



## ***The Irish Missionary Union (IMU) and the Conference of Religious of Ireland (CORI) -UPR Submission-Ireland May 2016***

### **Background**

This joint submission has been prepared on behalf of CORI and IMU, a network of 136 Religious Congregations and 10 Missionary Groups representing in excess of 10,000 women and men in Ireland. CORI and IMU have the capacity to network across the globe, due to the fact that members serve on every continent. They work on a wide variety of community and human rights issues, covering the areas of education; healthcare, and asylum seekers, climate justice; and sustainable development.

As members of faith-based organisations, underpinned by a common value system, we have developed particular expertise working with the most vulnerable, the marginalised, and dispossessed, which includes refugees, migrants and asylum seekers.

Our fundamental belief complies with Article 1 of the Universal Declaration on Human Rights: “*All human beings are born free and equal in dignity and rights*”. This is an inalienable right and should be respected in all situations. In Ireland there is evidence that migrants, refugees and asylum seekers, experience systematic human rights abuse, through racism and discrimination. This ‘Shadow Report’ from CORI and the IMU, is founded on first-hand experience of our members working with those whose rights are being infringed and abused by the Irish Government. Information we provide, is confirmed in the reports of partner organisations such as i.e. Migrants Rights Centre Ireland, *Ireland is Home: Survey & policy paper on the lives of undocumented migrants in Ireland*,<sup>1</sup> as well as the Immigrant Council of Ireland’s, *Moving Lives*.<sup>2</sup>

Ireland<sup>3</sup> has been in a financial recession since 2007, resulting in harsh budgetary measures leading to the closing of the ‘*National Consultative Committee on Racism and Interculturalism*’. Additionally the ‘*Irish Human Rights and Equality Commission*’ (formerly the Human Rights Commission and Equality Authority) has experienced significant funding cuts. This has been compounded by the fact that Non Governmental Organisations (NGO) supporting migrants, asylum seekers and refugees are struggling to remain financially viable, thereby giving rise to a critical situation. The current financial situation does not justify Ireland’s failure to address issues concerning those coming to our country, to seek protection, asylum or a better way of life.

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<sup>1</sup> Between August and October 2014, MRCI surveyed 540 undocumented migrants living in Ireland. The respondents opened up about their work, their lives and their families. The findings demonstrate the need for the Government to introduce a regularisation scheme to address the plight of the undocumented men, women and children for whom Ireland is home. <http://www.mrci.ie/resources/publications/ireland-is-home-survey-policy-paper-on-the-lives-of-undocumented-migrants-in-ireland/>

<sup>2</sup> *Moving Lives* is an interactive portrait (iPortrait) and online case study of the Immigrant Council of Ireland – an independent law centre located in Dublin working nationally and internationally. <http://movinglives.org/>

<sup>3</sup> Ireland in the context of this report refers to the 26 counties of the Republic of Ireland.



## REPORT

**Constitutional and Legislative Framework** Ireland has ratified six of the ten core international human rights instruments<sup>4</sup> despite this many of the important articles have not yet been incorporated into national law. This includes the Optional Protocol to the International Covenant on Economic and Social Rights (OP ICESCR), which Ireland has signed, but it has not yet ratified it.

**POVERTY:** In January 2011, the then UN Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, visited Ireland. Following her visit, she made recommendations for the Government to implement.<sup>5</sup> The Government was asked to respond by July 2014. To date there has not been a response.<sup>6</sup>

As Ireland is a member of the UN Human Rights Council for the term 2012-2015, it is one of the 47 states that are responsible for strengthening, protecting and promoting human rights worldwide.<sup>7</sup> It is inconsistent for Ireland in this role, to enjoin others to adopt the UN Instruments that we have not yet fully implemented ourselves.

### **IMU-CORI Recommends that:**

- 1) Ireland ratifies and incorporate into national law the international human rights treaties and protocols that it has not yet implemented.
- 2) Ireland sign the UN Migrant Workers Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (1990). We also insist that Ireland incorporate into law, the 1949 International Labour Organisation Migration for Employment Conventions (Revised). All reservations to these Conventions and Treaties should be withdrawn.

### **UN Treaty and Protocols:**

#### **1. International Covenant on Civil and Political Rights**

There has been consistent failure by Ireland to recognise Irish Travellers as an indigenous nomadic minority group.<sup>8</sup> The Human Rights Committee and the Council of Europe High Commissioner for Human Rights have all recommend this. In July 2014, the UN Human Rights Committee, which monitors the implementation of the ICCPR, reiterated its recommendation made during Ireland's

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<sup>4</sup> Ireland has not yet signed or ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>5</sup> Human Rights Council, Report of the Independent Expert on the Question of Human Rights and Extreme Poverty, Magdalena Sepúlveda Carmona, 17 May, 2011. [http://www.dochas.ie/sites/default/files/Sepulveda\\_report.pdf](http://www.dochas.ie/sites/default/files/Sepulveda_report.pdf).

<sup>6</sup> Ibid.

<sup>7</sup> See the Department of Foreign Affairs, <https://www.dfa.ie/our-role-policies/international-priorities/human-rights/ireland-and-the-human-rights-council/>

<sup>8</sup> See Robbie McVeigh, 'Ethnicity Denial' and Racism: The Case of the Government of Ireland against the Irish Travellers: <http://www.translocations.ie/docs/v02i01/translocations-v02i01-06.pdf>.



previous examination under the covenant that Ireland “take concrete steps to recognize Travellers as an ethnic minority group, and amend the Housing Act of 2002 to meet the specific accommodation requirements of Traveller families”(2008).<sup>9</sup> Also in 2014, the Oireachtas Committee on Justice and Equality recommended that the State should recognise Travellers as an ethnic minority. Despite these recommendations to date, Travellers have not been recognised as an ethnic group. In November 2014, the Minister of State for Equality, New communities, and Culture Aodhán Ó Riordáin is reported to have said that Traveller ethnicity would be a reality by May 2015. He said the Department of Justice was almost at a position where it could make a statement that there were no adverse implications to granting ethnic status to the community. To date this has not happened.

**IMU-CORI Recommends that:**

- a) The Travelling Community be recognised as an ethnic minority immediately.
- b) The Government implement appropriate policies to ensure that as an ethnic minority their rights are fully vindicated.

**2. UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and its Optional Protocol (OPCAT).<sup>10</sup>**

In 2014, the UN Human Rights Committee expressed concern at the lack of progress by Ireland in eliminating the continuing conditions in some prisons such as:

- ✓ Lack of segregation of remand and convicted prisoners;
- ✓ Lack of segregation between detained immigrants and sentenced prisoners;
- ✓ The high level of inter-prisoner violence.

This has very specific consequences for individuals who are detained due to their irregular or undocumented status.

This case of Walli Ullah Safi exemplifies the above. He is a 21 year old Afghan who arrived in Ireland in July 2015, with only his clothes and a Koran. He was held in Cloverhill prison though he is guilty of no crime. While in prison Mr. Safi was taken hostage during a riot and suffered a broken arm and slashed face. While full details of Mr. Safi’s case are not known, it is clear that Cloverhill prison was an inappropriate place to house this vulnerable person. This case raises questions about the professional response from State officials towards asylum seekers who arrive in our country.<sup>11</sup>

**IMU-CORI Recommends that:**

- a) The Government recognises that where someone is detained because of their undocumented status they are given full and appropriate legal representation immediately.
- b) State implements a more transparent, accountable and rational asylum process.

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<sup>9</sup>Press Release from the Irish Traveller Movement <http://itmtrav.ie/press/myview/63>

<sup>10</sup> OPCAT was signed in 2007 but it has not been ratified to date.

These concerns mirror those raised in 2011 by the UN Committee against Torture in its report on Ireland.<sup>11</sup> To date nothing has been done.



- c) OPCAT establish an international inspection system for places of detention in Ireland immediately. This demands that the State create an independent national monitoring body, in compliance with OPCAT.

## MIGRANTS, REFUGEES AND ASYLUM SEEKERS

In May, the Immigrant Council of Ireland and the Migrant Integration Policy Index (MIPEX) launched the MIPEX 2015 [findings for Ireland](#),<sup>12</sup> which involved a comprehensive measurement of policies to integrate migrants and the outcomes of these policies. We did not fare well, we were ranked 19<sup>th</sup> of 38 countries surveyed, below all Western European countries except Austria and Switzerland.

### IMU-CORI Recommends that:

- a) The Government implement an effective integration policy and increase financial support for non-governmental organisations working on integration issues.
- b) The Government implement the recommendations of CERD regarding equal access to third level education.

## DIRECT PROVISION SYSTEM

The Direct Provision System is widely criticised as being costly, ineffective and not fit for purpose. It denies asylum seekers their basic human rights. For example, residents are not permitted to work; there is a lack of privacy for families; children do not experience a normal family routine, parents cannot cook their own food; residents receive a minimalist allowance of €19.40 per week. The ombudsman has no jurisdiction over those in detention centres; and there is no recourse or means of appeal on human rights for those held in the centres. The UN Nations Human Rights Committee has already expressed these concerns regarding the 'prolonged accommodation of asylum seekers in Direct Provision centres which is not conducive to family life';<sup>13</sup> and concerns were raised by the Special Rapporteur Dr. Geoffrey Shannon on Child Protection in relation to the detrimental effect of Direct Provision accommodation on children and on parents.<sup>14</sup>

The Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers were issued in June 2015 containing 173 recommendations<sup>15</sup> which were agreed by consensus by all relevant Government departments, NGOs, and UNHCR.<sup>16</sup> Yet we still have over 1,460 asylum seekers living in Direct Provision

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<sup>12</sup> Migrant Integration Policy Index 2015 <http://www.mipex.eu/anti-discrimination>

<sup>13</sup> Direct Provision for Asylum Seekers Motion (Private Members) September 2014.

<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2014093000043?opendocumet>

<sup>14</sup> Dr. Geoffrey Shannon, Seventh Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas 2014. <http://www.dcy.gov.ie/documents/publications/SeventhSpecialRapReport2014.pdf>

<sup>15</sup> The Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers <http://www.justice.ie/en/JELR/Pages/PR15000389>

<sup>16</sup> [Timetoact.ie](http://www.timetoact.ie) a new website has been launched tracking implementation by Government of the key recommendations in the Report of the Working Group on the Protection Process launched at the end of This is a joint initiative of the Core Group of Asylum Seekers, Children's Rights Alliance, JRS Ireland, Nasc, SPIRASI and UNHCR, all of whom were members of the Working Group.



Centres for more than 5 years, and to date the Government has not approved a single recommendation dealing with the length of time.

**IMU-CORI Recommends that:**

- a) The Irish Human Rights Commission as an independent body, with strong links to the EU and UN carry out an inquiry into the 'Direct Provision System.
- b) A root and branch reform of the Irish Asylum and Refugee Systems are reformed to ensure that Ireland meets its obligation under the 1951 convention and fully conforms to the obligations specified by the ICCPR.
- c) The Government develop a comprehensive National Integration Strategy<sup>17</sup> along with the appointment of an independent commissioner with responsibility for the institutional oversight of the migration process in Ireland.
- d) The Government ensure that all those who are in direct provision are afforded humane treatment which recognises their inherent human dignity.
- e) The Government implement immediately in full, the recommendations stated by the working group.

**RACISM:**

The existing legal and policy framework in Ireland, is failing to address the persistent problem of racism and under-reporting of racist incidents. This is partly because the National Action Plan Against Racism (NAPR) ceased to exist in 2008 and has not been replaced. The findings in the Report showed significant failures in the existing criminal provisions for prosecuting racist and hate crimes.<sup>18</sup>

**IMU-CORI Recommends that:**

- a) Racist behaviour be explicitly criminalised under Irish law.<sup>19</sup>
- b) An independent monitoring body of racist incidents is established.
- c) A national policy, strategy and plan of action to address racism, discrimination and promotion of tolerance as well as anti-racism training is implemented.
- d) The State develops a comprehensive National Integration Strategy<sup>20</sup>

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<sup>17</sup> The first formal strategy for integration was produced in 2008 by the newly-established Office of the Minister for Integration. This document, called "Migration Nation", outlined the principles intended to underpin Irish integration policy.

<sup>18</sup> ENAR, Reports of Racism in Ireland 5<sup>th</sup> and 6<sup>th</sup> quarterly reports of iReport.ie (July-December, 2014), NASC, [Stop the Silence: A Snapshot of Racism in Cork](#), 2012.

<sup>19</sup> Examples of legislation used to prosecute such acts are Section 6 Criminal Justice (Public Order) Act 1994 on offensive speech; Section 2 (Assault), Section 3 (assault causing harm) and Section 10 (harassment) Non-Fatal Offences against the Person Act 1997.

<sup>20</sup> There is no instrument in the state to monitor racist incidents. This work at present is being done by a number of NGOs who provide the service but it is limited due to limited public funding. For example, Immigrant Council of Ireland's Racist Incidents Support and Referral Service, Show Racism the Red Card Service, ENARI Reports of Racism: Quarterly Reports, Reporting Racism NASC.



## **ETHNIC PROFILING OF MIGRANT AND ETHNIC MINORITY COMMUNITIES**

Racial profiling is emerging as a major concern here in Ireland. For example in July 2014 the Ombudsman for Children found that ethnic profiling played a role in the Garda Síochána (national police force) decision to remove two Roma children from their families.<sup>21</sup> Recent reports published by Nasc, including [Stop the Silence](#) and [In From the Margins – Roma in Ireland](#), also document concerns about ethnic profiling of migrant and ethnic minority communities by An Garda Síochána.

### **IMU-CORI Recommends that:**

Ireland develop a policy to prohibit racial profiling and that disaggregated data on the nature and types of complaints against Gardaí relating to discrimination should be made available to the public.

IMU and CORI are grateful for the opportunity to submit this ‘Shadow Report’ to the UPR Working Group for its review of Ireland, in 2016. We observe that there is a history in Ireland of conducting enquiries, issuing reports and making recommendations. Unfortunately there is a consistent failure by the Government to implement these recommendations. Ireland therefore, needs to be held accountable by the UN Human Rights Council, to enforce these recommendations.  
Submitted by

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3<sup>rd</sup> September, 2015.

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<sup>21</sup> See Report by Emily Logan

<http://www.justice.ie/en/JELR/Emily%20Logan%20report.pdf/Files/Emily%20Logan%20report.pdf>