



Irish Traveller Movement

Campaigning for Travellers' rights since 1990

COMMENTARY ON THE THIRD AND FOURTH PERIODIC REPORTS SUBMITTED BY IRELAND

For Review at the UN CERD Committee's 78
Session

14 February – 11 March 2011

Geneva

When all is CERD and done;

Ireland remains in breach its obligations



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1. PURPOSE AND BACKGROUND OF THIS SHADOW REPORT

- 1.1. The Irish Traveller Movement (ITM) welcomes the opportunity to submit this commentary to the CERD Committee on Ireland's Third and Fourth Periodic Report [hereinafter the 2009 State Report]. The ITM have previously submitted a shadow report and commentary on the Irish State's First and Second Periodic Report [hereinafter the 2004 State Report] which were examined by the CERD Committee in March 2005.
- 1.2. Although every area covered in the 2009 State Report in regard to Travellers is not addressed in this commentary, it should not be interpreted to mean that any particular subject is free from concerns of discrimination. The ITM have included as annexes to this report background information on a number of specific areas of concern which will provide the UNCERD committee with further information with which to pursue a thorough examination of Ireland's 2009 State Report.
- 1.3. In its concluding observations on the 2004 State Report the CERD Committee at paragraph 21 expressed its concerns about the effectiveness of policies and measures in regard to health, housing, employment and education. The ITM believes that grave concerns remain on these issues. In this commentary the ITM intends to focus on policy in regard to one of these areas, namely education. The primary purpose of this commentary will be to provide context on some points for discussion by drawing particular attention to the Irish State's actions since the submission of the 2004 report and its examination by the CERD Committee in March 2005. The ITM focuses on three specific areas highlighted by the CERD Committee: these are the question of (1) Traveller Ethnicity, (2) The Effectiveness of Education provision for Travellers and (3) the political representation and inclusion of Travellers, in the political structures of the State. The ITM also wishes to draw attention to its concerns at the way in which the State has failed to have regard to the CERD Committee's General Recommendation 27.
- 1.4. As a general comment on the 2009 State Report, the ITM, in common with many NGOs in the human rights sector in Ireland, expresses serious concern at the way in which the State has effectively undermined the Human Rights infrastructures in Ireland¹ over the last three years. Under the guise of cutbacks in public spending due to the changed economic circumstances of the country. Since late 2008 some of the key bodies involved in human rights protection and monitoring at the domestic level have seen dramatic reductions in their budgets. Reductions which have

¹ For example, the Equality Authority and Irish Human Rights Commission had their budgets cut by 43% and 24% respectively in the October 2008 budget. The National Consultative Committee on Racism and Interculturalism (NCCRI) closed due to a loss of departmental funding leaving the State without an independent monitoring body of racist incidents or national provider of anti-racism training. The National Action Plan against Racism (NPAR) has also ceased operating.

been far in excess of and disproportionate when compared to financial cutbacks of other publicly funded bodies.

- 1.5. The ITM sincerely appreciates the Committee's efforts to review the 2009 State report and hopes that this shadow report will assist the Committee in its evaluation.

2. BACKGROUND TO THE IRISH TRAVELLER MOVEMENT

- 2.1. The Irish Traveller Movement (ITM) is a national network of organisations and individuals working within the Traveller community. ITM was established in 1990 and now has over seventy Traveller organisations from all parts of Ireland in its membership. The Irish Traveller Movement consists of a partnership between Travellers and settled people committed to seeking full equality for Travellers in Irish society. This partnership is reflected in all of the structures of ITM.
- 2.2. The Irish Traveller Movement was formed to be a national platform, through which Travellers and their organisations are enabled to: Highlight the issues faced by Travellers and to press for real solutions; Debate ideas and formulate and promote culturally appropriate initiatives; Provide those active at a local level with support and solidarity; Develop alliances at national level; and Challenge the many forms of individual, structural and institutional racism with which Travellers have to deal.
- 2.3. The Irish Traveller Movement has a membership of over 70 local Traveller groups and organisations from all parts of the island of Ireland, and has established contact with Irish Traveller groups in Great Britain.

3. BRIEF BACKGROUND TO IRISH TRAVELLERS

- 3.1. Travellers are an indigenous ethnic minority who, historical sources confirm, have been part of Irish society for centuries. Travellers', long shared history, cultural values, language, customs and traditions make them a self-defined group, and one which is recognisable and distinct. Their culture and way of life, of which nomadism is an important factor, distinguishes them from the sedentary (settled) population.
- 3.2. There are conflicting figures as to the exact population of Travellers in Ireland. According to ITM and estimates from other NGOs there is an estimated population of 85,000 persons who claim Irish Traveller identity².

² These estimates derive from analysis of the All-Ireland Traveller Health Study and estimates from ITM-UK and Northern Ireland as well as other bodies. Statistics for Irish Travellers in the UK do not exist although for the first time in 2011, the census will recognise Roma and Irish Travellers as distinct ethnic groups with

The 2002 Census recorded 23,700 Irish Travellers and the 2006 Census recorded 22,369. In the recent All Ireland Traveller Health Study,³ which included a census, found that in 2008 (early 2009 in Northern Ireland), there were approximately 40,129 Travellers living on the island of Ireland - 36,224 in the Republic of Ireland and 3,905 in Northern Ireland. This constitutes approximately 0.5% of the total national population.

- 3.3. Travellers, as individuals and as a group, experience a high level of prejudice and exclusion in Irish society. Many have to endure living in intolerable conditions with approximately one third having to live without access to the basic facilities of sanitation, water and electricity. This leads to ongoing health problems among the Traveller community. The All Ireland Health Study referred to above found that

Allowing for the age differences between the Traveller and general population, overall Traveller mortality is 3.5 times higher. Traveller males have 3.7 times the mortality of males in the general population; for females the mortality is 3.1 times higher. Traveller males can expect on average to die 15 years before their counterparts in the general population, and females can expect to die 11 years earlier. The life expectancies of the Traveller community in the first decade of the 21st century mirror those observed in the general population of the late 1940s for males and of the early 1960s for females.

Compared to 1987, the mortality experience of male Travellers has not changed, while there has been a mortality reduction for female Travellers. This however is in the context of major health improvements in the general population in both sexes. For males, the gap in mortality has widened between Travellers and the general population; while for the women the gap has remained nearly the same. For Travellers as a whole the gap has widened.

specific needs. Recent estimates according to the Commission for Racial Equality report into Gypsies and Irish Travellers in 2006 number both Roma and Irish Travellers together at 300,000, and are based on local government caravan counts. A further 20,000 Travellers of Irish descent living in the United States of America.

³ NTHAS Published 2010

4. GENERAL CONCERNS ON THE FORMAT AND CONTENT OF THE 2009 STATE REPORT;

- 4.1. Of particular concern to the ITM is the apparent ignorance by the State of the implication for its reporting in respect of Travellers under the reporting template provided to State parties by the UNCERD. In accordance with the template, State parties are required to provide information broken down by relevant groups of victims or potential victims of racial discrimination. In this respect the Committee seeks to *ascertain to what extent all persons within the State's jurisdiction and particularly members of groups protected by the Convention, in practice enjoy], free from racial discrimination, all the rights and freedoms referred to in article 5 of the Convention.*⁴
- 4.2. Reporting in this regard requires that Information provided on indicators should be supplemented *with (a) a qualitative assessment of these indicators and (b) information on progress achieved over the reporting period. Specific information should be provided, and in particular:*
- 1. On refugees and displaced persons, bearing in mind general recommendation No. 22 (1996) on article 5 of the Convention on refugees and displaced persons;*
 - 2. On non-citizens, including immigrants, refugees, asylum-seekers and stateless persons, bearing in mind general recommendation No. 30 (2004) on discrimination against non-citizens;*
 - 3. On indigenous peoples, bearing in mind general recommendation No. 23 (1997) on the rights of indigenous peoples;*
 - 4. On minorities, including the Roma, bearing in mind general recommendation No. 27 (2000) on discrimination against Roma;*
 - 5. On descent-based communities, bearing in mind general recommendation No. 29 (2002) on article 1, paragraph 1 of the Convention (Descent);*
 - 6. On women, bearing in mind general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination. States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. They should provide data by race, colour, descent and national or ethnic origin, which are then disaggregated by gender within those groups.*

⁴ CERD reporting template.

4.3. The 2009 State Report mainly recites laws and constitutional protections but does not engage in an analysis of implementation or actual occurrences in the lives of the Traveller Community. It is herewith submitted that the 2009 State Report in regard to Travellers fails to provide any qualitative assessment of measures.

General Recommendation No. 27

4.4 Also of particular concern in terms of both format and content of the 2009 State Report, is the failure of the State to have regard to UNCERD Committees' General Recommendation No. 27 (2000)⁵ as it may pertain to Irish Travellers. The State takes the view at Para 369 of the 2009 State Report, that the requirement to address Recommendation 27 has no relevance to Travellers.

4.5 Insofar as the State believes it applies to 'foreign' Roma the State Report absolutely fails to address the obligations of General Recommendation 27; information on Roma in Ireland is glaringly absent in the 2009 State report.

4.6 The ITM believes that General Recommendation 27 is of utmost importance in regard to Travellers. There are clear parallels to be drawn between Traveller and Roma communities throughout Europe. In adopting General Recommendation 27 the CERD Committee has expressed its particular concern for Roma communities and calls for: "*determined political will and moral leadership*" to protect Roma communities against discrimination. The CERD Committee, calls for states to: "*respect the wishes of Roma as to the designation they want to be given and the group to which they want to belong.*" In the ITM's first shadow report, its commentary on the 2004 State Report drew attention to the importance of General Recommendation 27 in regard to Travellers as an indigenous population, analogous to the Roma communities throughout Europe. The ITM submits that the State should not be allowed to avoid the content and import of General Recommendation 27 and the implication of the measures required pursuant to it.

4.7 It is the view of the ITM that the UNCERD committee should expressly specify that General Recommendation 27, applies to all Roma and analogous communities, including Travellers, Sinti and other groups who share characteristics and commonalities with Roma but do not specifically self identify as Roma. In this respect the ITM recommends that the UNCERD Committee clarify the scope of General Recommendation 27

⁵ UN Committee on the Elimination of Racial Discrimination (CERD), *CERD General Recommendation XXVII on Discrimination Against Roma*, 16 August 2000 11 September 2000

and adopt the wording of the European Commission⁶ and Council of Europe on the term "Roma" and/or specifically that the provisions of General Recommendation applies to other Traveller and Gypsy Communities.

Recommendation:

That the UNCERD Committee clarify the import and scope of General Recommendation 27 and adopt the wording of the European Union and the Council of Europe on the term "Roma" and specifically state in reporting requirements to State Parties that the provisions of General Recommendation 27 applies equally to other Traveller and Gypsy Communities.

CERD CONCLUDING OBSERVATIONS 2004

4.8 The concerns of the ITM expressed in its commentary on the 2004 State Report are considered to be of continuing relevance to the situation of Irish Travellers and continue to have particular relevance to the examination by the CERD Committee of the 2009 State Report.

4.9 Within this Commentary the ITM wishes to draw particular attention to the Irish State's actions since the submission of the 2004 State Report and its examination by the CERD Committee in March 2005. The ITM intends within this commentary, to focus its comments on three specific areas highlighted by the CERD Committee in its concluding observations in 2005. The ITM submits generally that the concerns raised and recommendations made by the CERD Committee in its concluding observations on Ireland's 2004 State report have not been adequately addressed by the State in the intervening period. Improvement in the circumstance of Travellers at a number of levels has not taken place.

⁶."The Commission uses "Roma" as an umbrella term that includes groups of people who share similar cultural characteristics and a history of segregation in European societies, such as the Roma (who mainly live in Central and Eastern Europe and the Balkans), Sinti, Travellers, Kalé etc.

- 4.10 There has been no real attempt by the State to act concretely on recognizing the Traveller community as an ethnic group, nor have urgent steps been taken to improve access by Travellers to all levels of education. On the contrary, the education initiatives which are presented in the 2009 State Report have now been rendered obsolete in the face of the disproportionate and savage cutbacks in the area of Traveller education,⁷ contained in the national Budgets of 2009 and 2010. [See Annex 1] likewise little progress has been attained in the crucial area of accommodation provision. [See Annex 2]
- 4.11 Furthermore, the State has failed to address, or at worst ignored completely the significance of the concluding observation and related recommendation at Para 22 in respect to adopting affirmative action programmes to improve the political representation of Travellers particularly at the level of Dáil Éireann and/or Seanad Éireann. The State has instead focused in the 2009 State report on the limited measures it has taken over the years to include Traveller representation on sub policy level consultation or in consultative fora at Departmental level.
- 4.12 Some progress has been made in addressing the health problems faced by the Traveller community with the conclusion of the All Ireland Traveller Health Study. The key challenge remains in addressing the stark statistics contained in the survey and the adequate resourcing of measures recommended within the Study.
- 4.13 The 2009 State Report mainly recites laws and constitutional protections but does not engage in an analysis of implementation or actual occurrences in the lives of the Traveller Community.

⁷ 'TRAVELLERS will be disproportionately affected by the budget cuts, according to an analysis by the children's charity, Barnardos. Irish Examiner Tuesday, January 04, 2011 <http://www.irishexaminer.com/ireland/travellers-to-be-disproportionately-hit-by-budget-says-charity-141075.html#ixzz1AlcGJwIM>

5 COMMENT ON APPENDIX 1 OF 2009 STATE REPORT

5.4 The ITM again draws attention to the manner in which the 2009 State Report presents the State's policy on Travellers as an Appendix to the main body of the Report. The ITM in its commentary on the 2004 State Report believed this to be of particular concern.

*“The Irish Traveller Movement regards the attachment of Appendix 1 (the specific report on the position of Travellers) by Ireland in its first National Report as indicative of the real life position of Travellers within Irish society that, of a community on the margin. The ITM reject this metaphoric and literal marginalisation of Travellers both within the National Report and within Irish society and view it as a result of the State's continued failure to seriously address the effects of racial discrimination against the Traveller community”.*⁸

5.5 Appendix I (Traveller Specific Appendix) of the 2009 State Report is presented as the State's response to specific recommendations of the UNCERD Coordinators follow-up report⁹ to Ireland's examination before the CERD Committee in March 2005. The Appendix is limited to reporting mainly on the areas covered in the Coordinators' report which can be summarised as follows:

- (a) the question of Traveller Ethnicity, and the principle of self-identification by Travellers;
- (b) education provision for Travellers;
- (c) platforms for discussion on issues concerning Travellers and discrimination that they may be facing.

5.6 The Traveller specific Appendix attached to the 2009 State report fails to address issues of concern to the Traveller community in any meaningful way. Appendix 1, while giving very general information in respect of initiatives for the Traveller community, provides no in-depth analysis in relation to issues of discrimination in Accommodation, Health, Employment, Media, etc.

⁸ ITM CERD Commentary 2004 page XXXX

⁹ CERD/C/69/CO2 (August 2006)

7. TRAVELLER ETHNICITY

CERD Concluding Observations March 2005

Recalling its general recommendation VIII on the principle of self-identification, the Committee expresses concern at the State party's position with regard to the recognition of Travellers as an ethnic group. The Committee is of the view that the recognition of Travellers as an ethnic group has important implications under the Convention (arts. 1 and 5).

Welcoming the open position of the State party in this respect, the Committee encourages the State party to work more concretely towards recognizing the Traveller community as an ethnic group.

7.1 In the 2009 State report, in a note on the text contained at paragraphs 7 to 11, the Irish Government is ambiguous in how it defines the Traveller community at a domestic level. At Para 8 the State repeats verbatim its position as presented in the 2004 State Report and states that: *'The Irish Government's view is that Travellers do not constitute a distinct group from the population as a whole in terms of race, colour, descent or ethnic origin'* it goes on to state, *Whether or not Travellers are considered to form a distinct ethnic group in Irish society is of no domestic legal significance.* The State reiterates that in this regard key anti-discrimination legislation¹⁰ protects the interests of Travellers regardless of how their status is perceived.

7.2 The 2009 State Report again does not provide any justification for the State's position but as it did in the 2004 State Report questions the validity of the argument put forward by Traveller representative organisations *'in recent years, some of the bodies representing Travellers have sought explicit recognition of Travellers by the State as an ethnic minority. The exact basis for this claim is unclear. The Irish Government's view is that Travellers do not constitute a distinct group from the population as a whole in terms of race, colour, descent or ethnic origin'*.

¹⁰ *The Incitement to Hatred Act, 1989- The Unfair Dismissals Acts 1997, the Employment Equality Act 1997, the Equal Status Act 1998 The Equality Act 2000 etal*

7.3 At paragraph 11 of the 2009 State Report, an attempt is made to support the position of the State by reference to the Task Force Report on the Traveller Community 1995 and from the observations of the Council of Europe's Advisory Committee on the Framework Convention on National Minorities;

'It should also be noted that the 1995 Report of the Task Force on the Travelling Community which comprised representatives of Government Departments, civil society and Traveller organisations did not recommend that Travellers should be identified as an ethnic minority. In addition, the Council of Europe's Advisory Committee on the Framework Convention on National Minorities, in its Second Opinion on Ireland (2006), also acknowledged that recognition of Travellers based on ethnicity is not the only valid approach in realising relevant human rights protections'.

7.4 While the Second Opinion on Ireland by the Council of Europe's Advisory Committee on the Framework Convention on National Minorities, does recognise that *"the applicability of the Framework Convention does not necessitate a formal domestic recognition of a group as a national minority per se and it is, a fortiori, clear that the recognition of a group as an ethnic group is not a precondition for access to the protection of the Framework Convention"*, the Advisory Committee, concluded that it was **"not in a position to state whether the authorities should make such a formal recognition"**. The Advisory Committee did state un-categorically that it found it 'regrettable' in the absence of any objective criteria that the [Irish] authorities have, *'instead of reserving their position on the matter, at least pending further examination of the issue and consultations with Travellers and others concerned, expressed a view according to which the Travellers "do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin".'*¹¹

7.5 It is incongruous that the concluding remarks of the FCNM Advisory Committee are now being submitted as support for the Government's position in its failure to recognise Travellers' as an ethnic minority. Such a position would, as in the words of the Advisory Committee appear; *'to be, at best, premature, bearing in mind, inter alia, that there are no procedures or criteria in place for the authorities to determine the issue and that several Traveller groups and a number of other stakeholders have presented a range of arguments in favour of an opposite conclusion.'*¹²

¹¹ Paragraph 29 ACFC/OP/II(2006)007

¹² Paragraph 29 ACFC/OP/II(2006)007

7.6 The Advisory Committee recommended that the “*Irish authorities should refrain from conclusive statements affirming that 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.*”¹³

State denial of Traveller ethnicity: a history of obstinacy

7.7 In 1960, the Irish government appointed a Commission on Itinerancy, which in 1963¹⁴ produced the first official report by the Irish State in regard to the Traveller community in Ireland. The Commission was appointed by the then government to enquire into the problems arising from the ‘*presence in the country of itinerants in large numbers*’, The Commission was tasked with, among other things, to draw up recommendations aimed at ‘*finding a final solution to the problem of itinerancy in Ireland*’¹⁵.

7.8 The Commission displayed a remarkably obstinate insistence in referring to Travellers as “Itinerants”, even though they were aware that ‘itinerant’ was not the self descriptive term for the community and was considered offensive by Travellers themselves. The Commission arrived at a significant conclusion in circumstances where no consultation had taken place with the community concerned and the Commission itself included no members of that community:

Itinerants (or Travellers as they prefer themselves to be called) do not constitute a single homogenous group, tribe or community within the nation although the settled population are inclined to regard them as such. Neither do they constitute a separate ethnic group”

7.9 In arriving at such a conclusion the Commission in one fell swoop set the context for future debate on the question of cultural recognition or ethnic status for the Traveller community. The Commission’s conclusion removed from the Traveller community any recognition of them as having a collective community identity. In effect, the Commission deprived Travellers of any cultural qualities and treated them merely as a problematic collective of individuals for whom nomadism was no more than a negative attribute which gave rise to social backwardness.

¹³ Paragraph 31 ACFC/OP/II(2006)007

¹⁴ Report of the Commission on Itinerancy: The Stationary Office Dublin August 1963

¹⁵ ‘Address of the Parliamentary Secretary to the Minister for Justice, at the inaugural meeting of the Commission appointed by the Taoiseach to enquire into the problems arising from the presence in the country of itinerants in large numbers’. Delivered 1st of July 1960, included as Appendix 1 of the Commissions Report

- 7.10 The Irish State is currently displaying an equally obstinate insistence in their refusal to recognise the ethnic status of Travellers' in Ireland. The 2009 State Report provides no criteria for the position adopted by the State; it continues to insist that Travellers do not constitute an ethnic group, and does so in clear ignorance of the increased evidence to the contrary. In many respects the State's position is merely a continuation of the position first officially articulated almost fifty years ago. The State continues to ignore the rational and pertinent arguments put forward by Traveller organisations themselves, the findings by human rights bodies¹⁶ and increased academic research and deliberations¹⁷ that have informed the debate on Traveller ethnicity in recent years.
- 7.11 The Irish Traveller Movement has since the concluding observations of the UNCERD Committee in 2005 sought to move the discussion on Traveller Ethnicity forward. To this end the organisation has sought to facilitate discussion and debate among the Traveller community on the topic and have produced resource materials aimed at the community. The organisation has also initiated a national petition campaign among the community calling on the government to grant ethnic recognition to the Community.
- 7.12 The Irish Traveller Movement shares the concerns of the Irish Human Rights Commission that *the non-recognition of Travellers as an ethnic minority poses a danger that sufficient weight might not be given in policy making to the need to respect and promote Traveller culture. Moreover, the non-recognition of Travellers as an ethnic minority potentially takes Travellers outside the ambit of the provisions in the international human rights treaties, which provide protection for ethnic minorities.*
- 7.13 The consequences of a failure by the state to recognise the distinct ethnicity of Travellers does have consequences for the proper application of a number of international protections. The historical treatment of Travellers by the State as no more than social deviants did result in serious attempts by the State to outlaw and criminalise the Traveller Community. Even the more enlightened approach of recent years has not prevented the State, in the absence of ethnic recognition, from passing legislation and statutes which continue to have the effect of targeting and criminalising what should be defined as Traveller cultural attributes. Nomadism amongst the community continues to decrease since the

¹⁶ IHRC report EA report

¹⁷ See for example Dr Robbie McVeigh: 'Ethnicity Denial' and Racism: *The Case of the Government of Ireland Against Irish Travellers: Translocations* | Summer 2007 | Volume 2 | Issue 1 | pp. 90-133 <http://www.translocations.ie> : O'Connell, R. (2006), The Right to Participation of Minorities and Irish Travellers. *Studies in Ethnicity and Nationalism*, 6: 2–29.

criminalisation of trespass under Irish law in 2002. The Control of Horses Act 1996 disproportionately affects the Traveller horse trade and despite the fact that the High Court has long established the right of Travellers to choose halting site accommodation as part of their culture, the 2008 annual report of the National Traveller Accommodation Consultative Committee notes that the numbers of Travellers accommodated on halting sites has decreased year on year since 2003, as homeless Travellers are actively encouraged by government bodies not to put halting site accommodation as a preference on their housing applications as new sites will not be built.

- 7.14 While the recognition of the ethnicity of Travellers is not a panacea, it is certainly a way of rooting the protection of Traveller culture in something more concrete than political whim.

Recommendation:

The Irish State formally recognises the Ethnic Status of the Irish Traveller community.

That the Irish State gives full regard to the UNCERD Committee General Recommendation VIII on identification with a particular racial or ethnic group (Art.1, par.1 & 4)

8 TRAVELLER EDUCATION

CERD Concluding Observations March 2005

While noting the efforts made so far by the State party with regard to the situation of members of the Traveller community in the field of health, housing, employment and education, the Committee remains concerned about the effectiveness of policies and measures in these areas (art. 5 (e)).

The Committee recommends to the State party that it intensify its efforts to fully implement the recommendations of the Task Force on the Traveller community, and that all necessary measures be taken urgently to improve access by Travellers to all levels of education, their employment rates as well as their access to health services and to accommodation suitable to their lifestyle.

- 8.1 The education issues highlighted by the Irish Traveller Movement in its commentary on the 2004 State Report remain relevant and pressing in regard to the Education provision for Travellers in Ireland. Since the submission of its 2004 State Report and examination by the UNCERD in March 2005 the Department of Education and Science¹⁸ produced a policy document on education *The Report and Recommendations for a Traveller Education Strategy*. However, since the submission of the 2009 State Report which presents on the initiatives taken by the State on Traveller education, the State has systematically reversed and abolished most if not all of the educational supports to Traveller children. In cutbacks made in the 2010 Budget, the Visiting Teachers Service for Travellers was abolished and the Resource teachers for Travellers in primary and secondary schools have been drastically curtailed with a view to phasing out these supports completely.
- 8.2 The impact of these cuts on Travellers' education provision was recently highlighted by the children's charity Barnardos. In an analysis of the impact of the budget the charity stated that *"The cuts to Traveller-specific services is a short-sighted saving that will cement intergenerational cycles of disadvantage in the Traveller community*
- 8.3 The ITM have also produced a full response to the changes to the education provision for Travellers announced in the 2010 national Budget with recommendations aimed at alleviating the impact of the cuts. [Please see Annex XX]

¹⁸ Now the Department of Education and Skills.

8.4 The educational disadvantage referred to by Barnardos has existed for Travellers within the state for many years. Examination of the causes of intergenerational education disadvantage presents a dismal picture and a damning indictment of how the State has consistently failed to address the lack of educational attainment and achievement by Traveller children. In this regard a brief analysis of the history of the State's educational policy over the years is worthwhile.

State Policy and Education

8.5 The attitude of the Irish State since its foundation, to the education of Traveller children has been an ignominious one. Early attempts in the 1940s at addressing the education of Travellers amounted to a draconian attempt to use education and compulsory school attendance as a means to assimilate the Traveller community through forced settlement and the legalisation of the removal of Traveller children from their parents into state institutions¹⁹. The attempt by the state to introduce such measures was a serious one which only failed to be implemented not because of the impact it would have on Traveller families, but for unrelated reasons²⁰.

8.6 The mindset which drove the attempt to introduce the measures contained in the 1942 Bill continued to exist as was made evident again in 1960 when the Commission on itinerancy was established. The Commission, chaired by Mr. Justice Brian Walsh (later Chief Justice), had been tasked to '*examine the economic, educational, health and social problems inherent*'²¹ in the Traveller way of life. Specific reference was made to the measures contained in Section 21 of the School Attendance Bill 1942 by Mr. Charles Haughey, the Parliamentary Secretary to the Minister for Justice, in his address to the first meeting of the Commission in July 1960²² with an inference that the measures relating to the education of Travellers could be revisited by the Commission. However, the Commission in its conclusions

¹⁹ School Attendance Bill 1942: Section 21 of the Bill contained 11 subsections which created a separate legal regime pertaining to Travellers and education; Provisions required the annual registration on a specified day (1st May) of all adult Travellers of both themselves and any school going children in their care. The Subsection 7 empowered a Police officer to arrest without warrant a person who it appeared to the police was a Traveller and who was suspected of having committed an offence under the section including failure to register themselves with the Police station in the locality, or of having failed to send a child in his care to school. Subsection 8 also allowed for the removal and detention of any child who was in the care of a person arrested under subsection 7

²⁰ School Attendance Bill 1942: which passed through the Irish Parliament but was referred to the Supreme Court by the President to examine its constitutionality. The debate in regard the School Attendance Bill 1942 was primarily focused on Section 4 of the Act which conferred on the Minister of Education the powers to specify what constituted a suitable education and the manner in which this education was to be delivered. It was argued that this was an interference with the constitutional rights of the parents and intrusion into the rights of the family as the primary educators under article 42.3.1 of the Constitution. The Supreme Court upheld this argument in striking down section 4.1 of the Bill and held that Section 4 (1) had no constitutional authorisation

²¹ Report of the Commission on Itinerancy; op. cit. P.11

²² Paragraph 10 of the '*Address of the Parliamentary Secretary to the Minister for Justice, at the inaugural meeting of the Commission appointed by the Taoiseach to enquire into the problems arising from the presence in the country of itinerants in large numbers*'. Delivered 1st of July 1960, included as Appendix 1 of the Commissions' Report

did not recommend any change in the school attendance provisions and in its recommendations in respect to education for Travellers concluded that *‘A solution on the lines, contemplated by Section 21 of the School Attendance Bill 1942 might be attempted but in the view of the Commission such measures would be far too drastic. [...] The application of such provisions could only result in most itinerant children being taken from their families and placed in institutions. Itinerants are very attached to their children and the evil social consequences and the suffering which must follow such a policy would far outweigh the ‘advantages’ of an education imposed in such conditions with its lasting legacy of bitterness’*.²³

- 8.7 The Commission concluded that while there was a need to compel Traveller parents to send their children to school and that education was key to the ultimate absorption of Travellers into settled society the Commission did not propose amendments to the existing legislation²⁴ in this regard but stressed that existing provision which compelled school attendance should be enforced more strictly.
- 8.8 The Commission went on to make recommendations in respect of how education provision could be made for Travellers. They recommended that where sites were provided by a local authority, camp schools should be set up on those sites to cater for the educational needs of Traveller children with compulsory attendance by children who remained on the site for more than a week. The Commission was influenced by the creation of camp schools established in Holland to cater for the needs of Traveller and Gypsy children there. The Commission distinguished between the size of sites and recommended that where the sites were small the children should avail of the local schools in the area, with extra remedial support teachers to be provided. Where the sites were larger they recommended the setting up of special schools within the sites with a separate curriculum from mainstream schools.
- 8.9 The recommendations of the Commission on Itinerancy created the conditions for a special segregated education policy to be developed by the State, for Traveller children. This policy was reinforced by a Department of Education Report in 1970, Educational Facilities for the Children of Itinerants, which described the educational problem of Travellers in the following terms:

*‘...the educational problems of itinerant children are similar in many respects to those of backward children aggravated by social disabilities and a vagrant way of life.’*²⁵

²³ Report of the Commission on Itinerancy: The Stationary Office Dublin August 1963, Page 69

²⁴ 1926 School Attendance Act and the provisions of Section 118 of the Children’s Act 1908 which imposed penalties on persons who habitually wandered from place to place and thereby prevented their children from receiving an education should be applied more vigorously toward the Traveller community.

²⁵ Committee Report: Educational Facilities for the Children of Itinerants; Department of Education; Dublin; 1970. P. 4.

- 8.10 The 1970 report set out the Department of Education's policy for education provision of Travellers and was the Department's response to the matters raised in the Commission on Itinerancy Report, in particular, the education recommendations arising from that report. The Department stated that the general aim in regard to itinerants is to integrate them into the community, and the Department accepts that educational policy in regard to these children must envisage their full integration in ordinary classes in ordinary schools. However, the Department saw the implementation of an integration policy within schools as mirroring that of the general integration of Travellers into society and as such the education policy to this extent would have to keep in step with the progress made in the general integration of itinerants within the community. The Department's report rejected the Commission's recommendation that '*camp schools*' should be set up on-site catering for Travellers and instead opted for a system of Special classes for Travellers attached to ordinary schools.
- 8.11 What in effect developed from the Commission Report was a form of segregated education which was maintained by the State and pursued by the Department of Education as a central tenet in the provision of education for Travellers from the late 1960s until the mid 1990s.

Addressing a legacy of Failure.

- 8.12 It is the legacy of segregation and sub-standard education provision in regard to the Traveller Community that now needs to be addressed. The change in policies pursued by the State since the mid 1990s have shown a level of success in terms of increased participation of Traveller children in both primary and secondary level education in Ireland. There remains, however, serious inadequacies in both the form and content of the Education provided to Travellers in Ireland.
- 8.13 The Report and Recommendations for a Traveller Education Strategy was published in November 2006. In the 2009 State Report it is claimed that the Strategy covers '*all aspects of Traveller education within a lifelong context. The core principle is one of inclusion, with an emphasis on equality and diversity and an intercultural approach. The principle of "individual educational need" rather than "Traveller identity" will underpin future actions*'.
- 8.14 Since the publication of the Report and Recommendations for a Traveller Education Strategy developments in respect of Traveller education have not been positive. In spite of the many positive aspects of the strategy as published there has been no attempt by the state to seriously address its implementation. To date no report or review of the Strategy implementation has taken place.

- 8.15 In the intervening period a coordinating committee of Departmental officials oversaw the supposed implementation of the Strategy. What has become evident in the last two years is that this Coordinating Committee has focussed primarily on money saving measures which have resulted in the extensive financial cutbacks in the area of Traveller education. It would appear that the Committee engaged in cherry-picking actions from the Strategy which provided economic saving, i.e. the Traveller capitation grant was halved in the budget of October 2008. The terms of reference for the reduced capitation provided to schools has changed from being Traveller specific to now cover 'disadvantage'. The concern with this is that it is left to the school to determine who is disadvantaged and if the schools fails to recognise the additional barriers that some Traveller students face then these students will not be targeted.
- 8.16 These cutbacks have occurred despite the fact the Strategy envisaged the securing of further funding so as to ensure its successful implementation. While the Strategy envisaged a review of how funding was allotted to Traveller education, cutbacks have been made despite the fact that it recommended the ring-fencing of funding to Traveller Education.²⁶
- 8.17 As part of the Education Strategy proposed within the report it was recommended that Traveller Representative Organisations would be given a role in supporting the Strategy's implementation and in the monitoring and evaluation of the measures. Yet, it was only in late 2009 that Traveller organisations were given a limited role on the Traveller Education Advisory and Consultative Forum. Its first meeting was held in November 2009 and it has had 3 subsequent meetings since that date. While the title of the Forum has the word 'advisory' within it, its remit falls well short of such a role in that it does not have an advisory role directly to the Minister for Education.
- 8.18 Up to this point there has been no comprehensive report on the progress of the implementation of the Traveller Education Strategy provided by the State. The 2009 State Report does not provide any information on the implementation of the recommendations of the Strategy.

²⁶ Report and Recommendations for a Traveller Education Strategy: Page 98 11.10.2 Resources the report recommends that a number of the Traveller specific provisions be reviewed to determine the best way forward. This could be done under the umbrella of one review that considers the different Traveller-specific provisions. Following the reviews of existing services and resources, it may be necessary to reallocate the Traveller-specific resources. Such resources should be made secure and used to implement the recommendations in this report. Additional resources may also be needed. These will be identified when the implementation plan is prepared.

- 8.19 The measures in respect of education, outlined in the 2009 State Report, are measures and initiatives which have been adopted in an *ad hoc* basis over a period of 35 years. This situation is rendered all the more problematic by the swingeing cuts in Traveller education resources since 2008.
- 8.20 In the Irish Traveller Movement's commentary on the 2004 State Report submitted to UNCERD in March 2005 the organisation highlighted a number of concerns in respect of Traveller Education that are still pertinent and relevant to this round of reporting. Primary among the ITM's concerns was the focus by the state on the quantitative outcome of the education provision rather the quality of the education. Commenting on the statistics contained in the First and Second Periodic Reports the ITM Stated that *the bulk of these measures are focussed on primary education and are in themselves disappointingly focused on quantitative input in terms of finance on education with little emphasis on the qualitative outcome of the measures*
- 8.21 The Irish Traveller Movement firmly believes in an intercultural approach to educating Travellers within the Irish Education system. This approach consists of respecting, recognising, celebrating and catering for diversity within the education system. In this regard the Irish Traveller Movement welcomes the recent approach the DES has taken in developing the "Intercultural Education Strategy, 2010- 2015". The ITM believe the full implementation of this strategy will have positive impact on the experience of Travellers in the education system, however with the current approach to cutting educational supports to Traveller education the ITM remain concerned that this strategy will be seriously curtailed.
- 8.22 In regard to the 2009 State Report, the concerns of the ITM remain. In paragraphs 4 to 21 of Appendix 1 to Ireland's Third and Fourth periodic report the State outlines measures taken by the State in regard to Traveller education.
- 8.23 In Paras 4 to 8 the State Report glosses over what are the real concerns in relation to Traveller participation in the education system;

The "Survey of Traveller Education Provision in Irish Schools" (STEP, 2006) found, inter alia, that the majority of Traveller children in schools are not achieving on a par with their settled peers. The survey did acknowledge the significant progress achieved in respect of the increased participation of Traveller children in the education system and the improved transfer rates of Traveller children from primary to post-primary schools. However, educational achievement remains well behind that of the settled community.

- 8.24 The table of Traveller children's participation in second level education provided by the Department on Page 163 of the 2009 report does show an increased level of participation of Travellers in second level education. Nevertheless, it also reveals the startling reality in respect of the dismal retention and completion rates of second level education by Traveller children. While it can be said there has been success in getting an almost 100% transfer rate from primary level into the second level education system, the State is showing a shameful inability to retain Traveller students in school or to show that Traveller students' experience of the education system is a positive one. As pointed out in the ITM's commentary on the 2004 State report, the focus of the State's activities in respect of Traveller education was centred on the numbers of Travellers participating in school, with no analysis being given of Traveller students' experiences in the education system.
- 8.25 Of the 5,840 Traveller students who were enrolled in second level education between the years 1999 to 2008 only 663 students remained in school until the final year. This represents an 11% percent retention rate compared with an 80% retention rate for the non-Traveller population.

Recommendation:

The Irish State must:

Ring-fence funding for Traveller Education provision

Review cut in supports

Produce appropriate review and report on implementation of strategy

9 POLITICAL PARTICIPATION OF TRAVELLERS

22. The Committee notes that members of the Traveller community are not adequately represented in the State party's political institutions and do not effectively participate in the conduct of public affairs (art. 5 (c)).

The Committee invites the State party to consider adopting affirmative action programmes to improve the political representation of Travellers, particularly at the level of Dáil Eireann and/or Seanad Eireann.

- 9.1 In the ITM commentary on the 2004 State Report the organisation raised the issue of the States' failure to actively address the involvement and inclusion of the Irish Traveller Community in the Political structures of the State:
- 9.2 In relation to Travellers the National Report focuses on the electoral register and indicates that there are no obstacles to Travellers registering to vote. Unfortunately for Travellers the issue goes deeper than this.
- 9.3 In law there is one obvious impediment to prevent Travellers who are highly nomadic from been put on the electoral registrar. Provisions of the Electoral Acts do in fact require a permanent place of address before a voter is placed on an electoral registrar. While Travellers and Travellers organisations have taken a pragmatic approach to the legal exclusion of nomadic families from the electoral system local Traveller organisations have worked with local authorities to ensure all Traveller have the opportunity to register in one permanent place whether transient or not.
- 9.4 The work of the ITM and other national Traveller organisations in recent years has involved encouraging Travellers to register to vote, raising awareness among Travellers of the political system, and supporting Travellers to lobby and campaign to promote various issues through the political process. This work is necessary, as in mainstream politics Travellers do not have representation in either house of the Oireachtas.
- 9.5 Travellers have played a role in the political process through active lobbying and campaigning with various members of the Oireachtas as well as with various Departments, which have responsibility for issues affecting Travellers.

- 9.6 Given the numbers of Travellers, it is unlikely that they will create a constituency that will have direct representation in the Dáil. It is only in recent years that they have made any progress at local level where Travellers have been elected to local authorities.²⁷.
- 9.7 There is a need for Travellers to be given a voice in society and particularly the political process. The constituencies and electoral colleges that comprise the Seanad the upper house of Oireachtas should be examined with a view to addressing this.
- 9.8 In regard to Seanad representation, the 1937 Constitution envisaged representation from various sectors of society. The idea of vocational representation within the Seanad is clear and the various interests in society are named. It was indicative of Travellers at the time and is indicative of their situation now, that the most visible minority - perhaps not numerically - was and still is excluded from the political system. This has had an impact on their position during the past 66 years. The exclusion has impacted in the sense that they are seen as outside the political system and have no role to play within the broader society in regard to policy development

Recommendations:

The State makes the necessary legislative provision to allow for the representation and the inclusion of Travellers in the Seanad by right through the creation of a Traveller electoral college.

The State recognises and resource the role Traveller organisations play in raising political awareness, voter education and participation initiatives.

The State expands and strengthens the consultation fora created at local level in regard to Traveller accommodation provision.

²⁷ There are currently only two Travellers elected on to a town council the lowest rung of local authority administration

Annex: EDUCATION CUTBACKS



ITM RESPONSE TO CUTS TO CUTS TO TRAVELLER SPECIFIC EDUCATION CUTS

GOVERNMENT'S NATIONAL RECOVERY PLAN 2011-2014

In this response paper the Irish Traveller Movement would like to outline both our values regarding Traveller Education and our concerns regarding recent cuts to Traveller Specific Education supports contained within the recently released Government's Four year plan which will impact on the present and future education of Travellers in Ireland.

Values regarding Traveller Education:

The Irish Traveller Movement firmly believes in an intercultural approach to educating Travellers within the Irish Education system. This approach consists of respecting, recognising, celebrating and catering for diversity within the education system. The Irish Traveller Movement welcomes the recent approach the DES has taken in developing the "Intercultural Education Strategy, 2010-2015", we would like to work closely with all key stakeholders in partnership ensuring this strategy is implemented and with its implementation inclusive of the educational needs of Travellers.

The Irish Traveller Movement wish to acknowledge the achievement & progress that has been made within Traveller Education over the past number of years. We also wish to acknowledge that while significant progress has been made that there is still a significant gap between the participation, attainment & outcomes of Traveller learners in comparison to their settled counterparts. To this end we recognise the need & continued value of targeted initiatives to ensure that the attainment and outcomes of Traveller education is brought in line with its settled counterparts.

ITM concerns regarding cuts to Traveller specific Education supports:

Cut to Visiting Teachers Service:

The overall function of the service was to promote, facilitate and support the education of Travellers from pre-school to 3rd level access.

Through consultation Travellers informed the Irish Traveller movement the main benefits they received from this service were:

- They were a link to building relations with schools
- Aid in Enrolling in schools
- Source of information regarding Education entitlements
- Aid in seeking education entitlements
- Representative for Traveller students and needs within the school and education system
- Encouragement to stay on within the education system
- Outreach to most marginalized and nomadic families.
- Data Collection on progression of Travellers in Education annually.

In the RRTES it was recommended that the Visiting Teacher Service for Travellers be reviewed, evaluated & adapted if necessary.

The immediate concerns of the Irish Traveller movement now are:

- No meaningful review has taken place with Travellers and Traveller organizations
- Without a review how can a credible exit strategy be in place
- No consultation within existing Traveller structures (i.e. NTMAC, TESACF Forum)
- Given the recent tribunal case regarding enrolment they are still issues at individual and institutional level for Travellers in accessing education?

Cut to Resource Traveller Teachers:

“RTTs were allocated on the basis that Traveller children were taught either in their classroom with the RTT working in partnership with their classroom teacher or withdrawn in groups for intensive tuition according to their ages and perceived needs by the RTT. “ (Circular 7/99 DES)

From Consultation with our members and Travellers we obtained varying views on how effective this service was to Travellers.

- Some Travellers had very negative experiences of this service of being taken out of mainstream class on the basis of identity and not need.
- Segregation of Travellers from non- Traveller pupils determined the needs of Traveller children without any form of assessment.
- Some Travellers also have had experiences of poor levels of education within these settings.

The concerns of the Irish Traveller Movement regarding the cut of this service are:

- Will these posts remain in place as learner support teachers for all students with identified learning support needs (including Travellers)?
- If this decision will mean a reduction of learning support teachers and or increased workload on remaining learning support teachers. How will the learning support needs of some Traveller children are met. If this is the case the ITM are concerned that this could have the unintended consequence of creating tensions between the Traveller & settled community with competition now for scarce resources.
- That the education attainment levels of Travellers and transition levels for Travellers throughout the entire education system will decrease.

Cut to the 1.5 additional teaching hours for Traveller pupils at second level:

From consultation with our members and Travellers this service has proved as a great support to Traveller pupils in post primary. It has

- Supported some Traveller students coming from a low educational background to participate more effectively within and keep up with the curriculum
- Supported some Traveller students during times of exams, especially during the years of junior and leaving certificate. This reaped many positive benefits with often aiding Travellers to reach their true potential within second level education and inspire them to move on to third level.

The concerns of the Irish Traveller Movement regarding the cut of this service are:

- How and when will these supports be phased out?
- The ITM were concerned about the ad hoc nature of the use of these resources. To the best of our knowledge no audit took place as set out in the strategy. If a review took place what did the review tell us about how these resources were used? What also did we learn from the review on best practice for Traveller support at second level? Were Traveller learners consulted as part of

this, what were the key supports identified as been required by Travellers at second level?

- How are identified needs now going to be met?
- Given the acknowledgement of the DES of the educational disadvantage experienced by Travellers How will educational supports for Travellers be continued to be provided at second level.
- The Irish Traveller Movement are concerned that if this service is cut and no longer available to Traveller pupils who need to avail of it, their education will be negatively impacted upon.
- Traveller Pupils effective participation may decrease
- Education attainment levels of Travellers may decrease
- Travellers may leave due to the pressure of no support during times of need or build up to exams and or have poorer outcomes.

Cuts to Adult Training and Allowances:

- Cuts to adult & training allowances will disproportionately affect Traveller learners where mainstream education has failed to meet their needs.

The concerns of the Irish Traveller Movement regarding the cut to adult training are:

- How will Traveller specific training initiatives be phased out? What is the planning phase for this, what roles will Travellers & Traveller organizations playing in this. (Not only NATC but also ITM).
- How will the BTEI providers be upskilled & supported to provide places in an environment that is culturally appropriate, & responsive to Travellers needs.
- What initiatives are going to be put in place to ensure Travellers are taking up BTEI places? It has been the experience of Traveller organizations that outreach strategies are critical when targeting Travellers for education & training. Who will carry this out and how will this be resources. The ITM are concerned that while BTEI places are made available that they won't be maximized.
- What will the impact be on the education of adult Travellers under BTEI – in particular how will the needs of older Travellers be accommodated where in many cases the personal development element is critical, i.e. ringfencing places within community education.
- Cuts to training allowances have already seen a drop in Travellers participating in adult training initiatives, how will this be addressed?

- Given the lack of visibility of Travellers as education providers what measures are going to be put in place to safeguard Travellers who are currently employed in Senior Training Centres? What measures are going to be put in place to provide opportunities for other Travellers to move into employment positions within BTEI.
- How are Travellers' voice's going to be heard in VEC structures in order that BTEI reflects the views of the Travelling Community

Irish Traveller Movement Recommendations:

In order to safeguard the future of Traveler's Education in Ireland the Irish Traveller Movement recommends:

- An ITM national Education worker is needed now more than ever to work in partnership with the DES, our members and Travellers to address issues arising from these recent education cuts and to work towards the implementation of the Intercultural education strategy.
- The Irish Traveller Movement recommends that the peer support service in the form of Traveller Community Education workers (as set out in the Traveller Education Strategy 2006) is implemented. We are willing to work on the development of this structure/roles with all relevant stakeholders.
- Carry out independent review of the Visiting Teacher Service for Travellers that will consult with all stakeholders primarily Traveller parents and learners. Until the review is carried out ensure this service stays in place.
- RTTs to be re-named as Learning Support Teachers, with those teachers to remain in school, with role re-defined.
- Audit/review the use & successes of the 1.5 additional teaching hours for Traveller students in Post primary school. Ensure Traveller learners & parents are key stakeholders in this review. Continue to provide these teaching hours until the audit is carried out.
- Ring fence funding for the STIC(Supporting Travellers in College) group
- Ring fence funding for intercultural education initiatives at Primary & Post-Primary including Yellow Flag.
- Phase out of adult training initiatives in line with implementation of intercultural training initiatives & plan according to meet the needs of Travellers
 - o Up skill & support BTEI providers to provide places in an environment that is culturally appropriate & responsive to Travellers needs.
 - o Support & Resource targeted initiatives & outreach strategies that will ensure BTEI places for

Travellers are maximized.

- o Support & resource initiatives that respond to the needs of older Travellers i.e. ring fencing places within community education.
 - o Integrate posts that are currently held by Travellers in STC into VEC posts.
 - o Support & resource the creation of employment initiatives & opportunities for Travellers within BTEI programmes & VEC structures.
-
- Ring fence funding for development of intercultural adult education initiatives
 - Review existing mainstream/intercultural training initiatives as means to determine best practice.
 - Development of best practice guidelines regarding intercultural adult training initiatives with all relevant stakeholders.

Review School's Enrolment Policies so that they are in line with the Equal Status Act 2000

- In light of the recent Equality Tribunal case taken by the ITM Independent Law-Centre the ITM wish now to work in partnership with the DES to look at how we can ensure that all school enrolment & admissions policies are in line with the Equal Status Act 2000.

We want to highlight that:

- o This case means that there is now the potential that any Traveller and or student covered under the 9 grounds can take a similar case through the Equality Tribunal
- o This will have costly consequences both financially & in terms of human resources for both the DES and well as other key stakeholders.
- o The DES needs to be proactive in bringing school's admission policies & enrolment policies in line with the Equal Status Act. It is NB to note that this will have the additional benefit of avoiding unnecessary costs by the DES & other stakeholders

Recommendations:

- o The DES issues a circular with regard to this in consultation/partnership with ITM
- o The DES looks to increase the jurisdiction of Section 29's. As it stands the DES can't comment on the content of admissions policy only on whether schools have adhered to the admission policy

set out by the school

- o We are calling for the DES to look for the removal of the sibling criteria & a full review of school's enrolment policies.
- o To ensure that this does not continue to affect children in the academic year of 2011 and in order to support ITM to respond to other Traveller families & key stakeholders including teacher's unions we need a response to these recommendations by mid-January.

Feedback from ITM meeting with DES 16th December:

ITM staff met with the DES on the 16th of December to discuss our concerns outlined in this document. Below are some of the main clarifications from the DES from this meeting.

- The DES stated that these cuts cannot be reversed as they were budgetary decisions not policy decisions.
- The DES stated that the VTTS will end in June 2011, the DES have no plans as of yet to review this service.
- Resource Teachers for Travellers will not remain in place as Learning support teachers, these posts instead will be re-deployed back as mainstream teachers by June 2011 but some may be kept in place in some schools where the need arises.
- The decision to cut the additional 1.5 teaching hours per Traveller child allocated to schools will not be reversed.
- STTC will be rolled out by June 2012, as of yet there is no clear action plan for this process or the transition of Travellers into mainstream adult training initiatives.
- The DES propose that an enhanced School Completion Programmes, Home School liaison and an new initiative of Traveller peer support workers will meet some of these gaps that these cuts create.

Irish Traveller Movement Accommodation Report

The following is (section of top line findings) a report compiled by the Irish Traveller Movement highlighting the “state of play” of Traveller Accommodation analysed over 9 years (2001 -2009) based on national and local monitoring reports (from returns of the Department of Environment and Local Government) in the republic of Ireland. The Traveller Annual Count takes place in each Local Authority at the end of November.

Top line findings – Report based on figures (available) 2001 – 2009

Unauthorised Halting sites i.e. people living on roadsides or private fields and gardens)

There are currently **422 families** (approx 2000 people) living in unauthorised halting sites. This means families are living in conditions that are often unsafe, overcrowded and in most cases lacking the most basic of facilities, such as water, sanitary and electricity services.

Sharing Accommodation: At present there are **390 families** (approx 1900 people) estimated to be sharing accommodation. This figure represents an increase of **45 families in the past 12 months**.

Example: In some cases families are living 3 (families) to a house or, 3 trailers in a small bay with upwards of 16 people using a portable toilet.

Impact: The combined total of shared accommodation and unauthorised sites amounts to approximately 4,000 people living in at best, basic and at its worst, hazardous and deplorable conditions throughout Ireland, despite the Traveller Accommodation Programmes locally. A considerable number of those families are waiting to be accommodated for many years with little hope of any change soon.

Private rented accommodation: The most alarming change in the last year is shown in the increase of Traveller families being accommodated in private rented options - 487 in the last 12 months and a **greater than twelve-fold increase in the 7-year** period 2002-2009, from 162 families to 2,003 families. Twenty seven of the 34 Local Authorities show an increase, with **significant increases** seen in Carlow, Kildare and Clare.

Impact: The increase of 487 families living in private rented accommodation in the past year almost equals the increase in the total number of Traveller families in Ireland which has risen by 545. These figures clearly show Local Authorities' preference for offering Travellers private rented accommodation over Traveller-specific accommodation.

Example: in County Galway there has been an increase in the number of Traveller families over the past 12 months by 48. There has also been an increase in families moving into standard local authority housing (+20), private houses assisted by local authority (+21) and private rented accommodation (+23), while there has been a decrease in group housing (-1) and only a slight increase in halting sites (+5). The figures show that while the Traveller population is increasing, Traveller-specific accommodation is not keeping pace.

Population Growth: The last annual count (returns of 2010) identifies 8,943 Traveller families residing in the Republic of Ireland, however this is a very

significant underestimation according to the all Ireland Traveller Health Study (Sept 2010) which estimates the current figure at 10,618 families. The rise highlighted in the returns over the 9 years analysed for this report represents 42%. The Task Force on the Travelling community estimated a rise of 4% per annum in the Traveller population; this therefore shows the population has surpassed the estimated growth, even without taking account of the 1,675 families not enumerated, as described.

Impact: Despite the growth in the Traveller population the Traveller Accommodation programmes are not only not meeting the needs of many Traveller families identified within, but also the accommodation needs of the new families are not being met.

Example: In the period 2002 – 2009 there has been an increase of 2,654 Traveller families in need of accommodation nationally.

Transient Sites: The Department of the Environment, Local Government and Heritage do not calculate transient accommodation delivery. The Report of the Task Force on the Travelling Community (1995) recommended that 1000 transient units of accommodation were needed to accommodate nomadism. This is clearly not being prioritised by local authorities

Conclusions

The Traveller Accommodation Programmes are now in their 12th year, the figures highlighted present a picture of failure in the delivery of the National Strategy for Traveller Accommodation.

An issue of immediate concern is for those 4,000 Travellers living in shared accommodation and in unauthorised sites in basic conditions throughout Ireland.

The Irish Traveller Movement is committed to working with the Department of the Environment, Heritage & Local Government and in seeking ways to address the shortcomings in Local Authorities in their duty of care to Travellers.

These concerning trends of increased numbers of families moving into housing coupled with decreased provision of halting sites and general slow delivery throughout the Traveller accommodation programmes has highlighted the need for a National Traveller Accommodation Agency to oversee all aspects of Traveller accommodation provision, like that of the Northern Ireland Housing Executive

Traveller Accommodation - background

There is no discord in the recognition of the need for fully serviced culturally appropriate Traveller accommodation. Yet to date there are many Travellers living on the roadside or unauthorised encampments *'have to endure living in intolerable conditions and living without access to the basic facilities of sanitation, water and electricity'*. Despite a National Traveller Accommodation Strategy that has been in operation for 12 years, progress is not what would have been expected at this juncture. *'In relative terms there is little change in the number of Traveller families living in unauthorised/roadside encampments since the time of the 1963 Commission on Itinerancy report.'*

The Housing (Traveller Accommodation) Act 1998 enshrines in law the requirement of local authorities to provide culturally appropriate accommodation in all its forms, including halting sites, group housing schemes, standard houses and transient accommodation.

Local authorities, following a consultation process are required, to prepare and

adopt accommodation programmes to meet the existing and projected accommodation needs of Travellers in their areas. The first Traveller Accommodation Programmes covered the period 2000–2004, the second from 2005-2008 and the third run from 2009-2012.

At national level the National Traveller Accommodation Consultative Committee's (NTACC) role is to advise the Minister of the Environment and Local Heritage in relation to *'the most appropriate measures for improving, at local level, consultation with, and participation of, Travellers in the provision and management of accommodation, and general matters concerning the preparation, adequacy, implementation and co-ordination of Traveller accommodation programmes.*

The 1998 Act also provided for the establishment of Local Traveller Accommodation Consultative Committees comprising of elected representatives and officials of the local authority, Travellers and Traveller organisations. Their role is to *'advise in relation to the preparation and implementation of any accommodation programme for the functional area of the appointing authority concerned.*

The Annual Count

The annual count for Travellers is conducted by the Department of Environment, Heritage & Local Government and the information is compiled by returns from the 34 Local authorities and shows all accommodation types.

The Annual Count predates the Housing (Traveller Accommodation) Act, 1998, and records are available from the Department going back to 1980, however the format was very different to today's, and it is difficult to reliably compare recent Annual Counts with older ones; for instance, details such as numbers of families in private rented accommodation were not recorded. The current format of recording figures has not changed for the last 7 years. The count began as a means to monitor the accommodation position of Traveller families, to track trends and to ascertain the progress of local authorities in providing accommodation for the Travelling community.

The Causes and Consequences of Ethnicity Denial for Irish Travellers

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Introduction

The emergence of the concept of 'ethnicity' has much to do with the decline of the term 'race'. In 1942, while the horror of racial theory in practice was unfolding in Europe, Ashley Montagu, an anthropologist, published a book called 'Man's Most Dangerous Myth – The Fallacy of Race', which opened with the line: "the idea of 'race' represents one of the greatest errors, if not the greatest error, of our time, and the most tragic." The proposal to substitute 'ethnic group' for 'race' had first emerged in the 1930s, and Montagu and others argued that 'race' was an unscientific term with no correspondence in biology, and should be abandoned. UNESCO supported these initiatives, bringing out a series of statements on race in the 1950s which included the idea that 'ethnicity' would be a better term. However 'race' has not gone away, and there is a recognised need to identify and tackle racial discrimination, even while denying the biological reality of race. So what is the difference between these terms?

It is suggested that race was developed as an exclusive criterion built on arbitrary classifications of populations, with the (at least initial) intention of drawing hierarchical rankings of groups. Ethnicity, by contrast, could be said to be based on shared culture and heritage, and should be considered an inclusive term through which groups identify themselves, and are identified by others. It should be noted, however, that ethnicity is as indeterminate as race. Neither concept has any basis in biology, for there are no discernible biological differences between ethnic groups or racial groups that have been found to be constant. They come together in the UN International Convention on the Elimination of Racial Discrimination ('Race Convention'), which defines racial discrimination as occurring on the basis of 5 grounds: race, colour, descent, national origin or ethnic origin.

In the late twentieth century, the concept of 'ethnicity' took on a new importance in two contexts. In the first, the 1994 Rwandan genocide witnessed the re-emergence, after 50 years, of the 'crime of crimes'. The 1948 Genocide Convention defines genocide as "intent to destroy, in whole or in part, a national, ethnical, racial or religious group..." The second is the political policy denoted by the term 'ethnic cleansing', which entered international discourse in 1992 to describe the situation in the former Yugoslavia. These events signalled the renewed importance of the concept of 'ethnicity' and the consequent need to identify ethnic groups. This is underlined by the fact that two international courts have pronounced on the issue; the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY) in the Hague.

The Irish government's denial of the ethnicity of Irish travellers is apparent. First, the government dismisses the arguments of traveller representatives that they are an ethnic group, while providing no evidence for this position. I will argue that this is a violation of the right to self-identification, as set out in the Race Convention. Second, the government's position seeks to rely on the idea that ethnicity is not that important a concept, and there is little to be gained from being recognised as an ethnic group. While I understand the desire of some members of the travelling community to not risk further stigmatization by identifying themselves as discreet from the settled community on the basis of ethnicity, I will make the argument that the government's position ought to be challenged. This is something that the travelling community needs to decide on for itself; I want only to make the arguments for continuing to fight for ethnicity recognition. I will try to make these as practical as possible.

To sum up – the paper will briefly summarise the causes of ethnicity denial by the Irish government (which many audience members will be familiar with); and give some consequences of that denial, in particular my belief that traveller rights in Ireland should be located within the broader push for affirmative action policies that we see taking place in other states.

1. The Causes of Ethnicity Denial

In its first report to the UN Committee on the Elimination of Racial Discrimination (CERD) in 2004, the Irish government stated that "In regard to the scope of the Report it should be noted that Irish Travellers do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin." While the statement applied to the five grounds specified in the definition of racial discrimination (given above) in the Race Convention, it represented an express denial of the ethnicity of travellers (they had already made a similar statement to the UN Human Rights Committee some ten years previously.). The Minister for

Justice at the time argued in the Dail that “the government is not prepared to include in the Report a statement that it does not believe in, namely that travellers are ethnically different from the majority of Irish people.”

CERD had dealt with similar statements from governments before. It had built up a practice of not accepting claims by states in their reports that certain groups do not qualify. In order to counteract this, it has issued a number of guidelines, called General Comments, which set out what it expects from governments in their reports. This includes a General Comment 8 on ‘Identification with a Particular Racial or Ethnic Group’, which reads: “having considered reports from States parties concerning information about the ways in which individuals are identified as being members of a particular racial or ethnic group, the Committee is of the opinion that such identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned.” This Comment introduces the element of proof. In the Irish case, it holds that Travellers are entitled under the terms of the Convention, which Ireland is legally bound to observe, to the right to identify themselves as an ethnic group. It places the burden of proving they are not an ethnic group on the reporting state. It does not offer a carte blanche to all groups (as seen in the media, e.g. Cork people?!) to declare themselves as an ethnic group nor does it affirm or reject the claim of the Irish Travellers that they are an ethnic group. It states that Irish Travellers are entitled to view themselves as an ethnic group until justification to the contrary is produced. This is the result of a pragmatic approach which prevents reporting states from excluding certain groups from the scope of the treaty. It combines a subjective approach – self-identification – with an objective approach, that is, justifications to the contrary, such as social or cultural studies, which could disprove the claim. But there is a primary right of self-identification, which if exercised, the government must provide evidence to counteract. It violated this right in the 2004 Report.

To return to the Rwanda and Yugoslavia tribunals raised in the Introduction; when the prosecutors were faced with the similar question of whether genocide against ethnic groups took place, two elements were set down to establish whether or not a group constituted an ethnic group. In the Prosecutor v. Kayishema case in Rwanda and the Prosecutor v. Jelešić case in the former Yugoslavia (1999), the prosecutors similarly decided on self-identification and identification by others as the criteria. Applying these to Irish travellers; I believe that although there is not unanimity, many if not most travellers do identify themselves as an ethnic group. I also believe that many sociological studies (‘identification by others’) also reach this conclusion. Finally there is the present anomaly whereby Irish travellers are recognised as an ethnic group in Northern Ireland and Great Britain, as per the *Mandla v. Lee* criteria, as objective evidence in support of the traveller claim. This recognition occurred in *Kiely and others v. Allied Domecq* [2000]. I would stress in conclusion that the emphasis, indeed burden of proof, is on the government to provide convincing objective arguments to the contrary.

2. Ethnicity denial, Holocaust denial... Any connection?

The second issue I would like to look at is the process of denial. I am drawing from an excellent paper by Robbie McVeigh which has looked at locating ethnicity denial of travellers within broader practices of political denial in Europe. He takes the example of the Roma. It is not my intention to equate Roma and Irish Travellers, groups that are as different as they are similar, but to situate the process of ethnicity denial in its historical context. McVeigh argues that denying Roma and Traveller ethnicity anywhere across Europe is immediately problematic because it resonates with a key legacy of what the Roma call the Porrajmos (the 'Gypsy Holocaust'; the word means 'great devouring' in Romani). This is because a strategy post World War II was to deny the Roma were an ethnic group. By doing so – and returning to the point above about the definition of genocide – they could deny the genocide took place. Thus the denial of Traveller ethnicity fits within a broader process of Holocaust denial.

Most strikingly, in the federal Republic of Germany after World War II, the state decreed that all measures taken against 'Gypsies' before 1943 were legitimate policies of state and were not subject to restitution. Incarceration, sterilization and deportation were defined by the post-war German state as legitimate policies, and Robert Ritter, the Nazi racial expert on 'Gypsies', even returned to his former work in child psychology! (attempts to bring him to trial ended when he committed suicide in 1950). Finally, in 1982 German Chancellor Helmut Kohl recognized the Nazi genocide against the Roma, which McVeigh points out meant that the German state formally practiced Holocaust denial toward the Roma for 40 years. To re-emphasise, the key means of doing this was ethnicity denial – they were not an ethnic group and therefore could not have experienced genocide.

The idea of 'Gypsy' criminality informed this process. Austria, for example, issued an edict on 'Gypsy nuisance' as late as 1948, and reparations for complicity in the 'Gypsy Holocaust' were only granted in 1961. The ethnicity of 'Gypsies' there was only recognised in 1993. The suggestion underlying the denial was that these groups were interned and murdered because they were criminals rather than because they belonged to a specific racial or ethnic group. Ethnicity denial in the context of the Porrajmos has contemporary echoes across Europe. It is a specific intervention by a state to deny full protection afforded by EU and other international law. What might those protections be, or how does such denial operate to disempower Traveller groups?

3. The Consequences of Ethnicity Denial

The meaning of ethnicity is not just an academic dispute; it is at the centre of how we are to address the unequal status of Irish Travellers. McVeigh points out that the reality of Irish Traveller inequality is rarely contested, but the reasons behind it are. Is racism to blame or is this inequality a function of Traveller culture, as often suggested by hostile media commentators? The debate on ethnicity is behind the question of how Travellers are to become less unequal, and the continued

government policy in the face of strong evidence has wider negative implications. It means that Travellers are excluded from the automatic protection of international and regional standards on racial discrimination. We can turn to the Race Convention – the focal point of the denial.

There are two provisions within the UN Race Convention on affirmative action. The first, Article 1(4), says that any affirmative action (which the UN calls ‘special measures’) taken by governments is not to be viewed as racial discrimination, a provision aimed at those states which had by that time (1965) already embarked on such projects. Examples include the United States, for African-Americans, and India, for the lowest caste groups, who used to be called ‘Untouchables’ but are known as Dalits (a Hindi term which means ‘the oppressed’). The second provision, Article 2(2), is more far-reaching – “States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights”. This has been interpreted as meaning that affirmative action programmes are required ‘when the circumstances so warrant’; in other words, if certain groups who fall under the Race Convention definition are in a position of entrenched inequality, States are required to enact special measures to assist them.

What might these measures be? Let’s use the example of India. Prior to independence, there was a struggle over what to do about caste-based discrimination which affected hundreds of millions of people. The Indian Constitution was in fact drafted by a so-called ‘Untouchable’, B.R. Ambedkar, who had managed to get promises from the majority Hindus for affirmative action provisions. These take the form of reservations in three areas; legislative, employment and education. They require that a certain percentage of seats are reserved for the low castes; that a certain number of places in higher education are reserved for the low castes; and that a certain number of positions in the Indian civil service are reserved for the low castes. Imagine if the Irish Constitution had been drafted by a Traveller – I believe we would see similar provisions!

If Irish Travellers are an ethnic group, the argument could be made that the ‘circumstances so warrant’ some form of affirmative action provisions to tackle inequality. This would be an argument grounded in international legal standards of special measures. Travellers could call for at least one reserved Dail seat for example; a small percentage of places in universities; or even a small percentage of positions in the Irish civil service. There would certainly be constitutional questions around a Dáil seat in particular, but perhaps Seanad representation would be a realistic and far-reaching starting point.

The debate on racial discrimination at the international level has moved on from straight-forward non-discrimination, to the broader question of equality. Non-discrimination is still an important issue for Irish Travellers – such as access to services. But non-discrimination is just the first step. It does not tackle entrenched inequality. At the international level, it has been recognised that the next step is one of special measures, which involves targeted policies aimed at bringing groups in the long-term to a position of equality. India recognised this sixty years ago, and realised that it was not sufficient to simply say – there will be no discrimination on the basis of caste. For example, it was not sufficient to say no university can deny a low-caste person entry to a university, when virtually none were attending university anyway. Similarly it was not sufficient to say no low-caste person could be denied political office when very few or none were elected to political office anyway. Interestingly Ambedkar, mentioned above, was the first Dalit to receive a PhD in India. This was out of a population of some 150 million at the time.

Understandably, Ireland is convulsed by the economic crisis. But I see no economic arguments against making such concessions, in line with international standards on equality. If Travellers fall within the definition of the Race Convention by virtue of being an ethnic group, the ITM and other groups could start making the argument that the government has an international legal obligation to provide special measures in the form of, for example, small reservations within universities. What would be the cost of this? Nothing in my opinion. Similarly there would be no cost in representation in the Seanad for the Travelling community, with a view to opening the debate on the need for greater political participation. There would be no cost in reserving a small percentage of posts in the civil service for Travellers. These would be small gains with a significant impact. A Seanad representative would be present to put across the views of the community on legislation; civil service employees could protect Travellers rights in their respective domains; there are presently travellers in universities of course but the numbers are far too low, and any increase would have a strong impact.

Conclusion

In general, ethnicity denial in Ireland needs to link in to broader practices of denial across Europe, historically and in the contemporary context. More particularly, recognising Travellers as an ethnic group ties them in to an evolving discourse on racial discrimination, which has moved beyond non-discrimination, the founding principle of these documents. It is no longer sufficient for States to say – we do not practise racial discrimination. There is no State in the world, post-apartheid, which does have some form of non-discrimination clause in its Constitution. The task now lies with special measures; policies that go to the root causes of exclusion. The above are just examples of what kind of form such policies can take, and have taken in other states. If travellers are recognised as an ethnic group, it ties them into international legal standards which seek equalizing measures to bring excluded minorities up to the level of the majority. This is not a quick or easy process, but the present Irish government position means that legally, Travellers are excluded from it. It should be fought by Traveller representatives.

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