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# **Immigration Bill 2004**

**Submission to the Department of  
Justice, Equality and Law Reform**

**3 February 2004**

## Immigration Bill 2004

While recognising that government must address the immediate legislative needs in light of the High Court judgment of 22 January 2004, a number of concerns have been expressed to the National Consultative Committee on Racism and Interculturalism (NCCRI), that aspects of the Immigration Bill 2004 have the potential to result in discrimination against minority ethnic groups, unless adequate safeguards are introduced.

The powers which the Immigration Bill 2003 confers to immigration officers, an Garda Siochana, and registration officers could inadvertently lead to discrimination against minority ethnic groups; 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, raise such concerns.

The NCCRI have recorded cases in the past which would lead us to urge that adequate safeguards be introduced. For example in the period between May and October 2002 the NCCRI received the following complaint:

Two British nationals of black ethnic origin working in Dublin contended that on more than one occasion they were subjected to abuse/racist attitudes from a small number of immigration officials at Dublin Airport. They emphasised that in their experience the majority of immigration officials in Dublin Airport were conscientious and law-abiding.<sup>1</sup>

Other examples were highlighted through Operation Hyphen, which was implemented in July 2002 to apprehend illegal immigrants residing in Ireland. This operation was the focus of much media attention and subsequent debate in the Oireachtas. The NCCRI received 19 separate representations from individuals or representatives of organisations working with minority ethnic groups following Operation Hyphen. A significant number of people brought in for questioning were legally entitled to be in Ireland. There were also reports that in some areas local Gardai were, randomly and without evidence, stopping people in the street and asking them for their identification and residence documents. In one incident reported to the NCCRI four Islamic people were stopped and questioned in this way (two women and two men); two were Irish citizens and the other two had a legal right to remain in Ireland.<sup>2</sup>

Given these reports of racial profiling, the NCCRI is concerned that some of the powers which the Immigration Bill 2004 would confer on immigration and registration officials have the potential to lead to cases of discrimination against minority ethnic groups. All immigration policy/legislation should include safeguards against such a possibility, and all immigration officers should be given adequate anti-racism training.

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<sup>1</sup> NCCRI (2003) Report on incidents relating to racism in Ireland May-October 2002, available at: [www.nccri.com/publications.html](http://www.nccri.com/publications.html)

<sup>2</sup> NCCRI (2003) *ibid.*

## **Recommendations**

Given its concerns regarding the Immigration Bill 2004 the NCCRI recommends that:

- The government introduce temporary emergency legislation to meet the immediate needs of the government in light of the High Court judgement on 22 January 2004. In order to enhance safeguards the principle of non-discrimination should be included in any such temporary measures.
- The temporary legislation should be reviewed and replaced with a **comprehensive and modern immigration and residency bill** in due course. According to the Government's Legislation Programme, Spring Session 2004, published on 25 January 2004, an Immigration and Residence Bill is due to be published in 2004. This Bill will be intended to update the law on immigration, residence and other matters relating to non-nationals.
- In line with the NCCRI submission to the Review of Immigration and Residence Policy (August 2001), immigration and residence legislation should be **equality 'proofed'** to ensure that it is non-discriminatory across the nine grounds identified in the equality legislation.
- While recognising that immigration officers do, of course, have the right to ensure that national immigration laws are upheld but they should rely on **evidence and intelligence**, rather than large scale 'net' approaches or random stopping of people on the street.

The **NCCRI** is an independent expert body focusing on racism and interculturalism.

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