

Progress on Concluding Observations  
on Ireland's First and Second Report under the  
International Convention on the Elimination of all Forms of Racial  
Discrimination (ICERD)

Visit of Follow up Coordinator to Ireland  
June 2006

Comments and Observations  
National Consultative Committee on Racism and Interculturalism  
(NCCRI)

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## **Introduction**

The National Consultative Committee on Racism and Interculturalism (NCCRI) is an independent expert body that seeks to provide advice and develop initiatives to combat racism and to work towards a more inclusive and intercultural society in Ireland.

The International Convention on the Elimination of all Forms of Racial Discrimination, 1969 (ICERD) was ratified by Ireland in January 2000, ICERD is widely recognised as the principle international instrument in relation to racism, racial discrimination, xenophobia and related intolerance.<sup>1</sup> Ireland's First and Second Reports to ICERD were considered in March 2005 and resulted in a range of important concluding observations by the CERD Committee.

This paper provides comments and observations from NCCRI in respect of progress since March 2005 in implementing the concluding observations.

### **NCCRI's role in respect of the ICERD Process**

NCCRI has played an evolving and proactive role in respect of ICERD and related international conventions over many years. The following is a summary of the work of the NCCRI in relation to ICERD:

- Provide advice and expertise as appropriate (e.g. RAXEN Reports, liaison with CERD Secretariat)
- Inform the overall process/develop good practice (working with the Irish Human Rights Commission (IHRC), Govt Departments and NGOs)
- Disseminate information on the process (4 seminars in partnership with IHRC and other partners)
- Participation in Geneva at 66<sup>th</sup> session
- Encourage/facilitate the participation of NGOs
- Contribute comments and observations

NCCRI also actively engages in the reporting mechanisms related to the Framework Convention on National Minorities; the country reports of ECRI (Council of Europe) and NCCRI in partnership with the Equality Authority has been designated the National Focal Point on Racism in Ireland by the European Monitoring Centre on Racism and Xenophobia, (EUMC)

The following factors have helped shape NCCRI's comments and observations in relation to ICERD:

- Demographic changes in Ireland continue at a rapid pace, including inward migration
- Policy changes, including commencement of the implementation of the National Action Plan Against Racism (NPAR), in which NCCRI continues to play a key role
- It has been only 15 months since the 66th session CERD

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<sup>1</sup> CERD General Recommendation XXV111, March 2002.

- Need for NCCRI to bring an ‘added value’ dimension to the work of Government/ NGOs in their update reports/comments

## 1.0 Overall Comments/Observations

### 1.1 Ethnic and cultural diversity continues to grow in Ireland

There has been very significant inward migration from the new EU States into Ireland since May 2004. 213,000 Personal Public Service Numbers (PPSN) have been given to EU nationals in the period between May 2004 and April 2006.<sup>2</sup> There is no sign of inward migration slowing down with an average of 11,000 PPSN number issued *monthly* in 2005, compared with an average of 7,000 in 2004. Four countries accounted for most of this increase:

**Table 1**  
**% of PPSN Numbers Issued to EU Workers**  
**April to October 2005**

Poland	54%
Lithuania	19%
Latvia	9%
Slovakia	8%

Migrant workers now account for 8.5% of the total Irish labour Force, one of the highest percentages in the European Union. In addition 40,000 new jobs are expected to be created in 2006.<sup>3</sup> Independent economists, the ESRI independent research body and the OECD have acknowledged the important role that migrant workers have played in sustaining economic growth in Ireland. Despite having a healthy economy with extremely low unemployment rates, there have been some high-profile cases of exploitation of workers which has led to a debate on supposed displacement of Irish workers by migrant workers. In fact, there has been found to be a lack of evidence for this theory.<sup>4</sup> Foreign employees represent one in five of all people employed in hotels and restaurants one in ten in employed in construction and manufacturing.<sup>5</sup>

Many migrant workers will only want to work in Ireland for relatively short periods of time before returning home or finding work elsewhere. Others will make Ireland their home and will apply for long-term residency and citizenship. Non-EEA nationals working in Ireland with work permits/visas are entitled to the same employment rights as other EU nationals. It should be further noted that despite the exaggerated fears expressed

<sup>2</sup> Some of these will already have been in Ireland prior to 2004 on work permits and a significant proportion are likely to have stayed in Ireland for a short period, before returning home or going to a third EU country.

<sup>3</sup> FÁS, (2005). The Irish Labour Market Review 2005

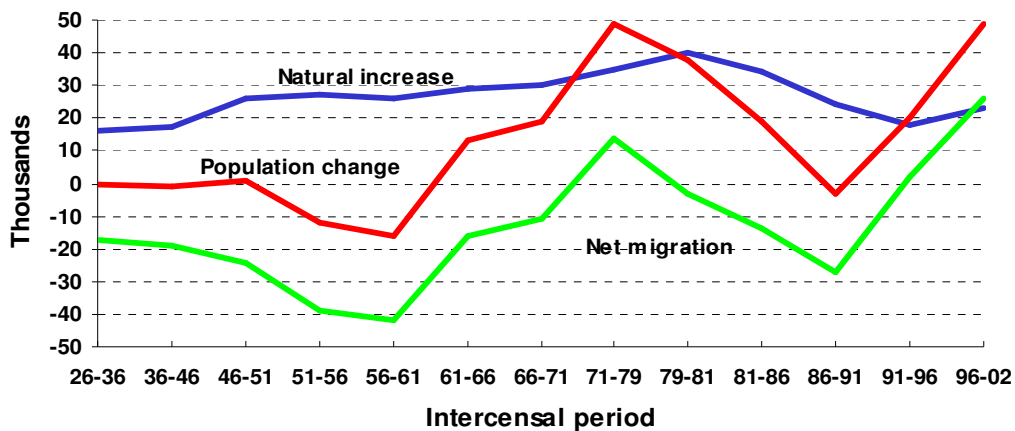
<sup>4</sup> Doyle, N, Hughes, G. & Wadenjo, E. (2006) “Freedom of Movement for Workers from Central and Eastern Europe”, available at: [www.esri.ie](http://www.esri.ie).

<sup>5</sup> Central Statistics Office, (2006) Quarterly National Household Survey

in British tabloid newspapers in Ireland at the time of accession, very few people from the EU Accession States have sought to access social welfare in Ireland. Of 213,000 PPS numbers allocated to A8 nationals since May 2004 there were only 1,042 people signing on the live register (481 for Unemployment Assistance and 58 for Unemployment Benefit). In short less than 0.5% of migrant workers from the EU A8 countries have accessed unemployment benefits. This has had important implications for the Irish Government's decision to introduce and then modify a 'Habitual residence Condition', which was based on an incorrect assumption that a significant number of people from the EU Accession States would seek to exploit Ireland's social welfare system rather than seek work.

Prior to and since the establishment of the State in 1921, Ireland has consistently been a country where emigration almost always exceeded immigration.

### Population Change in Ireland 1926-2002 (CSO, 2002)



The Republic of Ireland has the fastest growing population in the whole of Europe and it is estimated that by 2030, one fifth of the project population of 5 Million will have been born outside of Ireland. In a comparative context, Ireland's current demographic change is unique in Europe. Projections suggest that Ireland's population could reach 5 million in 2030, which could exceed the population of Scotland for the first time since the foundation of the State. The present population of Ireland is just over 4 million and the percentage of foreign-born people could exceed 1 million in 2030, compared with 400,000 at the time of 2002 census.

The increase in inward migration in the 1990's has been a major contributor to the broadening of cultural and ethnic diversity in Ireland. Migrant workers, and students from outside the European Economic Area have been attracted to come to Ireland in increasing numbers. This has been a direct consequence of skill and labour force shortages in recent years and the proactive efforts to by Irish companies and colleges to recruit people to work and study in Ireland.

## **Refugees and Asylum Seekers**

Since the mid 1990's there was significant increase in people seeking asylum in Ireland which peaked at 11,634 in 2002 and since then has declined to 4,323 in 2005. The number of people seeking asylum in Ireland has been relatively small, particularly when compared with inward labour migration.

**Table 2**  
**Asylum Applications 1997-2005<sup>6</sup>**

<b>Year</b>	<b>Numbers Seeking Asylum</b>
2005	4323
2004	4766
2003	7939
2002	11634
2001	10325
2000	10938
1999	7724
1998	4626
1997	3883

## **Leave to Remain**

Approximately 18,000 people have granted leave to remain in Ireland on the basis of having at least one Irish born child being born before the 2003 (when a referendum changed the citizenship rules). This brings key challenges for Government agencies in respect of support for integration. Disaggregated data on those granted leave to remain in appear to indicate that on the basis of nationality there is no unfair weighting against particular nationalities in the process. However the lack of collection of data on the basis of ethnicity means that there is no way to assess the impact of the new regulations on the basis of ethnicity. NCCRI will make representations to the Department of Justice, Equality and Law Reform on the need to collect disaggregated data on the basis of ethnicity (for example Roma and Kurdish communities in Ireland) as well as nationality.

### **1.2 Need to continue to ensure there remains a strong focus on indigenous/Long standing minorities and the racism they experience**

#### **Travellers**

Travellers are an indigenous minority ethnic group in Ireland comprising around 24,000 people according to the 2002 Census<sup>7</sup> or 0.6% of the total population. Travellers have a

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<sup>6</sup> Department of Justice, Equality and Law Reform, [www.justice.ie](http://www.justice.ie).

<sup>7</sup> Traveller organisations estimate that this is an under-enumeration of the Traveller population is closer to 30,000.

distinct culture and way of life that is reflected in customs, their tradition of nomadism and the importance of the extended family. Public opinion surveys show that racist attitudes towards Travellers are among the highest of any group subjected to racism in Ireland.

### **Religious diversity**

Between 1991 and 2002, the number of Muslims in Ireland quadrupled to 19,000, primarily due to inward migration and building on the Muslim community in Ireland that dates mainly from the 1950's. Over the same period, the number of Orthodox Christians in Ireland grew from 400 to over 10,000 mainly reflecting inward migration from eastern European countries some of which are now members of the European Union. There is a long established Jewish community in Ireland. The Sikh and Hindu religions are also part of the rich mix of religious diversity in Ireland.

### **1.3 Need to further enhance key anti racism strategies**

Racism remains a problem in Ireland. With gaps in existing data it is difficult to be definitive about overall trends however it is clear that existing and newer forms of racism must continued to be tackled in Ireland through systematic and multifaceted approaches involving a range of key stakeholders.

The National Action Plan Against Racism acknowledges that racism can take different, sometimes overlapping forms, which include:

- Racism experienced by Travellers on the basis of their distinct identity and nomadic tradition.
- Racism experienced by recent migrants, which includes migrant workers, refugees, asylum seekers and students studying in Ireland and temporary visitors, including tourists.
- Racism experienced by 'people of colour' and minority ethnic groups, including black people on the basis of their skin colour and ethnic and/or national identity, irrespective of their legal status.
- The racism experience by Jewish and Muslim people in the form of Anti Semitism and Islamophobia

In its monitoring reports to the EUMC, NCCRI continues to receive reports related to the above forms of racism. The NCCRI neither seeks to 'talk up' racism through exaggeration or to gloss over the problems of racism in Ireland but seeks to provide assessments and analysis on the basis of available evidence.

It would appear from the available data for example on discrimination and reported crime motivated by racism, that the 'levels' of racism in Ireland, as indicated by such racist incidents tend to fluctuate; they do not tend to be on the same scale as many other EU countries, However there does appear to be an underlying upward trend. This may be in part due to increased awareness of reporting and redress mechanisms.

As Ireland's population continues to diversify, for example, there has been an increase in reported Islamophobia in recent years, although a few of these incidents could be classified as high-level crime. In respect of Anti-Semitism there was a spate of attacks against property associated with the Jewish community in Dublin, which significantly increased statistics on anti-Semitic incidents for a few months until the lone perpetrator was caught and convicted. The NCCRI continues to receive reports on racism towards the Traveller community, religious minorities and members of the Black and Asian communities in Ireland. There is little evidence of systematic/organised racist crime in Ireland, although as with all forms of racism there is no room for complacency.

#### **1.4 National Action Plan Against Racism**

NCCRI welcomes the launch of the National Action Plan Against Racism (NPAR) in January 2005 and the establishment of a steering group to oversee its implementation. NCCRI has been actively involved in the development and implementation of the NPAR. NCCRI acknowledges the significant progress that has been made under the NPAR, which has been outlined in part in the Government's Update to ICERD. NCCRI will continue to work closely with a wide range of partners on the implementation of the NPAR. Further priorities include:

- The need to further 'embed' the NPAR in Government Policy. In this context the NCCRI welcomes the recent commitments in the draft national agreement, which includes a focus on NPAR
- The need to enhance the participation of key stakeholders in the NPAR (including NGOs), building on existing progress
- The need to further increase the direct resources for the NPAR as well as the resources levered from government departments
- The need to disseminate further progress made under the NPAR

## **2.0 Specific Comments Related to the CERD Observations**

The following section refers to specific concerns and recommendations made by the CERD Committee in its concluding observations. The numbering refers to the concluding observation report.

### **(9) Incorporation of CERD into domestic legal order**

The NCCRI proposes that the Government should investigate further the incorporation of ICERD into domestic legislation in line with this recommendation.

### **(10) Withdraw the declaration on Article 4**

The NCCRI welcomes the indication that the Government will reconsider this issue in the context of the outcomes of the forthcoming research on racist crime, commissioned by the NPAR.

NCCRI is also concerned about the lack of media accountability and has expressed concern about inflammatory and irresponsible reporting in the past. In addition, although a Press Council has been proposed by the Minister for Justice, NCCRI is concerned that it will not be sufficiently robust.<sup>8</sup>

### **(11) Introduction into criminal law the concept of aggravating circumstance**

The NCCRI welcomes the research on racist crime, in which the NCCRI has been involved, and welcomes the openness of the Government to consider this issue, along with the concept of 'hate crime' arising from this research.

### **(12) Resources for institutions and NGOs**

There has been significant problems with the under resourcing of NGOs working with/and minority ethnic led organisation in Ireland. There is an urgent need to draw up a coherent funding policy for both national NGOs and local groups, including mainstreaming in existing programmes. The NCCRI welcomes the action research project recently established under the NPAR which is seeking to address this issue. Though valuable, at present there is an over reliance on 'once off funding' and programmes such as the ERF (European Refugee Fund) which can create significant problems for groups without core funding from a Government Department.

### **(13) Direct Provision/Asylum Seekers**

NCCRI has notes the important ongoing work of bodies such as the Reception and Integration Agency (RIA) and the Office of the Refugee Applications Commissioner

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<sup>8</sup> For additional information, see the NCCRI's Submission on Press Council, available at: [www.nccri.ie/policy-submissions.html](http://www.nccri.ie/policy-submissions.html).

(ORAC) in relation to the direct provision system. NGOs and State bodies continue to identify concerns in relation in the issue of direct provision. In particular there have been concerns about the treatment of separated children seeking asylum. The Ombudsman for Children expressed concern to the UN Committee on the Rights of the Child that most children in this situation are accommodated in privately owned hostels, operated by staff without childcare training and did not meet the standards of residential centres where Irish children are placed.

There are now approximately 18,000 people who have been granted leave to remain in Ireland on the basis of having at least one Irish born child (born before the 2003 referendum which changed the citizenship rules). This brings key challenges for Government agencies in respect of support for integration. The NCCRI proposes that an action plan addressing the needs of this vulnerable group and consistent with the NPAR should be developed.

### **Delays**

The Office of the Comptroller and Auditor-General has reported:<sup>14</sup>

- Significant delays between the date of application for asylum and the interview with the Commissioner to determine eligibility to remain in the country. These delays ranged from 2 days to over 22 months, averaging over 9 months.
- Significant time taken to translate questionnaires, which applicants were required to complete for the Commissioner. These ranged from 6 days to almost 2 years and averaged around 8 months

NCCRI urges the Government to continue to improve the time it takes to process asylum applications.

### **(14) Exploitation of and Discrimination against Foreign Workers**

The NCCRI strongly welcomes the commitments in the National Agreement<sup>9</sup> which will result in a significant overhaul of the institutional and enforcement framework related to employment law and the potential and actual exploitation of migrant workers. These changes are consistent with the aspirations and recommendations of the National Action Plan Against Racism. These changes include:

- A new Office of the Director for Employment Rights Compliance
- Strengthening Penalties and Redress
- Regulating Employment agencies

The NCCRI is also concerned about outcomes for people from minority ethnic groups who seek redress against racial discrimination in employment. Discrimination in employment on the ground of 'race' is prohibited by the Employment Equality Act 1998 and cases can be taken to the Equality Tribunal. Research currently being carried out by the NCCRI finds that only seventeen per cent of cases of discrimination on the grounds of 'race' from 2000 – 2005 were decided in favour of the complainant. Half of the

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<sup>9</sup> Agreed by the Government and the Social Partners but yet to be ratified by the constituent bodies

successful cases over this period were in favour of British or Australian employees.<sup>10</sup> This might indicate that the mechanisms for effectively bringing complaints are not as accessible to people from other nationalities or minority ethnic backgrounds. NCCRI recommends that existing equality legislation and associated processes and procedures be reviewed to assess access to and outcomes from the process for minority ethnic groups.

### **(15) Special Detention Facilities for Asylum Seekers**

NCCRI supports the CERD Committee's request for additional information on this topic. In 2005, a report was published by the Irish Refugee Council, the Irish Penal Reform Trust and the Immigrant Council of Ireland on immigration-related detention in Ireland. It noted that over the last few years, a range of statutory detention powers has been introduced to authorise the detention – in Garda Síochána stations and prisons – of:

- People refused permission to land,
- Applicants for asylum, and
- People due to be deported.

In addition, people may be held in prison on remand (i.e. awaiting trial) for immigration-related reasons. The report stated that Irish law and practice do not adequately protect the rights of people refused permission to land and people detained pending deportation.

### **(16) Discriminatory treatment during security checks in airports**

The NCCRI racist incidents monitoring system has received reports of discriminatory behavior by a small number of security / policing staff, mainly in airport terminals. This requires further attention and monitoring. The form of behavior logged can range from 'racial profiling' of those subjected to additional security checks to harassment. However, many officers carry out security checks in a professional and non-discriminatory manner. The NCCRI urges that the Gardaí introduce transparent mechanisms and in service training for immigration officers

There has been a continuing commitment to anti-racism and Interculturalism by An Garda Síochána. The initiatives undertaken by the Gardaí (some involving the NCCRI) are as follows:

- A Garda Human Rights Audit was commissioned in 2003 and an action plan to implement the findings of the audit was published in 2005.
- A directive from the Garda Commissioner on the establishment of regional policing forums, with participation from minority ethnic groups and the better collection of data on racist crime
- In August 2005, the Government launched a recruitment campaign to encourage people from minority ethnic groups to join An Garda Síochána. To advise on this development, a working group was set up with representatives from Garda management, the Garda Racial and Intercultural Office, the Public Appointments Commission and the NCCRI. Application requirements were changed so that Irish

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<sup>10</sup> Two of the successful complainants in 2004 were British and a third was Australian.

- language is no longer an entry requirement; rather, applicants will be required to speak two languages, one of which must be English or Irish.
- A Garda Inspectorate is being established, commencing August 2006

### **(17) Data on racial discrimination by Gardai**

NCCRI welcomes the establishment of a Garda Inspectorate and hope that their remit will include investigating allegations of racial discrimination by Gardai, particularly as policing has not so far been considered to be in the scope of equality legislation on goods and services (Equal Status Act 2000 and 2004).

### **(18) Multi-denominational schools (see Annex One)**

Education has a key role to play in the inclusion of people from minority ethnic groups in Irish society, both adults and children. The observation on education in point 18 in the CERD Report needs to be more grounded in the present education system in Ireland (see Annex One). Although multi-denominational schools have a role to play, the fact is that children from minority ethnic backgrounds are enrolled in the current education systems and all schools need to ensure they are inclusive of children from different ethnic and religious backgrounds. Research has also found that in many schools enrolment policies relating to “feeder schools”, catchment areas and having siblings who attend the school have a disproportionate negative impact on Traveller children<sup>11</sup>; it is likely that these policies could also have a disproportionate effect on recent migrant children. This issue requires further research by the Department of Education and Science.

A number of multi-denominational schools are now being set up, including Educate Together, which now has 39 schools. This development is welcome and further resources to enable further schools to be provided to allow greater choice for parents. There is an urgent need for the Department of Education and Science to develop an Intercultural education strategy as set out in the National Action Plan Against Racism (NPAR). This will ensure that the whole education system is inclusive of ethnic diversity, rather than relying on just one sector of the system to accommodate diversity.

### **(19) Exemptions from Equal Status**

#### **Exemptions**

The prohibition on discrimination in the provision of goods and services is still subject to a number of important exemptions. The broadest general exemption is that anything mandated by an Act of the Oireachtas or EU Law is allowed. This exemption would not cover circumstances where there is an element of choice or discretion as to how the services are provided. There are also certain exemptions on the ground of nationality for

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<sup>11</sup> Kenny, M. & Shevlin, M. (2004) “Traveller Community” in Lodge, A. & Lynch, K. (eds.), *Diversity at School*: Equality Authority: Dublin, pp.92-101.

public authorities. NCCRI recommends that the Government ratify Protocol 12 to the ECHR which would fill some of the gaps in existing equality legislation.

NCCRI has been concerned by reports of potentially discriminatory HIV testing by financial institutions when people from minority ethnic backgrounds have been applying for mortgages. Such practices may be exempt from the Equal Status Act as they may be based on actuarial statistics. NCCRI has produced an advocacy paper on this issue and is engaging with the insurance industry to address it; however it also raises questions about the equality legislation.<sup>12</sup>

### **Other related issues**

One trend to have emerged from the reports of the Equality Tribunal in relation to the Equal Status Act 2000 and 2004 (prohibiting discrimination in the provision of goods and services) is the large number of complaints lodged by Travellers (a small percentage of the population) regarding discrimination in accessing services, particularly licensed premises. However, a Commission on Liquor Licensing was set up which recommended that equality cases relating to licensed premises go before the District Court, which was implemented by the Intoxicating Liquor Act 2003. Unlike the Equality Tribunal, the District Court does not have an investigatory role nor a broad right of audience.

The result has been a reduction in the number of cases. The NCCRI is also concerned that lower levels of compensation are awarded to successful complainants by the Equality Tribunal in cases of discrimination in service provision on grounds of membership of the Traveller community. The NCCRI is concerned that such awards are not effective, dissuasive, or proportionate and awards in other grounds of the equality legislation have been higher.

Also, there are indications that most discrimination in Ireland goes un-reported according to a study in 2004.<sup>13</sup> The study by the Central Statistics Office concluded that almost 60 per cent of persons who reported experiencing discrimination took no action (verbal, written or official complaint or legal action) in relation to the discrimination experienced. The survey also found that the groups reporting the highest rates of discrimination were also the groups least likely to take action. A similar trend is evident in relation to knowledge of rights under Irish equality law. Almost 25 per cent of persons who reported experiencing discrimination indicated that they have no understanding of their legal rights from an equality perspective. Again the groups reporting the highest rates of discrimination were also the groups that reported the highest rates of having 'no understanding' of their rights under Irish equality legislation. Much higher rates of discrimination were reported by 'non-Irish nationals' (24.4 per cent) and people from non-white ethnic backgrounds (31.5 per cent).

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<sup>12</sup> NCCRI (2006) "Potentially Discriminatory HIV Testing by Financial Institutions": Advocacy Paper. Available at: [www.nccri.ie/advocacy.html](http://www.nccri.ie/advocacy.html)

<sup>13</sup> Central Statistics Office (2004) "Quarterly National Household Survey", available at: [www.cso.ie](http://www.cso.ie) (21.10.2005)

The NCCRI welcomes recent initiatives by the Equality Authority to address this issue, including radio adverts and guides published in a range of languages. This is an issue which needs further work by the relevant bodies.

### **(20) Recognition of Travellers as an Ethnic Group**

The NCCRI welcomed the comments by the Minister of State at the Department of Justice, Equality and Law Reform that he remains open on the issue of Traveller ethnicity. The NCCRI remains disappointed that the Government does not explicitly recognise Travellers as an ethnic group and will continue to advocate change on this issue. NCCRI believes that such recognition could have significant positive policy implications for Travellers. The NCCRI proposes that the Department of Justice, Equality and Law Reform consider instigating a research initiative to consider this issue further.

### **(21) and (22) Progress on Traveller issues**

NCCRI welcomes initiatives to improve the conditions faced by the Traveller community in Ireland, particularly one such as the HLG (High Level Official's Group) that is backed by the Taoiseach (Prime Minister) and a cabinet sub-committee. NCCRI further acknowledges progress made by the HLG in its pilot areas.

However NCCRI calls on the Government to ensure that:

- The HLG does not replace the work of the groups established to implement the Task force on the Travelling Community
- There is sufficient resources and authority given to city and county development boards to improve the coordination of services
- National Traveller Organisations are included on the HLG
- That the Government actively considers the establishment of Traveller Agency to monitor and enforce policy related to Travellers

NCCRI calls on the Government to consider reserving a Seanad place for a Traveller representative who would be nominated by the Traveller community.

### **(23) Measures for the inclusion of Women**

There has been insufficient focus on the inclusion and protection of women from minority ethnic groups. Key issues include:

- Racially motivated crime affecting women and children
- Concerns about trafficking
- Exploitation of women migrant workers, including domestic workers
- Access to English language supports
- Focus on Traveller women

NCCRI Racist Incidents Reports indicate that women on their own and women alone with children are often targeted for racist attacks, both verbal and physical; such attacks frequently take place in and around the person's home.<sup>14</sup>

There is a growing awareness of the existence of trafficking in Ireland, particularly in the sex industry and this received significant media attention in early 2006. A number of Garda operations have been put in place to tackle trafficking.<sup>15</sup> The Minister for Justice, Equality and Law Reform published a report on human trafficking in May 2006 from a working group comprising representatives from An Garda Síochána and the Department of Justice, Equality and Law Reform. It contains recommendations, focusing on immigration controls, law enforcement activity, protection of victims and the legislative response. This report needs to be implemented in consultation with the NGOs active in this area.

There are exemptions in the Employment Equality Act 1998 and 2004 in relation to domestic workers. The exploitation of domestic workers has been of particular concern to trade unions and organisations such as the Migrant Rights Centre Ireland<sup>16</sup> and is likely to disproportionately affect women.

#### **(24) and (25) Immigration issues, including ratification of International Convention on the Protection of Migrant Workers**

The Immigration Act 2004 was introduced following a High Court decision which struck down as unconstitutional Section 2 of the Immigration Act 1999, which was thought to give statutory effect to the Aliens Orders as if they were Acts of the Oireachtas. The NCCRI had reservations about the Immigration Bill 2003, particularly provisions such as Section 3.3, whereby an immigration officer can detain and examine any person whom they reasonably believe to be a 'non-national'. The NCCRI urges the Government to move away from the term 'non national' in general and in legislation and it is inaccurate and misleading. There is a need for a dialogue on suitable terminology in this area.

The NCCRI has received reports of people from visible minorities being stopped, and in some cases treated in an inappropriate and/or discriminatory way, by some immigration police (see point 16 in this Report)

In 2005 the Department of Justice, Equality and Law Reform published *Immigration and Residence in Ireland - Outline policy proposals for an Immigration and Residence Bill*. This was a discussion document containing proposals for legislation. The NCCRI's key conclusions and recommendations in relation to this discussion document focused on the importance of:

- Interculturalism as a Guiding Principle and Overall Objective
- Integration Strategy

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<sup>14</sup> Racist Incidents Reports are available at: [www.nccri.ie/incidents.html](http://www.nccri.ie/incidents.html)

<sup>15</sup> <http://debates.oireachtas.ie/DDebate.aspx?F=EUJ20051026.xml&Ex=All&Page=2>

<sup>16</sup> Migrant Rights Centre Ireland (2004) "Private Homes: A Public Concern."

- Resourcing of Migrant Led and Support Groups
- Statutory entitlement to family reunification
- Codification of Rights and Entitlements of Migrant Workers
- Immigration Ombudsman
- Regularisation scheme for Undocumented Workers
- Public Awareness Campaigns
- Legislation equality proofing

The NCCRI along with the Irish Human Rights Commission has advocated the ratification and incorporation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families into Irish Law.<sup>17</sup> In the absence of such ratification and incorporation the NCCRI recommends that the Convention is used to help establish benchmarks and develop further policy for the protection of migrant workers and their families.

With the exception of refugees and EU citizens, there are currently no legislative provisions governing migrants' entitlements to family reunification in Ireland. In general, migrants who are legally resident in Ireland are permitted to apply for family reunification in respect of dependant family members. The policy / procedure that applies in individual cases depends on both the immigration status of the migrant already residing in Ireland and whether the family member seeking permission to join the migrant is subject to visa requirements. The immigration status of the migrant already residing in Ireland also affects the entitlements of the family members admitted to Ireland to work. All decisions are discretionary and there is a real lack of information on people's rights and the process.

There is a need to put in place legislation guaranteeing rights to family reunification and there is a need to clearly communicate people's rights to them in this regard.

## **(26) Consultation with NGOs**

The NCCRI welcomes the Government's on going commitment to consult with NGOs in relation to the preparation of CERD reports. NCCRI will continue to seek to bring added value to this process as appropriate. NCCRI urges the Irish Government to ensure that NGOs continue to be included in consultative processes that impact on minority ethnic communities in Ireland. In particular, migrant-led organisations and other members of minority ethnic groups need to be included in consultations, particularly in relation to provision of Government services.

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<sup>17</sup> NCCRI & IHRC, "Safeguarding the rights of migrant workers", available at: [www.nccri.ie/publications-other.html](http://www.nccri.ie/publications-other.html)

## Annex 1: The education system in Ireland

The Irish school system provides a formal education for children. However, the family is recognised by the Constitution as the primary and natural educator of the child.<sup>97</sup> The right to education is enshrined in Article 42.1, and 42 of the Constitution of Ireland. It is a legal requirement that all young people between the ages of 6 and 16 attend full time education. This applies to all, including people coming to Ireland as asylum seekers or as migrants, with family reunification rights. There is no requirement on the state to provide education either before or after these years although in practice significant efforts are made to ensure that all young people between the ages of 4 and 18 receive and remain in full time education.

The education system in Ireland is divided into four main levels, with an emerging pre school level. Schools at the different levels of the education system are not divided according to academic ability; instead students are offered the opportunity to take exams in secondary schools at either 'higher' or 'ordinary' level. Consequently it is not possible to make inferences regarding achievement through analysis of attendance at particular institutions.

### The Education system in Ireland

Level Usual Age Group	Usual Duration
Pre-School (emerging)	1-4 year olds 1-2 years
Primary level	4-11 year olds 7 years
Second level	11-17 year olds 6 years
Third Level	17 plus year olds (incl. Mature students)
3-4 years with additional years for postgraduates	
Adult and Further Education	16 plus year olds (incl. Mature students) 2-3 years

The percentage of pupils with special educational needs who are segregated from the mainstream school system is relatively small. About 0.9% of all pupils of primary and post-primary age, or 1.2% of pupils aged between six and fifteen years of age, are educated in special schools. Educational provision for students with special educational needs is also made in mainstream schools. There are 321 special classes for children of Travellers in primary schools. Many of these make provision for some level of integration of the pupils into mainstream classes.

There are 118 special schools, with a combined enrolment of about 8,000 pupils. These are officially designated as primary schools and can cater for pupils aged from four to eighteen years. They are classified as follows:

- Schools for pupils with mild learning disabilities
- Schools for pupils with moderate learning disabilities
- Special schools and hospital schools for children with physical handicap
- Schools for children with severe/profound hearing impairment
- Schools for children with visual impairment
- Schools for children with emotional disturbance

- Schools for children with multiple handicaps and severe/profound learning disabilities
- Schools for children with specific learning disabilities
- Schools for Young Offenders
- Schools for Children at Risk
- Schools and Junior Training Centres for children of Traveller families. 99

In Ireland the primary sector and the major part of the second level education sector consists of privately owned state aided schools with the State paying over 80% of capital costs of buildings and facilities and over 90% of current expenditure. One of the most distinctive features of this system is the level of religious denominational involvement and control, which is rooted in the ownership and management of schools; 93% of schools are under the patronage of the Roman Catholic Church. There is also a small but growing 'Educate Together' initiative which is a non denominational and gender integrated system of schools. There are now about 39 Educate Together primary schools in Ireland, based mainly in the Dublin area. The State also funds a small number of Jewish schools and a recently established Muslim primary school.

A comparatively recent development in the Irish education system has been the development of commercial fee paying colleges, mainly at second level, geared to supporting students to maximising their grades at second level in order to enable optimum student choice at third level. A further development in recent years has been the proliferation of English language schools for foreign students.