

An Coiste Comhairleach Náisiúnta  
ar Chiníochas agus Idirchultúrachas

National Consultative Committee  
on Racism and Interculturalism

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**NCCRI**

**Comments by the National Consultative Committee on Racism and Interculturalism**

**(NCCRI)**

**on the**

**Draft Government Report under the International Covenant on Civil and Political**

**Rights (ICCPR)**

The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1998 as an independent expert body focusing on racism and interculturalism. The NCCRI is a partnership body, which brings together government and non-government organisations, and is core funded by the Department of Justice, Equality and Law Reform. Further information can be found at [www.nccri.ie](http://www.nccri.ie).

The NCCRI would like to thank the Department of Foreign Affairs for this opportunity to comment on the draft report under the ICCPR and for the opportunity provided at a roundtable discussion on 22<sup>nd</sup> November. However, there was a lack of representation from minority ethnic led groups at this meeting and the NCCRI would encourage the Department to strengthen its engagement in this regard.

**Comments on the Government’s report by Article number:**

**Articles 2 and 26** relating to non-discrimination. In relation to an effective remedy, the NCCRI is concerned at the low level of compensation awarded to Travellers under the Equal Status Acts 2000 and 2004 by the Equality Tribunal. The Government’s report refers to the introduction of the EU ‘Race’ Directive, transposed by the Equality Act 2004; however, Article 15 of the Directive requires that sanctions be “effective, proportionate and dissuasive”, which is not currently the case in relation to awards made by the Tribunal to Travellers. Also, Article 7 of the EU ‘Race’ Directive was not transposed, which would have allowed for interested parties to act in order to take cases on behalf of groups experiencing racial discrimination.

The change introduced by the Intoxicating Liquor Act 2003 which transfers cases involving licensed premises to the District Court, is not referred to in the Government’s report and is likely to have had a negative impact on Travellers’ ability to exercise their rights.

**Article 3** in relation to ensuring the equal right of men and women should make specific mention of the situation of minority ethnic women in Irish society, including Traveller women, and migrants including women migrant workers, asylum seekers, and refugees.

Under **Article 7** prohibiting torture, inhuman or degrading treatment, the Government's report should also mention Ireland's asylum process and commitment to principles of non-refoulement. Provisions in the Scheme for an Immigration, Residence and Protection Bill would also be relevant in this regard.

**Article 8** relates to slavery, servitude and not being required to perform forced or compulsory labour. Given reports of exploitation of migrant workers and possible trafficking for debt bondage, the situation of migrant workers should be considered under Article 8, including protections. The Government's report refers to the draft Criminal Justice (Trafficking in Persons and Sexual Offences) Bill; however, neither this nor the Scheme for an Immigration, Residence and Protection Bill contain any protections for victims of trafficking.

In relation to **Article 9(2)** concerning the right to be informed of the reasons for one's arrest and **Article 14(3)(a)** regarding a person's right to be informed promptly and in detail in a language (s)he understands of charges; there are significant restrictions on this right through the lack of standards in place for interpreters. As yet unpublished research commissioned by the NCCRI finds that interpreters are sometimes not used and where they are used, there are no standards in place to ensure that their interpretation is of good quality.

In relation to the right to privacy under **Article 17**, there are concerns in relation to provisions in the Scheme for an Immigration, Residence and Protection Bill for 'foreign nationals' to carry bio-metric ID cards, the introduction of a 'foreign nationals register' including biometric data and the requirement to provide biometric data to an immigration officer upon request. The NCCRI is concerned about privacy implications and increased racial profiling as a result of these provisions.

In relation to **Article 20** covering the prohibition of propaganda for war and advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility

or violence, the NCCRI is concerned that the Government continues to have a reservation against this Article.

The lack of data and lack of progress on addressing the inadequacy of current legislation in the area of racist crime was an area criticised by the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) who adopted its Second Opinion on Ireland in October 2006:

“Although under discussion for several years, there are no new published state plans on how to improve the legislative framework in these areas. It should also be noted that experts looking into the matter have found that the lack of comprehensive data, including in terms of related jurisprudence, complicates efforts to evaluate the situation and to make recommendations.”<sup>1</sup>

Under **Article 23** recognising the family as the natural and fundamental group unit of society, the NCCRI suggests that the Government’s report should reflect the reality of migrants’ seeking family reunion. Research published by the Immigrant Council of Ireland in 2006 has highlighted the lack of legislation dealing with the rights of Irish citizens and non-EU nationals living in Ireland to have their family members from outside of the European Union join them here.<sup>2</sup> In relation to Article 23(2), recognising the right of men and women of marriageable age to marry and to found a family, the NCCRI is once again concerned by proposals in the Scheme for an Immigration, Residence and Protection Bill (Head 67) which require a ‘foreign national’ to notify the Minister of intention to marry (2(a)(i)) and prohibit marriage on a number of grounds including being the holder of a protection temporary residence permit (3(a)(i)). This appears to effectively mean that asylum seekers cannot marry and refugees can only marry if they have applied for and been granted a long-term residence permit, which would take a minimum of five years.

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<sup>1</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, “The Second Opinion on Ireland”, Adopted October 2006, ACFC/OP/II(2006)007, at 74.

<sup>2</sup> <http://www.immigrantcouncil.ie/family-matters.htm>

In relation to **Article 25** on the right to participate in public affairs and to vote, the situation of and rights of members of minority ethnic groups should be explicitly considered including their participation rates in political parties and voting rights. The NCCRI suggests that further reciprocal agreements with other EU countries be pursued to enable more migrants in Ireland to vote in elections.

Given that **Article 27** relates to “ethnic, religious or linguistic minorities” and their right to enjoy their own culture, to profess and practise their own religion, or to use their own language; it is extremely surprising that the ethnic, religious and linguistic diversity of modern Irish society is not represented in the Government’s report under this Article. It is suggested that initiatives undertaken by the Department of Justice under the National Action Plan Against Racism, the Reception and Integration Agency, and the NCCRI should be mentioned in this regard. The NCCRI would add that lack of adequate, core funding for minority ethnic-led groups can impede their rights under this Article.

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