authority which previously would have been available to them.

Concern was expressed by the HCR in its concluding observations under the ICCPR, on the lack of Traveller representation on the High Level Group on Traveller issues, recommending that the State party should ensure that in public policy initiatives concerning Travellers, representatives from the Traveller community should always be included.

Dispersal and Direct Provision (DDP), the policies underpinning accommodation arrangements for asylum seekers in the State, have consistently been criticised by NGOs and indeed have received international attention, as identified in the 2007 Shadow Report. 2008 saw no positive change in this area. In 2008, the payment to asylum seekers remained the only social welfare payment that had not increased in the period 2000 to 2008, despite clear increases in the cost of living and inflation. Furthermore, policy with regard to the non payment of Child Benefit to asylum seekers further marginalises and results in higher levels of poverty among asylum seekers with families, impacting on the risk of child poverty (see also section on social inclusion).

The Habitual Residency Condition (HRC) continues despite lobbying by NGOs and the research findings of agencies such as the Homeless Agency reported in 2007 Shadow Report which demonstrates that the HRC was impacting on homelessness and limiting the provision of emergency accommodation to migrants⁴⁷.

It should also be noted that Romanian and Bulgarian nationals are in a difficult situation. As EU citizens they can come to Ireland but special conditions for Romanians and Bulgarians mean they do not have the right to work and cannot access many vital public services. Identified as a "grey area" some clarification on certain issues was achieved in 2008. However, new issues continue to emerge for this group of EU citizens regularly.

The NCCRI Racist Incidents Reports for 2008 outline a number of incidents in the area of access to private services. Access to pubs and clubs continues to be an issue, in particular for Travellers. One example cited by the NCCRI relates to Travellers who were unable to access a pub when celebrating a child's Holy

⁴⁷ See Homeless Agency's 2006 report, *Away From Home*.

Communion. A number of incidents were also recorded in the area of transport including buses and taxis. As noted in the 2007 Shadow Report, access to taxis and racism among taxi drivers in an area of growing concern. NCCRI publishes information on cases reported by both Irish and non-Irish nationals including slurs against Black taxi drivers made by an Irish taxi driver⁴⁸. A research report commissioned by the Immigrant Council of Ireland on experiences of Chinese, Indian, Lithuanian and Nigerian communities found that a lack of information and language limited access to services including services including private services such as looking for a house and setting up a bank account⁴⁹.

Examples of NGO Good Practice

Irish Traveller Movement (ITM) Legal Unit

The Legal Unit was set up in 2003 to counter some of the negative legislative developments that were taking place and to assist the ITM in developing strategic legal and policy responses to key issues facing Travellers. The overall aim of the legal unit is to promote Travellers' human and legal rights as an ethnic minority group within Irish society⁵⁰.

Integrating Ireland Local and EU Elections awareness campaign

Integrating Ireland has been working around the country to inform and work with member groups and their members about the upcoming local and EU elections in 2009. They launched a website, www.ivote.ie which allows them to post relevant information materials that they receive from organisations and members that are of use to other members in information and mobilising their communities to participate.

Irish Refugee Council (IRC) Campaigning for Change

In the lead up to Budget 2008, the IRC campaigned for change welfare payment to asylum seekers and had the backing of a range of organisations including trade unions. They sought a change in the payment to adults from €19.10 to €60 and from €8.60 per child to €35 Euro. This was based on calculations from the Vincentian Partnership for Justice; this is the least amount of payment to allow asylum seekers live with dignity. Unfortunately, there was no change in the payment, which has not been increased since it was introduced in 2000.

V.viii Media, including the internet

While acknowledging the positive informative, critical and awareness raising role the media can and has played, it must be acknowledged that there are worrying

⁴⁸ See NCCRI Racist Incidents Report Jan-Jun 2008, available at <http://www.nccri.ie/pdf/RacistIncidentsJan-June08.pdf>

⁴⁹ , *Getting On*, p. 75, available at http://www.immigrantcouncil.ie/images/5115_gettingon.pdf

⁵⁰ For further information, see www.itmtrav.ie

weaknesses in the legislative and policy context to combat racism in the media. An issue referred to in previous Shadow Reports for example, is the ineffectiveness of the Incitement to Hatred Act. This Act has been under review for many years without conclusion. One outcome of the review process came about in 2008 with the publication of research conducted under the National Action Plan⁵¹. However, action on the basis of the research is still awaited.

It is in this context that articles such as that written by a journalist, Kevin Myers in which he asserts in the headline that “Africa is giving nothing to anyone – apart from AIDS”, continue to be published with limited redress. This article was considered offensive and of course, inaccurate by many actors. NGOs and minority media were amongst those who responded to the article. The NCCRI, who noted that it was unusual for them to respond to individual cases such as this, also considered a response was necessary. The Immigrant Council of Ireland made a complaint and was among those who called for an investigation by the Press Council but ultimately, the case was quite unsuccessful⁵². The Press Council upheld a complaint against the journalist. Concluding that the article breaches Principle 8 of the Code of Practice as it was likely to cause grave offence, it did not find sufficient reason to conclude that it was likely to stir up hatred or that this was the intention of the journalist.

While not specific to racism or hate crime, other legislative and policy developments may impact positively. For example, the Broadcasting Bill 2008⁵³ was published in May 2008. The Department of Communications explains that the Bill provides for the establishment of a new broadcasting regulator for all broadcasters licensed in the state, to be called the Broadcasting Authority of Ireland (BAI). Under the Bill, the BAI will perform the existing functions of both the Broadcasting Commission of Ireland and the Broadcasting Complaints Commission. It will also undertake as well as undertaking a range of new regulatory functions, particularly with regard to the oversight of public service broadcasters⁵⁴.

A clear omission and weakness in the establishment of the Press Council was the fact that its remit and Code of Practice did not include all nine grounds reflected in the Equality legislation and Travellers were not included. This situation was rectified in 2008. The Code was amended to include Travellers. The Press Council itself now also includes Traveller representation.

Radio Teilifis Éireann (RTÉ), the national broadcasting channel recognises the need to develop a holistic and comprehensive approach and has adopted a commitment to interculturalism as corporate policy by the RTÉ Authority and Executive Board. An intercultural co-ordinating group was established in October

⁵³ Available at <http://www.oireachtas.ie/documents/bills28/bills/2008/2908/b2908s.pdf> accessed 10 April 2009.

⁵⁴ Further details also available at www.eumap.org

2007. In July 2008, the group presented its report to the Director-General, outlining a range of actions required to best progress the high level aims of the corporate policy.

Globally it is seen that the internet – while a very useful tool for NGOs and the dissemination of information – is proving to be another tool for the distribution of racist materials and messages and is difficult to control. Ireland is not exceptional in this struggle to regulate the material available on the internet. An Internet Advisory Board has been established and up to 2008, the NCCRI was represented on the Board. However, since the cessation of the NCCRI, it is unclear how relevant parties will input in this area.

The NCCRI Racist Incidents Reports for 2008 highlighted a number of examples of the use of the internet and related media to distribute racist messages. It highlights the use of online discussion fora for the expression of racist sentiment. It also complained to www.hotline.ie, a website for the reporting of illegal content on the internet, following a report of the targeting of a member of a member of the Jewish community.

Examples of NGO Good Practice

Pavee Point Media Monitor is a pilot initiative designed to keep you up to date with the most relevant stories to Traveller and Human Rights interest in Ireland's print media. It will be used to update on complaints and issues around television and radio broadcast and to give subscribers information on upcoming programmes or articles of interest⁵⁵.

Media and Multicultural Awards (MAMA). The MAMA Awards is an annual awards ceremony that has been running now for six years. It is an initiative of Metro Éireann, Ireland's first multicultural newspaper for immigrant communities⁵⁶.

Show Racism the Red Card online reporting

The news section on the website of Show Racism the Red Card, www.theredcard.ie has over 200 articles covering news relating to racism and interculturalism in Ireland since February 2006, including news reports on racist incidents in Ireland.

⁵⁵ The media monitor can be found at <http://pavee.ie/mediamonitor/>

⁵⁶ Further information on Metro Éireann and the MAMA Awards is available on www.metroeireann.ie

VI. Political and legal context

2008 was a tumultuous and challenging year for those concerned with addressing racism or experiencing racism. The year started positively with the launch of European Year of Intercultural Dialogue and ended with what has been termed the dismantling of the equality infrastructure including the “demise” of the National Consultative Committee on Racism and Interculturalism. There was no election in 2008 although political parties and NGOs started shaping up for the local and European elections in 2009. There were significant legal and policies developments however in 2008, resulting in a difficult year for those concerned with addressing racism. In the first half of the year, much of the relevant debate centred in immigration legislation, with serious concerns being voiced by NGOs. In the latter half of 2008, indications were given from the Government that equality infrastructure was to be targeted in cutbacks and that a number of agencies relevant for equality and human rights might be amalgamated. NGOs came together to lobbying the government and while their efforts ensured that a number of agencies remain, the October 2008 saw large cuts to the budgets of relevant agencies⁵⁷, the subsuming of independent agencies into government departments and the cessation of the NCCRI.

This section highlights key political and legal developments including an NGO assessment in four policy areas, anti-discrimination, migration and integration, criminal justice and social inclusion.

VI.i Anti discrimination

Among the key instruments in the area of anti-discrimination in the Irish context are the Equality legislation and the National Action Plan Against Racism. The Equality Act 2004 was signed into law in July 2004. The Act amends a number of the provisions of the Employment Equality Act 1998 and the Equal Status Act 2000, giving effect to EU Directive 2000/43/EC which implements the principle of equal treatment between persons irrespective of ‘racial’ or ethnic origin; EU Directive 2000/78/EC which established a general framework for equal treatment in employment and occupation; and EU Directive 2000/73/EC of the European Parliament and of the Council, amending Council Directive 76/20/EEC on the implementation of the principle of equal treatment for men and women. The Act however, is not without limitation and in 2007 the European Commission noted a number of issues including with regard to the definition of indirect discrimination (see also 2007 Shadow Report for further details).

⁵⁷ See Budget 2009, Annex D Rationalisation of State Agencies, issued 21 October 2008, available online at www.budget2009.ie

In terms of its commitments under the Durban Declaration and Programme for Action, Ireland developed a National Action Plan Against Racism (NAPR) which was launched in 2003. However, the NAPR concluded at the end of 2008, with no follow up mechanism identified. While NGOs had already expressed concern with regard to the cessation of the NAPR including through the 2007 Shadow Report, the difficulties are accentuated given the cuts to agencies working to address racism in the October 2008 budget. Indeed, a number of the developments which assisted the State in meeting some of its obligations under the NAPR now no longer exist or have been cut back⁵⁸. The central issue and challenges for Ireland at this time and for the Durban Review Conference (DRC) as well as in preparing its report to CERD due in 2009, is the fact that many of the measures taken by the Irish government that facilitate compliance with the DDPA are now challenged by the results of the budget in October 2008 which saw for example:

- Cessation of funding to the National Consultative Committee on Racism and Interculturalism (NCCRI) and the resulting closure of the Office.
- 43% cut in the budget to the Equality Authority.
- 24% cut in the budget to the Irish Human Rights Commission (IHRC).
- The government's timeframe for the implementation of the National Action Plan Against Racism concluded at the end of 2008 although at the international level, the process is considered only to be at the review stage.

While the cessation of the NAPR was anticipated, the cessation of funding to the NCCRI which resulted in the closure of the office was an unanticipated consequence of the budget. As a result of these developments, there is now no specific government policy or body with a specific remit to address racism. It is of critical importance that racism continues to be named and its specific context and consequence acknowledged.

Previous shadow reports have highlighted the positive role that the equality legislation has played including the progressive approach adopted by the equality bodies. However, they have also pointed to the need for adequate resourcing, as recognised by other bodies including inter-governmental organizations (IGOs). In light of such commentary then, the 43% cut in the budget of the Equality Authority as indicated in the government's budget issued in October 2008, presents a serious threat to the capacity of the equality body. Furthermore, the disproportionate cuts to the Equality Authority at a time where the European Commission and others are encouraging States to ensure resourcing to and

⁵⁸ Key work has been carried out by NGOs in this area including by Equality Rights Alliance (ERA). Others also have indicated their concerns including international experts in the field including for example Professor Michael Flaherty. See press release issued by ICCL following input by Professor Flaherty at a conference in April 2009 on the CCPR, entitled "UN expert decries "scandal" of cuts to Equality and Rights", available at <http://www.iccl.ie/news-un-expert-decries-scandal.php> accessed 3 May 2009.

capacity of specialised bodies - sent out a negative message about the seriousness of addressing inequality and discrimination. Given the likely devastating effect of the cuts on the capacity of the Equality Authority, the CEO considered that he had no option but to resign as did a number of Board members, in protest.

Serious concern has been raised nationally and this is evident also at a European level. The issue has been raised at the European Parliament⁵⁹ and has also been noted by the European Commission⁶⁰. The developments towards the end of 2008 diminish the recognition gained for Ireland's track record in this regard. For example, the FRA in its Annual Report identifies Ireland as amongst the Member States which had more effectively applied their legislation fighting ethnic discrimination in the EU (alongside Bulgaria, France, Hungary, Romania, Finland, Sweden and the UK). In these countries, sanctions are more frequent and/or dissuasive than in the rest of the EU, though they remain relatively scarce compared to the United Kingdom⁶¹.

The first public indications of the threat to the Equality Authority and other relevant agencies, came with the announcement by the Government that it was considering the amalgamation of five bodies with a remit related to equality, human rights and/or social inclusion. NGOs came together in solidarity or purpose, forming the Equality Rights Alliance (ERA) and lobbying strongly that this would not happen. While the alliance was successful in that the government did not proceed with such an amalgamation, nonetheless serious cuts to resources were made.

As well as legislation and infrastructure, a level of awareness is necessary if the full potential of such measures is to be realised. While some awareness raising has been undertaken, the CSO reports that one in five people do not know their rights under equality law. A 2007 report from the ESRI/Equality Authority and the Eurobarometer reveal the persistent nature of discrimination and the extent of the problem experienced by ethnic minorities. The cuts to the Equality Authority budget are likely to have a large impact on their capacity to engage in the necessary awareness raising work and development of preventative measures.

VI.ii Migration⁶² and integration

As with previous years, 2008 saw further legislative and policy developments in the area of migration and integration as Ireland continues to put in place

⁵⁹ For example, through question raised by Pronsias de Rossa, MEP.

⁶⁰ Including reference to concerns re cut to Equality Authority budget, highlighted by European Commission representative at the launch of the ENAR European Shadow Report 2007 in Brussels in December 2008.

⁶¹ See FRA's *Annual Report 2008*, available at http://fra.europa.eu/fraWebsite/attachments/ar08p2_en.pdf accessed 10 April 2009.

⁶² The term 'migrant' may include: long-term and short-term migrant workers, students, asylum seekers and refugees, stateless persons, spousal and family dependants, women migrants and children, and undocumented migrants.

instruments to respond to the fact since the 1990's it has clearly become a country of destination. Developments in 2008 however, were somewhat contradictory. On the one hand, the Government launched 'Migration Nation' which acknowledges clearly Ireland's status as a country of destination including by large numbers of EU citizens, referring also to the EU 11 Common Basic Principles (CBPs)⁶³ on integration. However, the IRP Bill 2008 and the Trafficking Action Plan do not go far enough in terms of protecting migrants, in some areas taking a backward step in terms of protections granted heretofore. Decisions in other areas including anti-discrimination and social inclusion, impact on this area also. Integration cannot be achieved as long as racism persists and is allowed to persist. 2008 was a difficult year in this regard as institutions and measures to address racism came to an end (see section on Anti-Discrimination).

Prior to budget cuts and the indications of a looming recession, there were already serious concerns with regard to legislation the government had drafted in the area of migration through the Immigration, Residency and Protection Bill 2008 (IRP). A number of NGOs⁶⁴ joined forces to highlight potential breaches of constitutional and international human rights obligations contained in the Bill. Areas of particular concern in this regard include summary deportations, restriction of the right to marry, limitation of access to justice for migrants, failure to protect victims of trafficking, detention, refoulement, carrier liability and family reunification.

Among the amendments tabled by MRCI, a member of ENAR Ireland and of the above alliance, were:

- That rights for undocumented migrant workers be guaranteed in the Bill,
- That the Bill provide for an ongoing legal mechanism to allow people who have lost their legal status due to exploitation a route back into the system,
- That the provision for summary deportation be removed, and the current provision for the right to challenge deportation be retained,
- That an independent appeals mechanism be established,
- That the Bill provide for adequate protections for victims of all forms of trafficking, including forced labour.

The 2007 Shadow Report highlighted concern around trafficking including trafficking for forced labour. The Immigration, Protection and Residency Bill 2008 (IPR) has the opportunity to address trafficking including providing protection for victims of trafficking. However, key NGOs working in this area have highlighted that the IPR fails to protect victims of trafficking. They note that provisions in Section 124 of the Bill which relate to protections for victims of trafficking "fall far

⁶³ Council document on the 11 CBP:

http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0389en01.pdf

⁶⁴ The five organisations included Immigration Council of Ireland, Integrating |Ireland, Irish refugee Council, Migrant Rights Centre of Ireland and Refugee Information Service.

short of Ireland's obligations under the Council of Europe Convention on actions to Combat Human Trafficking." Most significantly they note that the proactive measures would not apply to EEA citizens who have established their free movement rights. Also, there is an absence of provisions detailing the types of assistance which would be made available. Furthermore, temporary residence permits for victims would be issued only if linked to the victim assisting a prosecution⁶⁵.

The right to family reunion and relevant legislation and policy, remain relatively poor. Ireland has yet to sign up to or ratify the International Convention on the Rights of Migrant and their Families. Refusal by the Oireachtas Justice Committee to accept amendments suggested by NGOs on the IRP Bill 2008 with regard to 'transparent family reunion procedures', was received with dismay⁶⁶. While the Minister indicated his intention to introduce regulations with regard to family reunification and NGOs welcome the fact that this will make the situation clearer, as regulations are not primary legislation they are not subject to the same scrutiny by the Oireachtas.

At a procedural level, difficulties were highlighted through the case that came to light in 2008 where a Somali refugee had been granted family reunification. However, due to an error, neither he nor his family who were in a refugee camp in Somalia were informed with the result that the family were separated for an additional two years. While this situation was resolved with the family reunited and receiving an apology from the Minister, it highlights the need for efficiency in the area of family reunification supports and the tragic consequence where errors occur.

Migrant Integration Policy Index (MIPEX) which was published in 2007, identifies a number of policy indicators. It concludes that Ireland's relative performance in two of five strands of indicators is above the European average, noticeably in anti-discrimination⁶⁷. In the other three cases, the variation is smallest in family reunion and largest in long-term residence⁶⁸.

The Office of the Minister for Integration (OMI) was established in 2007 after the national elections. While the Office was welcomed, the remit of the Office has certain limitations and concerns have been expressed particularly by NGOs advocating on behalf of asylum seekers who are effectively omitted from integration policy. A very significant outcome of the Office was the launching of an integration strategy by the Minister entitled "migration nation" on 1 May 2008. This document gave important recognition to the diverse make up of Irish society.

⁶⁵ Press release, Wednesday 13 February 2008., "Groups claim Immigration Bill breaches Constitution and Ireland's International Human Rights Obligations."

⁶⁶ For further information, see for example Press Release by Immigrant Council of Ireland, available at http://www.immigrantcouncil.ie/press_detail.php?id=66 accessed 10 April 2009.

⁶⁷ Migrant Integration Policy Index, available at <http://www.integrationindex.eu/multiattachments/2713.html>

⁶⁸ See also ICI Press release for a further discussion on the implications for Ireland, http://www.immigrantcouncil.ie/press_detail.php?id=43

However, there is likely to be some row back of commitments made in the document. For example, the strategy envisaged the establishment of a Taskforce but this has not been put in place. Regrettably, the October 2008 budget saw a 25% cut in the budget of the OMI (and subsequently in April 2009 further structural changes were made) and these are likely to impact on the realisation of the strategy objectives. Integration funding is devoted to local authorities and away from the community sector.

There continues to be a conflict between the spirit of integration rhetoric and policy and immigration legislation and policy. Unless this is addressed, initiatives to enhance integration will be undermined. Furthermore, integration should not be seen as relevant only to recent migrants. As integration cannot be separated from the broader migration context, similarly the link between integration, anti-racism and social inclusion needs to be recognised. Racism is a key barrier to integration and must be overcome if integration is to be realised, as a two-way process. Social inclusion is an essential ingredient in creating the conditions for the integration of ethnic minorities in Ireland. A holistic approach to integration is necessary, one which incorporates the active participation and inclusion of ethnic minorities in the economic, social, political and cultural spheres of society.

VI.iii Criminal justice

VI.iii.ii Racist Crime

Racist crime is dealt with primarily through a range of legal instruments including Criminal Justice (Public Order Act) 1994, the Non-Fatal Offences Against the Person Act 1997, the Criminal Damages Act 1991 and the Prohibition of Incitement to Hatred Act 1989. There is no provision for aggravated sentencing on the ground of racism in Irish law and the Incitement to Hatred Act has long been considered ineffective.

ECRI's third report on Ireland highlighted the deficiencies apparent in the current legal instruments to address racist crime. The relevant piece of legislation in the Irish context is the Incitement to Hatred Act 1989. The limitations of the legislation have long been acknowledged. It is also acknowledged that this is a complex area and the legislation has been under review for many years. Difficulties with this legislation have been highlighted in previous reports including the 2006 and 2005 reports.

ECRI reports that the criminal legislation has not been amended to include sufficiently strong provisions for combating racist acts which affect in particular visible minorities and Travellers. It adds that further measures are necessary to

raise members of minority groups' awareness of existing mechanisms for seeking redress against racism and racial discrimination⁶⁹.

The NPAR put a renewed focus on the legislation and research was commissioned to investigate whether Irish criminal law is sufficient to deal with racially motivated crime in Ireland. This research set out to establish whether legislation can, or needs to be, strengthened in this area. The research was published in December 2008. The authors acknowledged that that some reforms are necessary to bring Irish criminal law on racism up to international standards and best practice. Action arising from the research recommendations and the overall review process are awaited.

The Framework Decision had been debated at a national level including in the Dáil and by the Oireachtas Committee on Justice, Equality and Women's Rights⁷⁰ prior to it being adopted at the European level and that Ireland was among a number of states that noted concern with regard to the scope of the freedom of expression⁷¹. It is hoped that its adoption shall place a renewed emphasis on the review of the Incitement to Hatred Act and the introduction of an effective legislative and policy framework to counter racism including racist crime and incitement to hatred.

2008 saw three changes to the Garda Síochána Act 2005 (sections 39,94 and 98) and via section 43 of the Criminal Justice Act 2007. Proposed legislative changes were made by the GSOC to the Minister early in 2008 but have yet to be enacted. A positive development also was the coming into being of the Garda Síochána (Confidential reporting of Corruption or Malpractice) regulations 2007 and the Confidential Recipient appointed in March 2008. This means that Gardaí can confidentially report on misbehaviour by other Gardaí.

Mechanisms to record racially motivated offences improved with the introduction in 2003 of the PULSE system, a data collection system of An Garda Síochána. The system for the publication and dissemination of data has also been streamlined and relevant data is now available from the Central Statistics Office. However, as in many other countries, underreporting remains an issue. Achieving greater reporting of racially motivated offences requires amongst other things, good relations with the police force and effective legislation. While an Garda Síochána has undertaken a number of initiatives such as the publication of a poster to encourage the reporting of racist incidents, ongoing and persistent work is required to build and harness trust between the police force and migrants. Furthermore, there needs to be more effective legislation to counter racist crimes and offences so that victims are motivated to report crimes.

⁶⁹ ECRI, *Third Report on Ireland* (Strasbourg: ECRI, 2006)

⁷⁰ Minutes of the Committee Meeting outlining the debate with regard to the motion on the Framework Decision that was held on 20 February 2008 are available on <http://debates.oireachtas.ie/DDebate.aspx?F=JUU20080220.XML&Ex=All&Page=2>

⁷¹ "EU Agrees breakthrough Hate crime Law", <http://euobserver.com/9/23902/?rk=1>

VI.iii.ii Counter terrorism

There were few new developments in the area of countering terrorism in 2008. With regard to counter-terrorism measures, the Human Rights Committee in its concluding observations submitted under article 40 of the International Covenant on Civil and Political Rights (CCPR) regrets that the Irish legislation does not contain a definition of terrorism and that no information had been provided on the extent, if any, to which limitations have been made to Covenant rights (para 11).

Previous shadow reports highlighted the impact that the climate around countering terrorism was having on immigration policy and legislation. There continues to be concern with regard to a disproportionate focus on security in the context of the Immigration Bill 2007. This Bill is clearly security conscious at the expense of other more inclusive measures.

VI.iii.iii Racial profiling

There has been little progress with regard to racial profiling since the situation described in 2007. International bodies including CERD and ECRI have made important observations on the situation including the need for necessary policies and procedures to monitor and protect against racial profiling. The ECRI report published in 2006 highlighted the risk of racial profiling⁷² through the implementation of immigration legislation and recommends that the implementation of Immigration Acts 2003 and 2004 be monitored in this regard.

In recent years, the powers of the police have been increased in the area of immigration⁷³. Within immigration legislation, there is also a lack of procedural safeguards or right to appeal decisions made by immigration officers. These developments, combined with the institutional racism that has been identified within the police force, give rise to real concern around racial profiling. CERD recommends a review of security procedures and practice at entry points to ensure they are carried out in a non-discriminatory manner. It invites the State to include data on the number of complaints against members of the police force concerning discriminatory treatment and decisions made⁷⁴.

The establishment of a Garda Inspectorate and enactment of legislation to enable the establishment of a Garda Ombudsman⁷⁵ took place in 2006 and were

⁷² "Racial profiling occurs when race is used by law enforcement, police or private security officials, to any degree, as a basis for criminal suspicion in non-suspect specific investigations. Discrimination based on race, ethnicity, religion, nationality or any other particular identity undermines the basic human rights and freedoms to which every person is entitled."

Amnesty International USA, What is Racial Profiling?, http://www.amnestyusa.org/racial_profiling/index.do, accessed 21 December 2005.

⁷³ Including Immigration Act 2004

⁷⁴ CERD, *Concluding Observations on Ireland, Report of the Committee for the Elimination of All Forms of Racial Discrimination* (CERD, 10 March 2005)

⁷⁵ For further information see the website of the Garda Ombudsman, www.gsoc.ie

followed by the establishment of the Garda Ombudsman in 2007. However, there are limitations in the remit of the Garda Ombudsman that cause concern. For example, the point of entry into the country is a key area of concern with regard to racial profiling. However, the Ombudsman has limited jurisdiction in this area.

VI.iv Social inclusion

In March 2000, the European Council launched the Lisbon Strategy for growth and Jobs. The social pillar of the strategy aims to modernise the European Social Model by investing in human resources and combating social exclusion. Under the strategy, Member States coordinate their national policies on the basis of a process of policy exchanges and mutual learning known as the Open Method of Coordination (OMC). The OMC is used in policy areas which fall under the competences of Member States such as employment, social protection, social inclusion, education, youth and training.

Overall, there is evidence to suggest that there is greater mainstreaming and inclusion of ethnic minorities in social inclusion policies in recent times, although there continues to be scope for improvement. On the other hand, some backward steps have also been taken recently. For example, the High Level Steering Group established in 2006 does not include Traveller representation. Representation of those affected by decisions has long been established as good practice. The absence of Traveller representation was noted in the HRC Concluding Observations. Action also needs to be taken to ensure consistency across policy areas so that developments in other areas do not negatively impact on social inclusion objectives (see also section on migration and integration). Bodies such as the Combat Poverty Agency (CPA) have played an important role in enhancing the capacity and knowledge base of both public and community sectors in relation to anti-poverty and social inclusion strategies. It is disappointing therefore, that it became a target of the October 2008 budget which saw the incorporation of the agency which was previously independent of government, into a government department. This move is somewhat ironic at a time when governments are tackling a recession which inevitably increases the risk of poverty and social exclusion.

The National Action Plans on Social Inclusion (NAPS)⁷⁶ are designed to identify actions to be taken to combat poverty and social exclusion, and to reform social protection systems. Ireland's NAP Inclusion 2008-2010⁷⁷ identifies a number of actions and includes some specific mention of ethnic minorities. However, gaps remain and there needs to be greater consistency across policy areas so that

⁷⁶ The NAPS under the EU's OMC on Social Protection and Social Inclusion - For further information see Europa website:

http://ec.europa.eu/employment_social/spsi/strategy_reports_en.htm

⁷⁷ The National Report for Ireland is available at http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2008/nap/ireland_en.pdf, accessed 10 April 2009.

policies in other areas such as accommodation or migration do not negatively impact on social inclusion. Furthermore, greater credence and recognition need to be given to the social aspects of migration, including social, cultural and political rights of migrants.

The NAP Inclusion 2008-2010 makes a number of specific references to social inclusion of ethnic minorities and to other relevant policies and initiatives taken by Government that impact on this. One of the concerns however is what impact the cuts to such initiatives shall have on the effectiveness of the NAP Inclusion. The NAP Inclusion includes the NPAR among its priorities in relation to integration. However, the NPAR concluded at the end of 2008 and regrettably, no follow up strategy has been put in place or indicated. The budget of the Office of the Minister for Integration, which is also referred to in the NAP Inclusion, was cut by 25% on the October 2008 budget.

There has been some funding to promote the social inclusion of ethnic minorities. However, there is little core funding for NGOs and across the board, the allocation of funding by government has been short term, often for once off projects and as such as we have seen, is particularly vulnerable to cutbacks. There continue to be particular difficulties accessing funding for work with specific groups, such as Roma. An analysis of the situation suggests that there needs to be greater recognition of the need for particular strategies for work with specific target groups. The way data is collected in the area of migration and the allocation of funding, suggests that diversity within the migrant population requires greater recognition. Migration related data should be collected and disaggregated on the basis of ethnicity as well as nationality.

Dispersal and Direct Provision (DDP), the policies underpinning accommodation arrangements for asylum seekers in the State, have consistently been criticised by NGOs and have received international attention, as identified in the 2007 Shadow Report. 2008 saw no positive change in this area. In 2008, the payment to asylum seekers remained the only social welfare payment that had not increased in the period 2000 to 2008, despite clear increases in the cost of living and inflation. When the policies of Dispersal and Direct Provision (DDP) were introduced in 2000, it was envisaged that cases would be processed within six months and that therefore, no one would be accommodated under DDP for longer than this. In practice, however, many asylum seekers including families are living under DDP in excess of two years. This policy has led to the effective segregation of communities. Key stakeholders argue that asylum seekers have become institutionalised and that this impacts negatively on their longer term integration including economic participation.

Recent changes to the Child Benefit payment, which used to be a universal payment, has meant that many migrants do not receive child benefit. Asylum seekers do not receive child benefit. A number of cases have been taken successfully by FLAC where individuals were wrongfully denied payment but

have been appealed by the relevant department⁷⁸. NGOs have also found that other exceptional needs or discretionary payments are no longer being paid to asylum seekers including the Back to School allowance. With regard to child poverty, the policy on non payment of Child Benefit to asylum seekers further marginalises and results in higher levels of poverty among asylum seekers with families.

The Habitual Residency Condition (HRC) continues despite lobbying by NGOs and the research findings of agencies such as the Homeless Agency reported in 2007 Shadow Report, which demonstrate that the HRC was impacting on homelessness and limiting the provision of emergency accommodation to migrants⁷⁹. It should be noted that access to welfare payments is also an issue for EU citizens (see MRCl e-bulletin Jan 2008 for example).

On a positive note, NGOs such as Integrating Ireland and partner organisations, have actively been encouraging ethnic minorities to engage with the political process in the lead up to the local and European elections due to be held in June 2009. Also, cultural diversity policies for arts were announced in February 2009, as an early outcome of the EU Year of Intercultural Dialogue. Work on social inclusion through sport is ongoing including through initiatives taken in partnership between the Department of Justice, NCCRI, NGOs such as Sport Against Racism Ireland (SARI) and Show Racism the Red Card as well the Football Association of Ireland (FAI).

⁷⁸ Further information is available from Free Legal Advice Centres (FLAC), see www.flac.ie

⁷⁹ See Homeless Agency's 2006 report, *Away From Home*.

VII. National recommendations

VII.i General

- Restore equality infrastructure and capacity of equality bodies as a matter of urgency. Provide sufficient resources to equality bodies to ensure effective implementation of equality legislation.
- Implement recommendations made by the Human Rights Committee under CCPR, in relation to counter-terrorism, detention of asylum seekers, denominational education and representation and recognition of Travellers.
- Address limitations to NGOs that engage in advocacy work in the context of new legislation governing charitable status.
- Continue to improve existing data collection, to enable meaningful categorisation and data disaggregation.
- Recognise the distinct ethnic identity of Travellers.
- Extend the definition of services in the equality legislation to include immigration and law enforcement;
- Secure family reunification rights for migrants.
- Ensure that all policies that impact on the lives of ethnic and religious minority groups are equality proofed and take account of multiple forms of discrimination, such as those experienced by women.

VII.ii Anti discrimination

- Restore the capacity of the Equality Authority through adequate funding and reversing the decisions made in October 2008 budget that saw savage cuts to the equality infrastructure.
- Racism must be named by government and specific measures to address racism must be introduced, for example, through follow-up mechanism to the NPAR.
- Develop increased capacity to enable effective strategies to be developed to respond to multiple discrimination.

VII.iii Migration and integration

- The IPR is not suitable legislation. .
- Detention of asylum seekers including in light of the HRC concluding observations.
- Retain a focus on racism.
- Ensure a follow up to the National Action Plan against Racism, a plan of only five years duration which concluded at the end of 2008.
- Provide core funding to groups working with migrants on integration.
- Address the policy of dispersal and direct provision, mindful of the short and longer term impact it has on people's integration.
- Restore child benefit to asylum seekers.

- Proof all legislation and measures to ensure that minors can never be detained in adult facilities on the basis of an irregular migration status.

VII.iv Criminal justice

VII.iv.i Racism as a crime

- Speedy and satisfactory conclusion of the review of the Incitement to Hatred Act must be ensured.
- Give due consideration to the introduction of aggravated sentencing.

VII.iv.ii Counter terrorism

- As recognised in the HRC's concluding comments (CCPR), the government needs to provide a definition of terrorism and collect and provide data which can monitor the impact if any of counter terrorism legislation on human rights and the proportionality of the effect of ethnic minorities.
- Due consideration should also be given to the HRC concern regarding the State's reliance on official assurances regarding the risk of torture or ill-treatment of those on so called rendition flights (para 11).

VII.iv.iii Racial profiling

- Ensure the provision of data and monitoring (including by NGOs) at points of entry.
- Amend sections of the IPR that could facilitate racial profiling, directly or indirectly.

VII.v Social inclusion

- Restore child benefit to asylum seekers and address the policy of dispersal and direct provision that is having short and long term impact on e.g. people's mental health and on integration.
- The Irish government needs to recognise the ethnic identity of the Traveller community.
- Social inclusion policy needs to include all migrants, including asylum seekers and undocumented workers.
- Undocumented migrants are a particularly vulnerable group that need to be recognised in the development of social inclusion.
- Policies that affect ethnic minorities, including those that affect migrants, need to go through a poverty impact assessment.
- Policies that contribute to poverty and the social exclusion of ethnic minorities such as dispersal and direct provision, need to be reviewed and effective solutions found.
- Stronger measures need to be put in place to address racism with sufficient political will and resources to ensure their effective implementation.
- It should be established normal practice that where a group is affected by the decisions of a body/committee that they should be represented on that body. In light of this, Traveller organisations should be invited to put forward representatives to sit on the High Level Steering Group.

VIII. Conclusion

As indicated throughout the report, 2008 was a year that saw significant challenges for those experiencing and working to combat racism, through the dismantling of the equality infrastructure. These are challenges that are set to impact on an ongoing basis and threaten to undo some of the progress in this area. Events of 2008 demonstrate the importance of continuing to name racism, to keep a focus on this insidious form of discrimination while working in solidarity with others working in the area of equality.

While much ground was lost through the October 2008 budget which saw savage cuts to important equality institutions, the impact of alliances such as ERA, ENAR Ireland and of individual NGOs demonstrates the role and strength that civil society must and can play in resisting any withdrawal of commitments to equality. The advocacy role that NGOs play is key to ensuring the protection and realisation of rights of ethnic and religious minorities. It is a key part of the range of strategies that are necessary to address poverty and discrimination and to impact positively on the quality of life of marginalised groups. In Ireland at present, there is concern the new Charities Legislation shall limit organisations from engaging in lobbying and advocacy work. If on this basis, organisations decide not to apply for charitable status, their funding options are limited. It is important that this situation be rectified if real, sustainable social change is to be achieved and civil society organisations are to have a voice.

The monitoring of racism in Ireland has been facilitated by the role of international and European bodies and Ireland's ratification of a number of relevant treaties and conventions. Over the past number of years, the ENAR Shadow Report for Ireland has made reference to findings of for example, CERD, CEDAW, HRC and ECRI amongst others. It is worth noting that a number of the issues raised by CERD in 2007 and by ECRI were echoed by the HRC in their concluding observations on the implementation of the CCPR, in 2008. For example, the question of non-denominational education, detention, racial profiling are among those that we see raised consistently over time by a range of bodies⁸⁰. Irish NGOs have usefully engaged with international bodies, through formal meetings, seminars and submission of shadow reports and these have proven to be useful processes both at the national and international levels.

Any reduction in commitments to equality or in institutional capacity to address racism pose a threat at any time; however, in a time of recession such moves are most inopportune and potentially devastating. At this time, the risk of a rise in discrimination and racial hatred is likely to be accentuated through the diminished capacity to address and prevent inequality.

⁸⁰ In his speech at a conference on CCPR in April 2009, Professor Michael Flaherty noted that when examined horizontally, five issues are consistently highlighted by international bodies. Amongst these was racism and related issues.

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X. Annex 1: List of abbreviations and terminology

Please include any abbreviations which are frequently used in the text as well as any terminology used in the text which you feel may need elaboration or clarification.

ACFC	Advisory Committee on Framework Convention on the Protection of National Minorities
BAI	Broadcasting Authority of Ireland
CCPR	International Covenant on Civil and Political Rights
CEDAW	Committee for the Elimination of Discrimination Against Women
CERD	Committee for the Elimination of All Forms of Racial Discrimination
CPA	Combat Poverty Agency
CSO	Central Statistics Office
DEIS	Delivering Equality of Opportunity in Education
ECHR	European Convention on Human Rights
ECRI	European Council on Racism and Intolerance
EEA	European Economic Area
ELO	Ethnic Liaison Officers
FAI	Football Association of Ireland
FLAC	Free Legal Advice Centres
FRA	European Union Fundamental Rights Agency
GNIB	Garda National Immigration Bureau
GP	General Practitioner
GSOC	Garda Síochána Ombudsman Commission
HRC	Habitual Residency Condition
HRC	Human Rights Committee
HSE	Health Service Executive
IBEC	Irish Business and Employers Confederation
ICCL	Irish Council for Civil Liberties
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICI	Immigrant Council of Ireland
ICTU	Irish Congress of Trade Unions
IGO	International Governmental Organisation
IHRC	Irish Human Rights Commission
INIS	Irish Naturalisation and Immigration Service
INTO	Irish National Teachers' Organisation
IRC	Irish Refugee Council
IRP	Immigration, Residence and Protection Bill
MIPEX	Migrant Integration Policy Index
MRCI	Migrants' Rights Centre Ireland
NERA	National Employment Rights Agency
NESC	National Economic and Social Council
NCCA	National Council for Curriculum Assessment
NCCRI	National Consultative Committee on Racism and Interculturalism

NPAR	National Action Plan Against Racism
NTACC	National Traveller Accommodation Consultative Committee
NTWF	National Traveller Women's Forum
NUJ	National Union of Journalists
OMI	Office of the Minister for Integration
ORAC	Office of the Refugee Applications Commissioner
PPF	Programme for Prosperity and Fairness
RAT	Refugee Appeals Tribunal
RIA	Reception and Integration Agency
SARI	Sport Against Racism Ireland
VEC	Vocational Education Committee

Note on terminology: the terms 'ethnic and religious minority groups', 'ethnic minority groups' and 'religious minority groups' are used throughout the report in the interest of facilitating consistency at a European level. However, other terms are used when necessary where referring to specific pieces of legislation, e.g. 'race' is one of the grounds on which discrimination is prohibited in the equality legislation; the Scheme on Immigration, Residence and Protection Bill refers to the term 'foreign nationals'. Where the term ethnic and religious minority groups is used, Travellers are included. However, as the Government does not recognise Travellers as a distinct ethnic group it is sometimes deemed necessary to use the term 'ethnic minority groups including Travellers' to ensure that it is understood that the point is also relevant to Travellers.

The Police Force in Ireland is referred to as "An Garda Síochána", meaning "keepers of the peace" in the Irish language. The relevant terms, An Garda Síochána, Gardaí (police plural) and Garda (police, singular) are used throughout the report.

The equivalent of the Parliament in Ireland is "Dáil Éireann", from the Irish language. The terms "Dáil Éireann" or simply, "the Dáil" are used occasionally in the report.



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