



european network against racism

# ENAR Shadow Report 2007

## ENAR SHADOW REPORT 2007

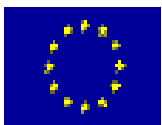
### **Racism in Ireland**

Catherine Lynch

*Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.*

*The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.*

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## 1. Executive summary

### Introduction

This report demonstrates that racism is evident across all sectors of Irish society and impacts significantly on the lives of ethnic and religious minority groups. The report focuses on manifestations of racism as well as policy and legislative developments for the period January 2007 to December 2007 and complements previous Shadow Reports including the *2006 Shadow Report*.

### Communities vulnerable to racism

Ireland is a multi-ethnic society with ethnic diversity increasing significantly over the past decade through immigration. Ethnic minorities comprise up to 12% of the population, the majority of whom are also nationals of European Economic Area (EEA) countries. While there has long been racism in Ireland as evident through the experience of Travellers, it is in the context of recent immigration that debate on racism has come to the fore.

### Manifestations of racism

The report provides an overview of key issues and developments in the eight key areas. In **employment**, issues relate to access to employment, underemployment, retention, exploitation within employment and trafficking for forced labour. There are also issues with regard to access to information regarding employment rights. Developments in this area in 2007 included the implementation of the Employment Permits Act 2007. With regard to **housing**, it is noted regrettably that government policy is impacting on access to and appropriate provision of housing. The policy of dispersal and direct provision for asylum seekers and the Habitual Residence Condition in relation to social protection are of particular concern. Where policy is more favourable, e.g. with regard to Traveller accommodation, implementation continues to be an issue.

In the area of **education**, persistent issues include constitutional questions with regard to the provision of non-denominational education, data collection and appropriate education provision including for children experiencing multiple forms of discrimination. A prominent issue in the area of health in 2007 was Evidence emerged in 2007 of inequality in the provision of **health** services to nationals and non-Irish nationals. Noteworthy developments included the endorsement of a national Intercultural Health Strategy and a government commitment to a national Traveller health study.

**Policing and racial profiling** is an area where limited conclusions can be drawn due to limitation in infrastructure to monitor developments and resulting lack of data. While the establishment of the Garda Ombudsman is a very welcome development, it is regretted that its remit does not extend to immigration officers. The services of the police force are also not covered by equality legislation. **Racist violence and crime** is on the increase in Ireland. This is clear from data

collected by the police. The police recognise issues with regard to under-reporting and have identified some steps to help address this problem.

**Access to goods and services** continues to be an issue for ethnic and religious minorities, including in areas mentioned above such as education, housing and education. Cross-cutting issues including the provision of accessible information and exemptions within the equality legislation which mean that there are few courses of redress for individuals when they are discriminated against in exempted areas. The **media, including the internet** played an important role in 2007 in highlighting issues of discrimination. However, the media continues to contribute to the stereotyping and scapegoating of ethnic minorities. The internet is an area of particular concern as efforts to address racism disseminated on the internet are frustrated by legal loopholes.

### **Political and legal developments**

Four key areas are the focus of the section on political and legal developments and include anti-discrimination; migration and integration; criminal justice and social inclusion.

International and European instruments have been key drivers in developing **anti-discrimination** mechanisms. It is regretted however, that the European "Race Equality Directive", Directive 2000/43/EC has not been fully implemented and the European Commission wrote to Ireland in 2007 to request that the Directive be fully implemented.

**Migration and integration** is an area that has seen most political and legal developments in recent years and 2007 was no exception. In 2007, the government introduced the Immigration, Residence and Protection Bill. However, the Bill failed to address many of the concerns expressed by NGOs in the consultation process. On a positive note, the government sent a clear message of the importance of migration and integration when it established the Office of the Minister for Integration.

**Criminal justice** is a critical area where protection and effectiveness must be ensured in order to prevent racist crime and to protect those experiencing racism. The establishment of the Garda Ombudsman has been key. Introducing effective hate legislation continues to be a challenge. The impact of counter-terrorism measures are most apparent in the Irish context on the development of immigration legislation where there is a clear security focus.

Racism is the key barrier to ensuring **social inclusion** for ethnic and religious minorities. National measures such as the National Action Plan on Social Inclusion, consider the inclusion of ethnic minorities. However, policies targeting certain minorities including migrants are proving counter-productive and contributing to social exclusion and income poverty. Consistency in policy provision is required if social inclusion measures are to achieve their intended

goal. The National Action Plan Against Racism continues and while it has been credited with some positive initiatives, it has also attracted criticism from anti racism NGOs.

### **Recommendations**

Key recommendations for Government, identified within the report include:

- Recognise the distinct ethnic identity of Travellers;
- Amend the Immigration, Residence and Protection Bill to reflect submissions by NGOs;
- Extend the definition of services in the equality;
- Secure family reunification rights for migrants;
- Extend powers of the Garda Ombudsman to include immigration functions;
- Equality proof all policies that impact on the lives of ethnic and religious minority groups.

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### 3. Introduction

Ireland is a multi-ethnic society with ethnic diversity increasing significantly over the past decade through immigration. Ethnic minorities comprise up to 12%<sup>1</sup> of the population, the majority of whom are also EEA nationals. While there has long been racism in Ireland as evident through the experience of Travellers, it is in the context of recent immigration that debate on racism has come to the fore.

Racism is a phenomenon that is contrary to the values of the European Union. This report demonstrates that racism is evident across all sectors of Irish society and impacts significantly on the lives of ethnic and religious minority groups. Racism is a serious issue impacting severely on ethnic and religious minorities directly but affects all of society at some level.

The time period covered by this report is from January to December 2007. The report focuses on manifestations of racism as well as policy and legislative developments for the period January 2007 to December 2007 and complements previous Shadow Reports including the *2006 Shadow Report*. The report does not focus on developments in 2008, though specific developments may be highlighted where these are relevant to the discussion of 2007<sup>2</sup>.

Section 3 of the report provides information and data on communities that are vulnerable to racism in Ireland. Manifestations of racism and religious discrimination are outlined in Section 4, focusing on key problems in the areas of employment, housing, education, health, policing and racial profiling, racist violence and crime, access to goods and services and the media.

Section 5 provides an overview from an NGO perspective, of political and legislative developments in Ireland in 2007 in four key policy areas, namely anti-discrimination; migration, family reunification and integration; racist violence and crime; and social inclusion. On the basis of assessments by NGOs and building on recommendations from key bodies including relevant international bodies, the report offers a series of recommendations. The report concludes by highlighting particularly critical developments in 2007 and reflecting on the significance of civil society responses and contributions.

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<sup>1</sup> For example, the report of the Office of the Minister for Integration, *Migration Nation*, estimates that up to 12% of the population are immigrants, pp 5.

<sup>2</sup> Some key developments have been highlighted such as the introduction of the Immigration, Residence and Protection Bill 2008, the launch of the Intercultural Health Strategy in January 2008 and the publication of *Migration Nation* – an integration strategy – by the Office of the Minister for Integration in May 2008.

## 4. Communities vulnerable to racism

Ireland is a multi-ethnic society with ethnic and religious diversity increasing significantly over the past decade through immigration. There are many ethnic and religious minority groups in Irish society and they are vulnerable to racism. A recent study by the Central Statistics Office (CSO) shows that persons from 'other ethnic backgrounds' reported the highest rate of discrimination with 31% having experienced discrimination in the previous two years<sup>3</sup>.

A key development took place in 2006 with the inclusion for the first time in the census of a question on ethnic background. The 2006 census is the most comprehensive, available source of information on diversity in Ireland, collecting data on religious belief, nationality, country of birth and membership of the Traveller community<sup>4</sup>.

The Census reveals that that in 2006, 88.8% of the population were Irish nationals, 2.7% were from the UK, 3.9% were from other EU countries and 3.5% were from outside the EU. In 2006, there were 188 nationalities represented in Ireland. 96.5% of the population had a White ethnic background. People with a non-Irish white ethnic background (mainly British, Polish, etc.) were predominantly in the 25-44 age group (50.5%). People with Black ethnic backgrounds were concentrated in the 0-14 (40.9%) and 25-44 (44.5%) age groups. There were 22,400 members of the Irish Traveller community, or just over 0.5% of the population. There was a very high proportion of Irish Travellers in the 0-14 age group (41.4%), this was twice the overall population rate of 20.4%<sup>5</sup>.

The question of the recognition of the distinct ethnic identity of the Traveller community has come again to the fore. The State acknowledges a distinct Traveller culture, that Travellers experience racism and provides protection to Travellers from discrimination through the equality legislation. However, it does not recognise Travellers as an ethnic group. The Committee for the Elimination of all forms of Racial Discrimination (CERD) encourages the State to work more concretely towards recognising the Traveller community as an ethnic group<sup>6</sup>. This view was echoed in the Opinion of the Advisory Committee for the Protection of National Minorities (ACFC)<sup>7</sup>. The Equality Authority also supports the recognition of the Traveller community as a distinct ethnic group.

<sup>3</sup> Central Statistics Office, *Quarterly National Household Survey. Equality. Quarter 4 2004* (Dublin: Central Statistics Office, August 2005)

<sup>4</sup> While the introduction of a question on ethnic background is significant, some have argued that the question formulation is limited and might be improved in the future.

<sup>5</sup> CSO Press Release, available at [http://www.cso.ie/newsevents/pr\\_equalityinireland2007.htm](http://www.cso.ie/newsevents/pr_equalityinireland2007.htm)

<sup>6</sup> UN Committee on the Elimination of all forms of Racial Discrimination, *Concluding Observations on Ireland, Report of the Committee for the Elimination of All Forms of Racial Discrimination* (CERD, 10 March 2005) CERD/C/IRL/CO/2 at para. 20

<sup>7</sup> Advisory Committee for the Protection of National Minorities, *Second opinion on Ireland* (Strasbourg: Council of Europe, October 2006). The opinion states, '31. The Irish authorities should refrain from conclusive statements affirming that the Travellers do not constitute an ethnic minority in so far as such a position is not based on clear criteria and does not result

The Roma community has long been represented in Ireland. The community has grown considerably with the recent wave of immigration since the mid 1990s. It is not possible, however, to indicate the size of the Roma community in Ireland as the main data collection mechanism, the Census, does not collect data specifically on the Roma community.

The largest group of migrants coming to Ireland in 2007 were EU citizens, followed by non-EEA migrant workers and asylum seekers. There has been unprecedented growth in the number of EU citizens coming to Ireland since accession of new member states in 2004, as reflected in Census 2006 data. On the other hand, the number of asylum seekers has decreased. In 2007, the Office of the Refugee Commissioner (ORAC) received 3933 claims for asylum<sup>8</sup>. In 2006, 4241 claims for asylum were lodged compared with 4304 in 2005<sup>9</sup>. These figures represent a significant decrease on earlier figures, e.g. 2003 when the number of claims stood at 7483. The top five nationalities of those seeking asylum in 2007 were Nigerian, Iraqi, Chinese, Pakistan and Georgia. This profile contrasts somewhat with 2006 when the top five nationalities of those seeking asylum were Nigerian, Romanian, Somali, Sudanese and Iranian.

Though Ireland continues to be a predominantly Christian, largely Catholic country, there is evidence of increasing religious diversity within the population. The Census 2006 reveals that Muslims are the third largest religious group in Ireland<sup>10</sup>. There has been a 69.9 % change in the Muslim population between 2002 and 2006, with 0.77% of the population identifying as Muslim in the 2006 compared with 0.49% in 2002. 0.05% of the population identify with the Jewish faith. There has been a very small but steady increase in the Jewish population since 1991, from 1581 persons in 1991, 1790 in 2002 to 1930 persons in 2006. 90.64% of the population identify as Christian, with 86.83% identifying as Roman Catholic.

The 2006 Census reveals that non-Irish nationals account for up to 12% of the Irish population with the highest proportion (150,000) living in Dublin, the capital city. It also revealed that the number of mixed nationality families has increased from 70,721 in 2002 to 95,635 in 2006. The census demonstrates that the majority of immigrants are young, single people. Of the 122,000 persons who immigrated into Ireland in the twelve months before the census, 68.2% were single and of these 62.2% were in their twenties. The census also recorded a population of 22,400 Irish Travellers<sup>11</sup>.

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from a dialogue with the minority concerned, taking into account the principle of self-identification stemming from Article 3 of the Framework Convention...

<sup>88</sup> ORAC, <http://www.orac.ie/pages/Stats/statistics.htm>, accessed 17 April 2008.

<sup>9</sup> Office of the Refugee Applications Commissioner (ORAC), *Annual Report 2006* (ORAC 2006), p. 37-42.

<sup>10</sup> Census 2006, available at <http://www.cso.ie/statistics/Population.htm>

<sup>11</sup> Ibid.

Within ethnic minority communities, there are sections of the community that experience multiple and/or additional forms of discrimination, e.g. women, lesbian and gay people, people with a disability. There are some provisions for the disaggregation of data by gender across categories such as ethnic background, religious belief and membership of the Traveller community within the census data collection and reporting mechanisms. However, data collection mechanisms are not consistent across the board. Concerned by instances of multiple discrimination, CERD is amongst those who encourage the State to take measures regarding the special needs of women belonging to a minority and other vulnerable groups. Particularly vulnerable groups in Ireland in 2007 included victims of trafficking, undocumented workers, domestic workers, unaccompanied minors.

The Eurobarometer poll shows that more than half of Irish people (57%) believe that discrimination on the basis of ethnic origin is widespread. This compares with statistics at a European level which show that most respondents (54%) also feel that discrimination is widespread. On the other hand, 62% of respondents in Ireland said having people of different ethnic origin living in Ireland enriched culture<sup>12</sup>.

A report published by the ESRI and Equality Authority in May 2007, looks at subjective experiences of discrimination based on 2004 data. The study reports that just over 12% of Irish adults felt that they have been discriminated against in the preceding two years. Rates of reported discrimination rise to 31% among those of Black, Asian or other ethnicity and 24% among non-Irish nationals<sup>13</sup>.

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<sup>12</sup> [ec.europa.eu/employment\\_social/news/2007/jan/euro\\_baro\\_summary\\_en.pdf](http://ec.europa.eu/employment_social/news/2007/jan/euro_baro_summary_en.pdf)

<sup>13</sup> See <http://www.equality.ie/index.asp?locID=135&docID=724> Please note, terminology used reflects the categories identified in the Census questionnaire.

## 5. Manifestations of racism and religious discrimination

The purpose of this section is to provide an overview of the situation of racism and discrimination in Ireland. This section has been divided into eight subtopics: Employment, Housing, Education, Health, Policing and racial profiling, Racist violence and crime, Access to goods and services in the public and private sector, and Media including the internet. Each subtopic includes an overview of the key problem areas, relevant developments and, where available, statistics demonstrating discrimination during 2007. Examples of good practice by NGOs are also highlighted.

### 5.1 Employment

Discrimination in the area of employment is outlawed in Ireland under nine equality grounds including 'race', membership of the Traveller community and religion. Relevant legislation includes Employment Equality Act 1998 and Equality Act 2004. Relevant data on cases brought under the legislation is collected by two bodies established by the legislation, namely the Equality Authority and the Equality Tribunal.

At present, there are a range of instruments affecting the employment rights of migrants in Ireland. There is clear evidence of exploitation of migrant workers across the country. Furthermore, there are often issues with regard to lack of clarification or access to information for migrant workers around their employment rights. Specific categories of migrants faced particular issues in the area of employment in 2007. These include spouses of EEA nationals, undocumented migrants, migrant workers who are made redundant, domestic workers and asylum seekers.

February 2007 saw the implementation of the Employment Permits Act 2006<sup>14</sup>. The Act allows for four types of employment permit including the Green Card Scheme, the Work Permit, the Intra-Company Transfer Permit and the Spousal and Dependant Permits. The Act was welcomed with some caution; amongst other provisions, the Act extends the work permit from one year to two years and targets exploitative practices of employers. NGOs express concerns at some of the limitations of the Act however. The Act does not provide sufficient safeguards against exploitation. For example, restrictions in freedom to move job and exorbitant fees continue to place migrant workers at risk of exploitation.

NGOs in Ireland have highlighted the existence of trafficking in Ireland and supported victims of trafficking. A key report was published by the Migrants Rights Centre Ireland (MRCI) and Dublin City University (DCU) which, while not

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<sup>14</sup> For a critique of the Act, see amongst others the ICI website, [http://www.immigrantcouncil.ie/press\\_detail.php?id=39](http://www.immigrantcouncil.ie/press_detail.php?id=39)

claiming to be definitive, provides concrete evidence of trafficking for forced labour in Ireland and identifies the issues affecting victims of trafficking. The problem of trafficking for forced labour and debt bondage was shown to exist in certain sectors such as the restaurant industry, agriculture, domestic work and construction industry. Although most of the workers were coming to jobs that would be categorised as 'low skilled', many had post second-level education<sup>15</sup>. The Irish government have begun to consider responses to the issues but the safeguards for victims of trafficking including for forced labour, are limited (see also section 6.2 on migration and integration).

Positive developments in 2007 include the establishment of the National Employment Rights Authority (NERA). NERA has expanded the number of inspectors and recruited inspectors of different nationalities, including Polish. However, there is a general concern that NERA is under-resourced, given the extent of the work that needs to be done to prevent and address exploitation and inequality in the workplace.

Another positive development was an initiative taken by the Civil Service which introduced an Internship programme for members of the Traveller community. Travellers have long suffered discrimination in the area of employment and experience high rates of unemployment. Issues affecting Travellers include not only access to employment but retention within employment, where they may experience workplace bullying or have to hide their identity. This initiative provides Travellers with access to the workplace under conditions whereby their identity is accepted<sup>16</sup>.

#### EXAMPLES OF NGO GOOD PRACTICE

##### **Domestic Workers and the MRCI.**

A key achievement in 2007 was the introduction of a Code of Practice with regard to the employment of Domestic Workers by the Department of Enterprise, Trade and Employment. This was the result of much lobbying by MRCI who have established the Domestic Workers Support Group and SIPTU (trade union) and directly involved domestic workers themselves. One innovative project that contributed to the campaign process and outcome was developed by the MRCI's Domestic Workers Support Group. An Arts project was developed over the period of a year. The result of the project was a photographic exhibition and quilt titled 'Blurred Boundaries' that was launched and exhibited in a national gallery in Dublin and has since travelled to other parts of the country<sup>17</sup>.

The **Irish Congress of Trade Unions (ICTU)** has produced a leaflet, *Guidelines for Combating Racism and Planning for Diversity*. The leaflet outlines the

<sup>15</sup> For a summary, see [http://www.mrci.ie/policy\\_work/trafficking\\_forcedLabour.htm](http://www.mrci.ie/policy_work/trafficking_forcedLabour.htm)

<sup>16</sup> Such initiatives which set building blocks for inclusive and diverse public services, have the potential to impact on Travellers access to good and services in the longer term.

<sup>17</sup> For visuals and other information, go to [www.mrci.ie](http://www.mrci.ie)

relevant laws, policies and responsibilities and proposes actions trade unions can take to combat racism<sup>18</sup>.

## 5.2 Housing

The Equal Status Acts 2000 and 2004 prohibit discrimination on the grounds of 'race' and membership of the Traveller community in the provision of goods and services including accommodation. However, statutory agencies are not sufficiently included within the remit of the Act. This is very problematic in the area of housing as many of the problems occur in areas that are the responsibility of statutory agencies, including policy makers and local authorities, and often derive from actions taken by them, e.g. the policy of dispersal and direct provision of the Department of Justice, the Habitual Residency Condition (HRC) implemented by the Department of Social and Family Affairs and the delays in delivering under commitments made around Traveller accommodation by local authorities.

The HRC, which limits certain social welfare entitlements to those who have been resident in Ireland for two years previous, continued to cause severe problems for immigrants including EEA nationals through 2007. The problems with the HRC have been highlighted by both statutory agencies and NGOs and in the 2006 Report. It has presented a particular concern in the area of housing and has been identified as a key cause of homelessness amongst ethnic minorities, specifically migrants. The Homeless Agency reports that it has resulted in homelessness and also limits the provision of emergency accommodation to migrants<sup>19</sup>.

The dispersal and direct provision also continues to be a concern for asylum seekers and NGOs supporting the rights and welfare of refugees and asylum seekers. Asylum seekers are accommodated in direct provision while their asylum case is being processed which was initially expected to last six months; in practice, many asylum seekers have remained in direct provision in excess of two years.

As previous reports have reflected, accommodation has long been an issue for Travellers. While policies are in place, implementation regarding the appropriate provision of accommodation for Travellers has lagged far behind objectives. The need for implementation of Traveller accommodation plans was also highlighted in 2007 in the Resolution adopted by the Council of Ministers regarding Ireland's implementation of the Framework Convention on National Minorities (FCNM)<sup>20</sup>.

The provision of appropriate accommodation remains problematic for Travellers, despite commitments at a national level and concern voiced by international

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<sup>18</sup> The leaflet is available at [http://www.ictu.ie/download/pdf/congress\\_anti\\_racism\\_resource.pdf](http://www.ictu.ie/download/pdf/congress_anti_racism_resource.pdf)

<sup>19</sup> For example, Homeless Agency explored the impact of the HRC on homeless in a 2006 Report. Homeless Agency 2006, *Away From Home*, (Dublin: Homeless Agency. 2006).

<sup>20</sup> For further discussion, see for example NCCRI June e-bulletin and website, [www.nccri.ie](http://www.nccri.ie)

bodies such as CERD, ECRI and ACFC. During the court proceedings in a case brought by two older Travellers, useful clarification on the interpretation on obligations of a local authority under equality Status Acts 2000-2004, was attained. At the beginning of the hearing before the High Court, the respondents (South Dublin County Council, Minister for the Environment, Heritage and Local Government and the Attorney General) conceded that section 6(b) could not be construed as allowing less favourable treatment. This was described by the Equality Authority as a very significant and important concession. In their experience, housing authorities around the country have sought to rely on section 6(b)<sup>21</sup> to exemption the provision of housing services from review under the Equal Status Acts 2000-2004<sup>22</sup>.

A new development in housing generally, has been the introduction by government of Sustainable Communities<sup>23</sup>. In terms of equality, a statement from the Department of Environment and Local Government acknowledged the link between equality, diversity and building sustainable communities<sup>24</sup>. The housing policy statement seeks to recognise diversity and the particular needs that flow from this diversity as well as supporting a pro-active promotion of equality including through the use of positive action.

#### EXAMPLES OF NGO GOOD PRACTICE

**Threshold** has been awarded funding under the Integration Fund for a project which aims to improve EU10 nationals access to Threshold support services through the development of an advice service for EU10 communities living in Ireland available in their own language. The project comprises three key areas of action: capacity building, information provision and service provision. Threshold is an NGO whose overall aim is to secure a right to housing, particularly for households experiencing problems of poverty and exclusion, through campaigning, research, information and support service provision<sup>25</sup>.

### 5.3 Education

Education was a key area of concern identified by ECRI in its Third Report on Ireland. It highlighted in particular concerns around provision of education to religious minority groups<sup>26</sup> and called for consideration of the provision of non-denominational education institutions<sup>27</sup>. This was an issue highlighted also by

<sup>21</sup> Section 6(b) provides, “(6) Nothing in subsection (1) shall be construed as prohibiting – (b) a body approved under section 6 of the Housing (Miscellaneous Provision) Act, 1992, from providing, in relation to housing accommodation, different treatment to persons based on family size, family status, marital status, disability, age or membership of the Traveller community.”

<sup>22</sup> For further details, see Equality Authority Spring News, pp 25-26.

<sup>23</sup> For further details, see for example Equality Authority Winter News or NCCRE May e-bulletin.

<sup>24</sup> Further analysis is available from the Equality Authority, <http://www.equality.ie/index.asp?locID=110&docID=713>

<sup>25</sup> For further information, see [www.threshold.ie](http://www.threshold.ie)

<sup>26</sup> In its Observations published in 2005, CERD also encourages the promotion of the establishment of non-denominational or multi-denominational schools in view of the intersectionality of racial and religious discrimination.

<sup>27</sup> ECRI, *Third Report on Ireland* (Strasbourg: ECRI, 2006)

the Resolution adopted by the Council of Ministers in 2007 regarding Ireland's implementation of the Framework Convention on National Minorities.

Primary Schools in Ireland have been either of a single denomination or multi-denominational. The majority of schools in Ireland are Catholic with a small number of Islamic and Protestant schools. There are also multi-denominational schools but as demand increases and supply remains low, access to multi-denominational schools can be an issue in certain areas. This is a particular issue in light of the intersectionality of discrimination on the basis of 'race' and religion. Some moves were made in 2007 to make necessary changes to resolve this situation and at the end of 2007; the Minister for Education announced that two non-denominational primary schools would be established by Vocational Education Committees (VECs). The VECs have been involved in post-primary education but this recent announcement sees them enter primary education provision<sup>28</sup>.

As reported in the *2006 Shadow Report*, there are no baseline figures to assess outcomes for ethnic and religious minority groups from the Irish education system<sup>29</sup>. While some data is collected, it is inconsistent. For example, post-primary schools collect data on country of origin whereas primary schools do not. At primary school the focus for the collection of data is on language needs rather than nationality or other factors relating to racism.

There is therefore no quantifiable means of assessing the extent to which existing education strategies are benefiting minorities nor of effectively evaluating new strategies. Not knowing how many students from underrepresented groups including ethnic minority groups access education, complete course of study or receive an award makes it difficult to assess progress or to make the case for continued or increased resources to achieve equity.

Education and educational institutions are covered under the equality legislation, with certain exemptions applying. A case of note in 2007 regarded the decision by the Equality Tribunal to order the board of management of a primary school to pay €6,350 to a Traveller child with a disability after it found that he had been victimised. This is the first time that a school has been ordered to pay the maximum amount allowed under the Equal Status Act<sup>30</sup>.

An anomaly came to light in 2007 when international students were asked by Immigration officials for evidence that their children were attending fee-paying schools, in order to extend their permission to remain. This conflicts with the policy of the Department of Education which allows that any child under the age of fifteen can access free education.

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<sup>28</sup> Further information is available from a range of sources including the Irish National Teachers Organisation (INTO), for example their document on School Governance which is available at <http://www.google.ie/search?hl=en&q=VEC+non-denominational&meta=>

<sup>29</sup> Lynch, Catherine, *ENAR Shadow Report 2005 – Racism in Ireland* (2006)

<sup>30</sup> For further details, see media report, available at [www.ireland.com/newspaper/ireland/2007/0220/1171922031884.html](http://www.ireland.com/newspaper/ireland/2007/0220/1171922031884.html)

A positive development in the area of education came through the establishment of the Office of the Minister for Integration (see sections 6 and 6.2 below also). The Office of the Minister for Integration covers three government departments including the Department of Education and Science.

### **Examples of NGO Good Practice**

**Éist** is a pilot project that has developed an anti-bias approach to early years care and education in the Irish context. The project has taken a leadership role in promoting diversity and equality awareness and training in the early childhood sector. The project has laid the groundwork for mainstreaming equality and diversity training. The training approach has been promoted, developed and tested across the sector at pre-service, in-service and at supervisory level<sup>31</sup>.

### **5.4 Health**

2007 was a mixed year with regard to health. On the one hand, there was some very significant progress through the ongoing consultation process on the Intercultural Health Strategy which was endorsed at the end of the year and the commencement of a national study on Traveller health. On the other hand, a number of issues arose that are of concern.

One of the more disturbing statistics in the area of health was in relation to children under the care of the Health Service Executive (HSE). An internal report suggested that 'foreign' children were not receiving the same standard of care as other children. A somewhat related figure was the number of children that went missing while under the care of the HSE<sup>32</sup>.

There are a range of issues affecting ethnic minority groups in relation to accessing healthcare and securing equal outcomes from healthcare. Members of minority ethnic groups who have a low level of income and therefore hold medical cards, report difficulty in securing a doctor locally. The problem can be exacerbated for recent migrants who are new to an area and will therefore not already have a local doctor. Other problems within the health system include lack of availability of translators, which impacts on the standard of care that a person can receive. Some migrants require specialised healthcare and there are difficulties within the healthcare service when trying to accommodate culturally appropriate healthcare or specialised services.

Indeed, access to healthcare has raised issues for non-EU spouses of EU nationals wishing to renew their residency. Inconsistencies in the application of procedures by the Garda National Immigration Bureau (GNIB) have been reported to the MRCI, in relation to requests for evidence of medical insurance.

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<sup>31</sup> See [www.paveepoint.ie](http://www.paveepoint.ie) for further information.

<sup>32</sup> See NCCRI e-bulletins, July and Sept. [www.nccri.ie](http://www.nccri.ie)

According to the European Commission, non-EU spouses of EU nationals are not required to have private medical insurance in order to be granted residency in Ireland. Despite this, the MRCI have been made aware of a number of cases where people have been asked by individual GNIB officers for evidence of private medical insurance when trying to renew their residency. MRCI has written to the GNIB to ask that the correct information be communicated to all immigration officers in the country<sup>33</sup>.

There is evidence that the policies of dispersal and direct provision are having an adverse effect on asylum seekers health, including mental health. Research conducted by IRC<sup>34</sup> shows the impact of the policies on mental health. It also shows for example, that the lack of parental control on their children's diet is also impacting on their health<sup>35</sup>.

When assessing manifestations of racism in health, it should also be remembered that the healthcare sector is an area in which many migrants have found employment. Ironically, although the healthcare system in Ireland is quite dependent on migrant workers, migrants continue to be made scapegoats in the public discourse where they have been blamed for the strain on the system.

A positive development at the end of 2007 was the endorsement by the Department of Health and Children of the Intercultural Health Strategy. The Strategy which was developed by the Health Service Executive (HSE) following a national consultation process, is a key development and contributes significantly to fulfilling commitments made in the NPAR around health. The strategy was formally launched in February 2008<sup>36</sup>.

Another positive development was a research initiative on Traveller health and the commitment by the government to conducting a National Traveller Health Study. The gap between the health status of the Traveller community and the settled community has long been established; the 2006 census reveals that the gap has not closed<sup>37</sup>. The study seeks to examine the health status of Travellers, to assess the impact of the health services currently being provided and to identify the factors which influence health status. It will provide a framework for policy development and practice in relation to Traveller health. A number of Traveller NGOs called for a commitment to carrying out a national survey on Traveller health including in the build up to the 2007 general elections as highlighted in the 2006 Report<sup>38</sup>. It is promising therefore, to see the impact of such campaigning work by a key NGO working in this area.

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<sup>33</sup> See MRCI News Jan-Feb 2007, [www.mrci.ie](http://www.mrci.ie)

<sup>34</sup> Stewart, R. (2007) *The Mental Health Promotion Needs of Asylum Seekers and Refugees*, A qualitative study in Direct Provision Centres and Private Accommodation in Galway City, Galway City Development Board and Health Promotion Services, HSE West

<sup>35</sup> See also [www.irishrefugeecouncil.ie/press07/budget.doc](http://www.irishrefugeecouncil.ie/press07/budget.doc)

<sup>36</sup> The Intercultural Health Strategy can be downloaded from, <http://www.hse.ie/en/Publications/HSEPublicationsNew/HSECorporatePlans/InterculturalHealthStrategy/>

<sup>37</sup> Pavee Point, 2007, Presentation on the Traveller Health Study, [www.pavee.ie](http://www.pavee.ie)

<sup>38</sup> For example, the Irish Traveller Movement, *Election Manifesto 2007 letter* (ITM, Nov 2006), available at <http://www.itmtrav.com/pdf/ITMElectionIssuesletter.pdf>, accessed 23 May 2007

## EXAMPLES OF NGO GOOD PRACTICE

### **Cairde's Women's Health Action (WHA)**

Women's Health Action (WHA) is a programme developed by Cairde to respond to the health needs of women from ethnic minority groups, including asylum seekers, refugees and other immigrants. It supports the participation of women from ethnic minority groups in identifying and addressing their own health needs<sup>39</sup>.

**A National Traveller Health Study** is about to commence, following a commitment made by Government and is supported by Traveller organisations including Pavee Point, a national Traveller centre. NGOs have been promoting the study. The study seeks to examine the health status of Travellers, to assess the impact of the health services currently being provided and to identify the factors which influence health status. It will provide a framework for policy development and practice in relation to Traveller health. For more information, see [www.paveepoint.ie](http://www.paveepoint.ie)

## **5.5 Policing and racial profiling**

There is anecdotal evidence of racial profiling by the police force, An Garda Síochána. However, it is difficult to prove this or test cases due to the limited legislation to monitor the practice of the police force. For example, the police force is not covered under the equality legislation. Some legislative progress was made late in 2006 with regard to the establishment of a Garda Inspectorate and enactment of legislation to enable the establishment of a Garda Ombudsman. However, immigration officers do not come under the remit of the Ombudsman.

ECRI recommends the close monitoring of the implementation of the Immigration Acts 2003 and 2004 in the interest of safeguarding against racial profiling<sup>40</sup>. Racial profiling at entry points and border controls is a serious matter, accentuated by the extent of power given to immigration officers including discretionary powers, the lack of procedural safeguards or appeal mechanisms and the fact that immigration officers do not come under the jurisdiction of the Ombudsman or the remit of equality legislation.

Another emerging area of concern is the capacity of An Garda Síochána to respond to the issue of trafficking and the needs of victims of trafficking. The Irish Human Rights Commission (IHRC) has called for the provision of more resources and Garda training to support victims of human trafficking<sup>41</sup>. A positive

<sup>39</sup> Further information can be found at [www.cairde.ie](http://www.cairde.ie)

<sup>40</sup> ECRI, *Third Report on Ireland*. The report which was made available to the public in May 2007, was adopted in December 2006.

<sup>41</sup> [http://www.ihrc.ie/press\\_releases/newsarticle.asp?NID=213&NCID=12&T=N&Print=](http://www.ihrc.ie/press_releases/newsarticle.asp?NID=213&NCID=12&T=N&Print=)

development has commenced with An Garda Síochána employing the expertise of NGOs in this area in the provision of some training for Gardaí (see “examples of good practice” below).

Since 2005, An Garda Síochána has implemented an initiative to encourage ethnic minorities to join the police force. In 2007, the Defence Forces also sought to recruit members of ethnic minorities<sup>42</sup>. However, a decision by An Garda Síochána to ban the wearing of the turban is somewhat contrary to the spirit of encouraging inclusion within the police force. The NCCRI urged the Garda to review its decision not to allow a Sikh recruit to wear a turban as part of his uniform. The NCCRI wrote to the Garda Commissioner offering their services as a mediator on this issue<sup>43</sup>. In a newspaper article, the Director suggested that the Gardaí could compromise on this and there may be solutions which have not been fully explored<sup>44</sup>. The ban on the wearing of the turban continues.

#### EXAMPLES OF NGO GOOD PRACTICE

**NGOs offer training to An Garda Síochána on Trafficking.** A number of NGOs are supporting An Garda Síochána through the provision of training on issues relating to Trafficking. NGOs providing the training include Ruhama - an organisation which amongst other activities, offers support to women working in the sex industry - and MRCI who have an expertise in the area of trafficking for forced labour<sup>45</sup>.

### 5.6 Racist violence and crime

The European Parliament noted in 2007 that racist violence increased in eight EU member states including Ireland<sup>46</sup>. This analysis was based on data available up to and including 2006. An increase in racist offences including racist violence is also evident in 2007.

The data available with regard to racist violence and crime can be collated through two sources, the Central Statistics Office that releases data collected by An Garda Síochána (the national police force) and a “racist incidents” system developed by the NCCRI. The NCCRI notes that majority of incidents reported to them relate to crime. It should be noted that the Gardaí collect data relating to “offences with a racist motive” which, in the legal sense, are not necessarily defined as crimes.

The number and type of offences recorded by An Garda Síochána in 2007 which were racially motivated (or racism associated) are outlined in the table below.

<sup>42</sup> NCCRI July E-Bulletin, [www.nccri.ie](http://www.nccri.ie)

<sup>43</sup> See NCCRI August E-Bulletin, [www.nccri.ie](http://www.nccri.ie) for further details.

<sup>44</sup> Irish Times, 22 August 2007.

<sup>45</sup> While this is a very positive development, it should be noted that the IHRC has called for more resources and training of Gardaí to support victims of trafficking. See also section VI.iii

<sup>46</sup> European Parliament article on research published by FRA, 29 August 2007, “Upward trend in racist crimes in at least 8 EU countries”, available online at [http://www.europarl.europa.eu/news/public/story\\_page/015-9825-239-08-35-902-20070823STO09821-2007-27-08-2007/default\\_en.htm](http://www.europarl.europa.eu/news/public/story_page/015-9825-239-08-35-902-20070823STO09821-2007-27-08-2007/default_en.htm). Accessed 1 May 2008.

Offence	Detected	Undetected	Total Recorded
0311 Assault Causing Harm	17	4	21
0313 Assault Minor	32	22	54
0322 Murder - Threats	1	0	1
0331 Harassment	8	4	12
0333 Menacing Phone Calls	0	2	2
0334 Incitement to Hatred Offences	11	4	15
0414 Dangerous/careless driving and motorway offences	0	1	1
0712 Burglary (not aggravated)	1	1	2
0811 Theft/Unauthorised taking of vehicle.	0	5	5
0824 Theft/Unauthorised taking of a pedal cycle	0	1	1
1122 Possession of a firearm	0	1	1
1131 Possession of offensive weapons (not firearms)	0	4	4
1211 Arson	0	3	3
1212 Criminal damage (not arson)	10	32	42
1312 Public order offences	56	11	67
1313 Drunkenness Offences	8	0	8
1322 Trespass on lands or enclosed areas	1	0	1
	<b>145</b>	<b>95</b>	<b>240</b>

Table 1: Offences recorded which are racially motivated (or racism associated) for the year 2007. Source: Crime Statistics, Central Statistics Office.

The total number of offences recorded was 240<sup>47</sup>. This signifies a substantial increase compared to 2006 when 159 offences were recorded.

### 5.7 Access to goods and services in the public and private sector

A number of important instruments facilitate the recording of experiences of racism in accessing goods and services in the public and private sectors. These include the case load of the equality bodies and the Labour Court as well as the racist incident recording system of NCCRI. The process of identifying the extent of racism in service provision has become more complicated since the introduction of the Intoxicating Liquor Act in 2005.

The Equal Status Acts 2000 and 2004 outlaw discrimination in the provision of goods and services across nine grounds. The Equality Authority reports that the Traveller ground was the second highest caseload for 2007 at 19% of cases, the majority of which were in the areas of access to education and accommodation<sup>48</sup>. The Traveller and disability ground were the highest areas under the Intoxicating Liquor Act. The majority of claims under the Equal Status Acts related to the public sector at 69%. A significant percentage however, related also to the

<sup>47</sup> While the scale clearly indicates an increase in offences, it is possible that some of the increase may be attributed to greater awareness of racist incidents reporting mechanisms.

<sup>48</sup> Equality Authority, *Annual Report 2007*, published July 2008.

private sector. Cases were taken against a range of private sector stakeholder groups, under the relevant grounds, i.e. religion, 'race' and membership of the Traveller community. These included clubs; education institutions; financial and business services; hotels, restaurants and licenses premises; transport, storage and communications; and wholesale and retail<sup>49</sup>.

However, there are limitations in the remit of the legislation. A number of the functions of public bodies are exempt from the provisions of the equality legislation. Particularly noteworthy and problematic in this context are exemptions relating to the provision of public services to certain groups of non-Irish nationals. While nationality was covered in the Equal Status Act 2000, exceptions were introduced in the Equality Act 2004. The EU 'Race' Directive is weaker than previously existing Irish legislation in this regard.

Prior to 2004 cases relating to discrimination in licensed premises were heard by the Equality Tribunal. The implementation of the Intoxicating Liquor Act 2003 meant that such cases would be heard in the District Court.

NGOs report that this poses a difficulty for vulnerable groups. The Equality Tribunal is more accessible than the District Court setting. Vulnerable groups had previously benefited from information provision and assistance from the Equality Authority but this a service that is no longer available to them. Costs may need to be borne by the unsuccessful party which is a significant disincentive, discouraging victims of discrimination from bringing cases under the Act. The Equality Authority notes the lack of claims under the Intoxicating Liquor Act, commenting that this may be due to the risk of incurring costs and also misinformation<sup>50</sup>.

An important move was made by the Department of Social and Family Affairs in terms of moving away from segregated provision of services when it closed its services in Castle Street, Dublin. Previously this social welfare office was for Travellers only. Pavee Point, a national Traveller organisation, welcomed this move and had described the office as a case of "segregated" service provision<sup>51</sup>.

An issue of continuing, negative impact is the Habitual Residency Condition (HRC). Introduced in May 2004 prior to accession, this condition limits a person's access to certain social welfare entitlements to persons who have been 'habitually' resident in the country for two years. This condition is impacting on all migrants, including refugees and asylum seekers. Its impact has been highlighted in particular in relation to EEA migrants and also refugees and asylum seekers. An additional factor that impacts on refugees and asylum seekers is the fact that the time spent in the country as an asylum seeker and prior to gaining a more stable status, is not counted with regard to fulfilling the

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<sup>49</sup> See casework activity types of complaint dealt with by sector in Equality Authority's 2007 Annual Report, pp. 64.

<sup>50</sup> Equality Authority, *Annual Report 2007*, pp. 26.

<sup>51</sup> See article in Pavee Point newsletter, 2007, [www.paveepoint.it](http://www.paveepoint.it)

two year residence requirement. The Department of Social and Family Affairs undertook an internal review of the HRC in 2007.

One of the many benefits affected by the HRC is child benefit. Child benefit was hitherto applied as a universal benefit and payable to everyone in Ireland regardless of income. Organisations including amongst others the NCCRI and FLAC, have highlighted the hardship experienced particularly by asylum seekers as a result of the withdrawal of the child benefit payment. The NCCRI has called for consideration of payment of child benefit to asylum seekers.

One of the issues affecting access to goods and services is also access to information about services that are available. In 2007, the Immigrant Council of Ireland (ICI) highlighted women's lack of access to information as contributing to social exclusion.

A high profile incident in 2007 highlighted the "grey area" in which EU citizens from Romania and Bulgaria find themselves; this was the case of Roma from Romania who were residing in a camp on a roundabout of a motorway, the M50 with no services and dependent on the charity of NGOs. The EU citizens who were also Roma, found themselves homeless and unable to access services despite being EU citizens. Traveller NGOs called for a humanitarian response to ensure provision of goods and services to the families on the roundabout. The outcome for the families eventually was that they were deported back to Romania. There was a negative response by a number of politicians to NGOs offering support and the Minister for Justice called for a review into the role played by support groups<sup>52</sup>.

Because of special conditions for Romania and Bulgaria, people from these countries cannot work automatically in Ireland (although citizens of other the other 24 Member States may). Romanian and Bulgarian nationals resident in Ireland prior to accession have also found themselves in an unclear position and report to NGOs that in practice, they experience difficulties accessing services. The position with regard to the right of citizens from these countries to apply for asylum in Ireland has also been questioned, in light of the existence of e.g. the Dublin Convention and the EU Protocol enacted by the Attorney General in January 2007.

#### **EXAMPLES OF NGO GOOD PRACTICE**

##### **Crosscare, SVP and Pavee Point brochure on services to the Roma Community**

A brochure on services to the Roma Community has been developed through a collaboration between Pavee Point, St. Vincent de Paul Society (SVP) Crosscare. Aimed at the Roma Community in Ireland, the purpose of the leaflet is to inform the Roma Community of where they can go to get information

<sup>52</sup> See *Irish Independent* newspaper article, "Lenihan warns M50 Roma support groups", 27/07/2007.

andsupport form the community/voluntary sector. The leaflet is also to encourage more engagement by community/voluntary sector with the Roma Community<sup>53</sup>.

## 5.8 Media, including the internet

The media can play a positive and negative role in the struggle against racism. In fact, the media is a key mechanism for bringing our attention to racist incidents and crime. It is also a powerful mechanism for the promotion of positive images of ethnic minority groups. The internet has been very useful to under-resourced NGOs who can use it relatively inexpensively to disseminate information. However, it can also play a negative role. In the Irish context this negative role has included scapegoating and inciting hatred against ethnic minority groups through scaremongering, biased and inaccurate reporting.

There was extensive reporting on the situation of Roma from Romania who found themselves homeless in Ireland as they are not allowed work or access basic services despite being EU citizens. Some of the media reports, however, were sensationalist using headlines such as "Roma invasion". The reporting of this high profile incident seems to have opened up a space for sensationalist reporting on the part of some journalists and the airing of anti-Roma sentiments on the airwaves and print media. Headlines read for example, "Rain beat Roma plan for welfare 'invasion'"<sup>54</sup> and "trafficking gangs plan to flood Ireland with Roma"<sup>55</sup>. Furthermore, concern was against expressed following the negative response by politicians and elements of the media to the role played by NGOs including Pavee Point in their efforts to ensure a humanitarian response to the situation of Roma residing on the M50. For example, the headline of one newspaper article read, "Roma roundabout affair put NGOs in their place"<sup>56</sup>.

In its reports of racist incidents in 2007, the NCCRI highlights a range of misinformation and the circulation of offensive materials. An incident about which NCCRI took successful action was in relation to the dissemination of racist material in the chat room hosted on a taxi website<sup>57</sup>. The issue was also highlighted in an article in the *Irish Times* newspaper. NCCRI contacted the website moderator who removed the postings. However, racist material continued to be posted, after which the website decided to close down the chat room. Anti-racist NGOs and other organisations are being targeted via e-mail. Both the NCCRI and MRCI have reported that they receive racist e-mails. In relation to print media, NCCRI also highlighted the case of a local councillor whose derogatory comments about Travellers were reported in a local newspaper in Enniscorthy.

<sup>53</sup> The leaflet is available at <http://www.emigrantadvice.ie/documents/RomaLeaflet-Englishversion04.2008.pdf>

<sup>54</sup> *Sunday Independent*, 29 July 2007.

<sup>55</sup> *Independent.ie* 22 July 2007

<sup>56</sup> *Sunday Independent*, 29 July 2007.

<sup>57</sup> [www.taxi.ie](http://www.taxi.ie)

The infrastructure to ensure responsible reporting in the media is limited, although the establishment of a Press Council in 2007 was an important development in addressing this issue (see below). There are no provisions in the equality legislation against racist materials. The Prohibition to Incitement to Hatred Act 1989 is the principal piece of legislation for tackling racism in the media. However, this legislation has proven to be relatively ineffective. Research was commissioned through the NPAR on effective legislation against hate crime. The outcome of the research is expected to have potential to provide some protection against racism in the media. ECRI has highlighted the fact that Ireland had not yet ratified the Additional Protocol on Cyber Crime<sup>58</sup>. The National Union for Journalists in Britain and Ireland (NUJ) has a code of practice which should prevent against such reporting<sup>59</sup>. However, it is not binding. NGOs have noted also that the NUJ is primarily a trade union and therefore a different body needs to have this role.

A number of NGOs and politicians lobbied for the establishment of a Press Council that would be sufficiently representative and have sufficient powers. The establishment of the Press Council was finalised in 2007 and on 4 July 2007, the members of the Press Council were announced. The establishment of a Press Council has been broadly welcomed by NGOs but concerns have been expressed, for example with regard to the extent of power. The NCCRI has been amongst those who have expressed reservations about its powers, while welcoming the initiative<sup>60</sup>.

Globally, the Internet is proving to be another tool for the distribution of racist materials and messages and is difficult to control. Ireland is no exception in this struggle. An Internet Advisory Board has also been set up as highlighted in the 2006 report and includes representation from the NCCRI.

#### EXAMPLES OF NGO GOOD PRACTICE

**Media and Multicultural Awards (MAMA).** The MAMA Awards is an annual awards ceremony that has been running now for six years. It is an initiative of Metro Éireann, Ireland's first multicultural newspaper for immigrant communities<sup>61</sup>.

**Pavee Point Media Monitor** is a pilot initiative designed to keep you up to date with the most relevant stories to Traveller and Human Rights interest in Ireland's print media. It will be used to update on complaints and issues around television

<sup>58</sup> While the Convention is an important and positive development, it is suggested by some commentators that it alone will not be sufficient to address the issue which requires a myriad of responses. See for example paper by Adrian Bannon available at [www.nuigalway.ie/law/GSLR/2006/Cybercrime%20Investigation%20And%20Prosecution.pdf](http://www.nuigalway.ie/law/GSLR/2006/Cybercrime%20Investigation%20And%20Prosecution.pdf)

<sup>59</sup> For more information, see <http://www.nuj.org.uk/inner.php?docid=59>

<sup>60</sup> See for example NCCRI Racist Incidents Report Jan-Jun 2007 and the submission on the press council, available at <http://www.nccri.ie/submissions/06MarchPressCouncil.pdf>

<sup>61</sup> Further information on Metro Éireann and the MAMA Awards is available on [www.metroeireann.ie](http://www.metroeireann.ie)

and radio broadcast and to give subscribers information on upcoming programmes or articles of interest<sup>62</sup>.

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<sup>62</sup> The media monitor can be found at <http://pavee.ie/mediamonitor/>

## 6. Political and legal context

2007 was an important year on the political front. A general election was held in May 2007. The previous government was formed by a coalition between one of the larger political parties, Fianna Fáil, and a smaller party, the Progressive Democrats. The new government that was formed was also a coalition that saw Fianna Fáil remain in power. Coalition partners include the Green Party and the Progressive Democrats. The elections were relatively free from direct expressions of racism; Ireland has a relatively good history in this regard and all the major political parties have signed up to an anti-racism political protocol. However, the atmosphere was somewhat marred by the introduction just prior to the cessation of the government, of a new Immigration, Residence and Protection Bill, which was described by some NGOs as a “political stunt”<sup>63</sup>.

The new Government introduced a very significant and positive development with regard to integration. The Government formed a new junior ministry position, establishing the Office of the Minister for Integration. The Minister’s responsibilities cross three government departments, namely the Department of Education and Science, Department of Community, Rural and Gaeltacht Affairs and the Department of Justice, Equality and Law Reform.

The new Programme for Government was agreed between the coalition parties and published in June<sup>64</sup>. 2007 also saw the launch of the new National Action Plan for Social Inclusion in February and the launch of the National Women’s Strategy in April.

In terms of international commitments with regard to racism, ECRI published its third report on Ireland in May 2007. ECRI members visited Ireland in 2006; their report which acknowledges progress has been made but highlights continuing and emerging areas of concern, was formally adopted in December 2006 and made publicly available in May 2007<sup>65</sup>. A seminar was also held at a national level reporting on progress under the NAPR and the government prepared its report to CERD which was due to be submitted in January 2008.

### 6.1 Anti discrimination

As the *2006 Shadow Report* explains, the Equality Act was signed into law on 18 July 2004. The Act amends a number of provisions of the Employment Equality

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<sup>63</sup> The timing of the Bill was not welcomed by NGOs; the Irish Council for Civil Liberties (ICCL) for example described it as a “political stunt” and the Immigrant Council of Ireland (ICI) also expressed concerns with regard to the timing. The debate around the Bill continues (see section VI.ii).

<sup>64</sup> For a summary of key points relating to anti-racism and interculturalism, see NCCRI August e-bulletin, available at [www.nccri.ie](http://www.nccri.ie). The full text of the Programme for Government is available at [www.taoiseach.gov.ie/index.asp?locID=566&docID=-1](http://www.taoiseach.gov.ie/index.asp?locID=566&docID=-1)

<sup>65</sup> Full report, ECRI’s Third Report on Ireland, is available at [http://www.coe.int/t/e/human\\_rights/ecri/1-ecri/2-country-by-country\\_approach/Ireland/Ireland\\_CBC\\_3.asp#TopOfPage](http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/Ireland/Ireland_CBC_3.asp#TopOfPage)

Act 1998 and the Equal Status Act 2000 to give effect to EU Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of 'racial' or ethnic origin; EU Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation; and EU Directive 2000/73/EC of the European Parliament and of the Council, amending Council Directive 76/20/EEC on the implementation of the principle of equal treatment for men and women.

The European Commission has highlighted Ireland's failure to implement Directive 2000/43/EC fully. In 2007, Ireland was one of 14 EU member states that received a formal request from the European Commission to fully implement the Directive<sup>66</sup>. The problem areas in Ireland identified by the Commission include an incorrect definition of indirect discrimination; the exclusion from protection against discrimination for certain 'private' types of employment; the limitation of the right of interested parties to initiate proceedings to defend the victims of discrimination; the limit to compensation for victims of discrimination; the exclusion from protection against discrimination regarding certain types of housing<sup>67</sup>.

NGOs and other stakeholders have highlighted further issues of concern for regarding the implementation of the equality legislation which relate to costs; anonymity and the right to privacy; waiting lists and delays by the Equality Tribunal; awards; enforcement; failure to respond (particularly by public bodies); requirement to threaten litigation; mediation process; and procedures<sup>68</sup>. The provision of exemptions has also been criticised<sup>69</sup>. CERD urges the State to consider expanding the scope of the Equal Status Act to cover the whole range of Government functions and activities including controlling duties<sup>70</sup>.

While the equality bodies, the Equality Authority and the Equality Tribunal strive to be as effective as possible, there are a number of obstacles in their way including lack of resources and inadequacies in the law itself. The lack of sufficiently dissuasive redress mechanisms are also an obstacle to the effectiveness of equality bodies. The Equality Authority has expressed concern that the 2004 Act fails to ensure that the redress provided is sufficiently dissuasive<sup>71</sup>. Members of the judiciary share these concerns.

While some attempts have been made to make the general public aware of racism, anti-racism and the equality legislation, the CSO reports that almost one

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<sup>66</sup> See European Commission Press Release, at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/928&type=HTML&aged=0&language=EN&guiLanguage=en>

<sup>67</sup> See for example, ICCL Press Release for further details,

[http://iccl.ie/DB\\_Data/press/IrelandFacesEUCourtActionoverInactiononRacesavstheICCL\\_228.htm](http://iccl.ie/DB_Data/press/IrelandFacesEUCourtActionoverInactiononRacesavstheICCL_228.htm)

<sup>68</sup> Equality Authority, *Annual Report 2006* (Dublin: Equality Authority, 2007)

<sup>69</sup> Barry, Eilis, 'The Equality Bill 2004' in Equality Authority, *Equality News Summer 2004* (Dublin: Equality Authority, 2004).

<sup>70</sup> CERD, *Concluding Observations on Ireland, Report of the Committee for the Elimination of All Forms of Racial Discrimination* (CERD, 10 March 2005)

<sup>71</sup> Equality Authority, *Annual Report 2006* (Equality Authority, 2007)

in five persons do not know their rights under Irish equality law. 42.1% of people from 'other ethnic backgrounds' reported that they had no understanding of their rights, more than twice the national average<sup>72</sup>. However, the increase in the use of the Equality Authority website gives some indication that awareness of the equality legislation may be on the increase. There were 471,679 visits to the homepage of the Equality Authority website which represents an increase of 68% compared to 2005<sup>73</sup>.

Despite equality legislation, discrimination remains a key issue for ethnic minorities in Ireland. A report from the ESRI/Equality Authority published in May 2007 and the Eurobarometer reveal the persistent nature of discrimination and the extent of the problem for ethnic minorities. (See also section 5. on Communities Vulnerable to Racism).

As well as legal developments, policy is a key area for attention in 2007. The National Development Plan 2007-2013 includes a Justice and Equality Programme. Commitments made at international level, including those made at the World Conference Against Racism in Durban in 2001 and through the ratification of ICERD, have been key drivers in the Irish Government's anti-discrimination policy measures. The Government launched the National Action Plan Against Racism (NPAR) on 27 January 2005 following commitments made at the World Conference Against Racism in Durban in 2001.

The NPAR, *Planning for Diversity*, aims to provide strategic direction to combating racism and developing a more inclusive, intercultural society and emphasises the development of reasonable and common sense measures throughout. It is underpinned by an intercultural framework built around protection, inclusion, provision, recognition and participation. The NPAR was reviewed by the Government and a seminar was held with NGOs and other stakeholders. A number of initiatives developed as part of the NPAR came to fruition in 2007, including for example, the adoption of the Intercultural Health Strategy and the development of Anti Racism Plans (ARDs) by a number of local authorities. The National Plan Against Racism continues and while it has been credited with some positive initiatives, it has also attracted criticism from anti racism NGOs as not being ambitious enough in tackling the institutional causes of racism with an over emphasis on communications and public relations exercises. The timeframe of the NPAR itself is relatively short and regrettably, the NPAR concludes later this year, 2008.

There are concerns that while a number of positive developments continue to promote equality, e.g. NDP, NPAR, these initiatives are undermined by negative action or lack of action in other areas including for example, immigration legislation. Furthermore, some initiatives are somewhat exclusive and do not

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<sup>72</sup> Central Statistics Office, *Module on Crime Victimisation Q4 1998 and Q4 2003*, released 29 July 2004 (Dublin: CSO, 2004)

<sup>73</sup> Equality Authority, *Annual Report 2006* (Equality Authority, 2007)

include certain groups of migrants (see also section on migration and integration below).

## 6.2 Migration and integration

As the section on “communities vulnerable to racism” notes, the past decade has seen unprecedented growth in net inward migration to Ireland. The population of Ireland grew by 8.2% between the years 2002 and 2006. The estimated net immigration flow between 2002 and 2006 was 191,000. It is estimated that just over two thirds of this net inflow occurred in the two years following the accession of the ten new member states to the EU in May 2004. The number of people immigrating to Ireland between April 2005 and April 2006 is estimated to have been 107,000 which is the highest figure recorded since the current series of annual migration estimates began in 1987. Population and Migration Estimates for the twelve month period before April 2006, estimate that two thirds of the population increase for the period was as a result of migration. 27% of all immigrations originated from outside the EU and USA and more than half of immigrations were aged between 25-44 years<sup>74</sup>.

While migration by EU nationals and migrant workers has increased between 2002 and 2006, recent years have seen a decrease in the number of applications for asylum. In 2007, the Office of the Refugee Commissioner (ORAC) received 3933 claims for asylum<sup>75</sup>. In 2006, 4241 claims for asylum were lodged compared with 4304 in 2005<sup>76</sup>. These figures represent a significant decrease on earlier figures, e.g. 2003 when the number of claims stood at 7483. The top five nationalities of those seeking asylum in 2007 were Nigerian, Iraqi, Chinese, Pakistan and Georgia. This profile contrasts somewhat with 2006 when the top five nationalities of those seeking asylum were Nigerian, Romanian, Somali, Sudanese and Iranian.

2007 saw a number of developments in the area of migration and legislation. Two key developments included the publication of the Immigration, Residence and Protection Bill in April 2007 and the establishment of the Office of the Minister for Integration in June 2007.

Specific issues and developments with regard to migration and integration in 2007 include establishment of the Office of the Minister for Integration; establishment of the Integration Taskforce, publication of the Immigration, Residency and Protection Bill 2007, developments around leave to remain, Trafficking Bill 2007, extension of employment rights of spouses of non-EEA nationals, moves to quantify undocumented workers by government on the one hand and active campaign around bridging visa by NGOs. 2007 also saw

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<sup>74</sup> See *Migration Nation*, appendix I, pp 69 to 70. The data is based on a number of sources including census 2006 and Population and Migration Estimates.

<sup>75</sup> ORAC, <http://www.orac.ie/pages/Stats/statistics.htm>, accessed 17 April 2008.

<sup>76</sup> Office of the Refugee Applications Commissioner (ORAC), *Annual Report 2006* (ORAC 2006), p. 37-42.

landmark ruling with regard to deportation. Other issues arising included issues for child dependents and application of immigration procedures. Also evident were issues arising for Irish Citizen Children and their parents. Issues for nationals from Bulgaria and Romania also came to the fore and highlighted again emerging and different issues facing EU citizens, particularly from newer member states.

As noted in section two, a large proportion of Ireland's diversity is as a result of recent immigration to Ireland. Various pieces of immigration legislation has come on stream, in the past ten years. More recently, the government has recognised the need to review the whole body of legislation and set about developing a comprehensive piece of legislation. The 2006 Shadow Report documents NGOs disappointment and disagreement with aspects of the Scheme for the Bill.

April 2007 saw the introduction of the Immigration, Residence and Protection Bill (IRP) which failed to address many of the concerns of NGOs. The Bill was published just before the General Election was announced and therefore fell with the dissolution of the government. Some NGOs considered this merely a political stunt<sup>77</sup>. It should be noted that a subsequent Bill which mirrors much of the 2007 Bill was brought before the Dáil (parliament) in February 2008 and debate around the Bill continues.

NGOs noted a number of substantial concerns regarding the 2007 Bill, and highlighted the fact that few of their recommendations made in response to the Scheme for the Bill in 2006 were taken in consideration. Concerns regarding the 2007 Bill included the fact that aspects of the Bill may be unconstitutional, the lack of procedural safeguards including appeals, failure to provide sufficient clarity within the Bill and the fact that the Bill mirrored existing legislation with regard to the high levels of discretion afforded to the Minister for Justice<sup>78</sup>.

In 2007, Ireland has signed the Council of Europe Convention on Action against Trafficking in Human Beings. The Department of Justice indicated that this would result in more formalised structures being put in place, including safeguards for the human rights of victims of trafficking<sup>79</sup>. Such protections would be included in the IRP. However, the IRP 2007 (and its successor, IRP 2008) provides only limited protection for victims of trafficking, with a focus on co-operation with investigation or criminal proceeding but less of a focus on the healing and future options of the victims themselves. The Irish Human Rights Commission (IHRC) called for the provision of more resources and Garda training to support victims of human trafficking<sup>80</sup>.

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<sup>77</sup> See for example, ICCL press release. Available at [http://iccl.ie/DB\\_Data/press/ImmResBillpub0407\\_221.htm](http://iccl.ie/DB_Data/press/ImmResBillpub0407_221.htm)

<sup>78</sup> For further discussion, see submissions and press releases from NGOs including ICI ([www.immigrantcouncil.ie](http://www.immigrantcouncil.ie)), ICCL ([www.iccl.ie](http://www.iccl.ie)), IRC ([www.irishrefugeecouncil.ie](http://www.irishrefugeecouncil.ie)) and MRCI ([www.mrci.ie](http://www.mrci.ie)).

<sup>79</sup> See: [www.justice.ie/80256E01003A02CF/vWeb/pcDOJA72FDMM-en](http://www.justice.ie/80256E01003A02CF/vWeb/pcDOJA72FDMM-en)

<sup>80</sup> [http://www.ihrc.ie/press\\_releases/newsarticle.asp?NID=213&NCID=12&T=N&Print=](http://www.ihrc.ie/press_releases/newsarticle.asp?NID=213&NCID=12&T=N&Print=)

Migrant Integration Policy Index (MIPEX) which was published in 2007, identifies a number of policy indicators. It concludes that Ireland's relative performance in two of five strands of indicators is above the European average, noticeably in anti-discrimination. In the other three cases, the variation is smallest in family reunion and largest in long-term residence<sup>81</sup>, where there is a moderately unfavourable score in security of employment status but it is below the average on other strands, particularly access and eligibility and labour market integration measures<sup>82</sup>.

Family life continued to be a central focus for NGOs working with migrants in 2007. The Immigrant Council of Ireland (ICI) and Migrants Rights Centre Ireland, for example, report that enquiries to their Centres mainly relate to family life. NGOs assert that families are being denied a right to family life. The ICI, for example, has called on the Government to introduce a statutory entitlement to family reunion for all legal non-EU migrants and Irish citizens, that is set down in primary law and therefore open to discussion by the Oireachtas (National Parliament). The European Commission holds that family reunion measures are essential to facilitate integration and social inclusion in society<sup>83</sup>.

In what has been described as a landmark decision, a deportation order of five Nigerian children was overturned. The Supreme Court overturned the orders in relation to five Nigerian children whose mother was refused refugee status. The Supreme Court ruled that the principle of family unity, which keeps family units together when they flee from persecution, cannot be used to deport entire families where a parent has had refugee status denied. Supreme Court judge Justice Joseph Finnegan said that the principle of family unity operates for the benefit of the child, not against them<sup>84</sup>.

Integration was given a new and welcome recognition by the Fianna Fáil/Green Party/PD Coalition government that took power in June 2007. The new government saw the creation of the Office of the Minister for Integration, that straddles three government departments including Justice, Equality and Law Reform; Education and Science; Community, Rural and Gaeltacht Affairs. The Minister himself engaged with a number of NGOs during the establishment of the Office. While not directly relevant to 2007, it is noted that the Minister launched an integration strategy entitled "migration nation" on 1 May 2008.

While the Office is welcome, the remit of the Office has certain limitations and concerns have been expressed particularly by NGOs advocating on behalf of asylum seekers who are effectively omitted from integration policy.

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<sup>81</sup> See also ICI Press release for a further discussion on the implications for Ireland, [http://www.immigrantcouncil.ie/press\\_detail.php?id=43](http://www.immigrantcouncil.ie/press_detail.php?id=43)

<sup>82</sup> Migrant Integration Policy Index, Pp 104, available at <http://www.integrationindex.eu/multiattachments/2713.html>

<sup>83</sup> Immigrant Council of Ireland, *Family Matters: Experiences of Family Reunification in Ireland* (Dublin: ICI, 2006)

<sup>84</sup> See NCCRI e-bulletin Oct 2007 and Independent newspaper article, available at [www.independent.ie/national-news/landmark-court-verdict-overturns---deportation-of--nigerian-family-1199632.html](http://www.independent.ie/national-news/landmark-court-verdict-overturns---deportation-of--nigerian-family-1199632.html)

There continues to be a conflict between the spirit of integration rhetoric and policy and immigration legislation and policy. Unless this is addressed, initiatives to enhance integration will be undermined. Furthermore, integration should not be seen as relevant only to recent migrants. As integration cannot be separated from the broader migration context, similarly the link between integration, anti-racism and social inclusion needs to be recognised. Racism is a key barrier to integration and must be overcome if integration is to be realised, as a two-way process. Social inclusion is an essential ingredient in creating the conditions for the integration of ethnic minorities in Ireland. A holistic approach to integration is necessary, one which incorporates the active participation and inclusion of ethnic minorities in the economic, social, political and cultural spheres of society.

## **6.3 Criminal justice**

### **6.3.1 Racism as a crime**

Racist crime is primarily dealt with through a range of legal instruments including Criminal Justice (Public Order Act) 1994, the Non-Fatal Offences Against the Person Act 1997, the Criminal Damages Act 1991 and the Prohibition of Incitement to Hatred Act 1989. There is no provision for aggravated sentencing on the ground of racism in Irish law and the Incitement to Hatred Act has long been considered ineffective.

ECRI's third report on Ireland highlighted the deficiencies apparent in the current legal instruments to address racist crime. The relevant piece of legislation in the Irish context is the Incitement to Hatred Act 1989. The limitations of the legislation have long been acknowledged. It is also acknowledged that this is a complex area and the legislation has been under review for many years. Difficulties with this legislation have been highlighted in previous reports including the 2006 and 2005 reports.

ECRI reports that the criminal legislation has not been amended to include sufficiently strong provisions for combating racist acts which affect in particular visible minorities and Travellers. It adds that further measures are necessary to raise members of minority groups' awareness of existing mechanisms for seeking redress against racism and racial discrimination<sup>85</sup>.

The NPAR put a renewed focus on the legislation and research was commissioned to investigate whether Irish criminal law is sufficient to deal with racially motivated crime in Ireland. This research set out to establish whether legislation can, or needs to be, strengthened in this area. A discussion document from the research was published in March and presented at a seminar. The

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<sup>85</sup> ECRI, *Third Report on Ireland* (Strasbourg: ECRI, 2006)

authors acknowledged that that some reforms are necessary to bring Irish criminal law on racism up to international standards and best practice<sup>86</sup>.

The Framework Decision has been debated at a national level including in the Dáil and by the Oireachtas Committee on Justice, Equality and Women's Rights<sup>87</sup>. It is noted that concerns that had been raised by states including Ireland, the UK and Scandinavian countries with regard to the scope of freedom of expression are addressed through careful wording of the text<sup>88</sup>.

Mechanisms to record racially motivated offences improved with the introduction in 2003 of the PULSE system, a data collection system of An Garda Síochána. However, as in many other countries, underreporting remains an issue. Achieving greater reporting of racially motivated offences requires amongst other things, good relations with the police force and effective legislation. In March 2007, An Garda Síochána launched a poster to encourage people to come forward and to report racist offences and launched a poster. However, trust needs to be harnessed between the police force and migrants if crimes are to be reported. Furthermore, there needs to be more effective legislation to counter racist crimes and offences so that victims are motivated to report crimes.

### 6.3.2 Counter terrorism

There were few new developments with regard to countering terrorism in 2007. The 2005 and 2006 reports highlighted the impact that the climate around countering terrorism was having on immigration policy and legislation. There continues to be concern with regard a disproportionate focus on security in the context of the Immigration Bill 2007 (and subsequent Immigration, Residence and Protection Bill 2008). This Bill, as was the case with the previous *Immigration and Residence Discussion Document*, is clearly security conscious at the expense of other more inclusive measures.

### 6.3.3 Racial profiling

The ECRI report highlights the risk of racial profiling<sup>89</sup> through the implementation of immigration legislation and recommends that the implementation of Immigration Acts 2003 and 2004 be monitored in this regard. There has been little progress with regard to racial profiling since the situation described in 2006.

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<sup>86</sup> Seminar held on 21/03/08 on research into how effective is our legislation, [http://www.diversityireland.ie/News/Current/Seminar\\_on\\_combating\\_Racially\\_motivated\\_crime\\_in\\_Ireland.html](http://www.diversityireland.ie/News/Current/Seminar_on_combating_Racially_motivated_crime_in_Ireland.html)

<sup>87</sup> Minutes of the Committee Meeting outlining the debate with regard to the motion on the Framework Decision that was held on 20 February 2008 are available on <http://debates.oireachtas.ie/DDebate.aspx?F=JUJ20080220.XML&Ex=All&Page=2>

<sup>88</sup> "EU Agrees breakthrough Hate crime Law", <http://euobserver.com/9/23902/?rk=1>

<sup>89</sup> "Racial profiling occurs when race is used by law enforcement, police or private security officials, to any degree, as a basis for criminal suspicion in non-suspect specific investigations. Discrimination based on race, ethnicity, religion, nationality or any other particular identity undermines the basic human rights and freedoms to which every person is entitled."

Amnesty International USA, What is Racial Profiling?, [http://www.amnestyusa.org/racial\\_profiling/index.do](http://www.amnestyusa.org/racial_profiling/index.do), accessed 21 December 2005.

In recent years, the powers of the police have been increased in the area of immigration<sup>90</sup>. Within immigration legislation, there is also a lack of procedural safeguards or right to appeal decisions made by immigration officers. These developments, combined with the institutional racism present within the police force, give rise to serious concerns around racial profiling. CERD recommends a review of security procedures and practice at entry points to ensure they are carried out in a non-discriminatory manner. It invites the State to include data on the number of complaints against members of the police force concerning discriminatory treatment and decisions made<sup>91</sup>.

Some legislative progress was made in 2006 with regard to the establishment of a Garda Inspectorate and enactment of legislation to enable the establishment of a Garda Ombudsman; hence, the Garda Ombudsman was established in 2007. The point of entry into the country is a key area of concern with regard to racial profiling. However, the Ombudsman has no jurisdiction in this regard and this causes concern.

#### **6.4 Social inclusion**

It is important that social inclusion measures are inclusive of ethnic and religious minorities. At the same time, it is essential that the specific barriers that ethnic minorities experience including racism at the individual and institutional level, are addressed. Furthermore, other government policies need to be proofed to ensure that they do not contribute to poverty and social exclusion of vulnerable groups.

The new National Action Plan on Social Inclusion, *Building and Inclusive Society*, was launched on 21<sup>st</sup> February 2007. The Action Plan includes as a high level goal the inclusion of migrants and a number of commitments towards the inclusion of Travellers<sup>92</sup>.

The National Youth Council of Ireland, through the National Youth Development Education Programme (NYDEP), has developed an Intercultural Strategy for the youth work sector. The strategy aims to build on commitments in the National Action Plan Against Racism and the National Youth Work Development Plan as well as the work of national and local youth work organisations. The intercultural strategy includes measures which seek to combat racism and promote cultural diversity in relation to access and services delivery in youth work<sup>93</sup>.

Child poverty is a key theme that has emerged in policies on social inclusion across Europe and in Ireland. EU Member States are required to undertake

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<sup>90</sup> Including Immigration Act 2004

<sup>91</sup> CERD, *Concluding Observations on Ireland, Report of the Committee for the Elimination of All Forms of Racial Discrimination* (CERD, 10 March 2005)

<sup>92</sup> The full document is available at [www.socialinclusion.ie/documents/NAPinclusionReportPDF.pdf](http://www.socialinclusion.ie/documents/NAPinclusionReportPDF.pdf)

<sup>93</sup> Further information can be found on the website, [www.youthdeved.ie](http://www.youthdeved.ie)

efforts to reduce child poverty by 'addressing the issue on all fronts and striking an appropriate balance between targeting the family and targeting the child in its own right'<sup>94</sup>. In light of this commitment, it is important to note the persistent child poverty experienced by ethnic minority children as well as the negative impact of government policies such as the Habitual Residence Condition (HRC) on children of migrants and the policies of Dispersal and Direct Provision on asylum seekers.

Child poverty has been raised by a number of organisations working with asylum seekers. There are many forms of child poverty apparent for ethnic minority children including income poverty. Traveller children experience persistent poverty and quality of life indicators reveal consistently over past decades.

The Habitual Residency Condition continues to impact negatively on migrants. NGOs have highlighted the impact of the HRC on children in particular, as the once universal payment, child benefit, is now restricted to people who have been legally resident in the country for two years and has not been paid to asylum seekers, some of whom are living in hostels under the policies of dispersal and direction provision, in excess of two years.

For asylum seekers, the policy of dispersal and direct provision presents a particular barrier to social inclusion, contributing to segregation and income poverty. The IRC launched a campaign in 2007 highlighting the fact that asylum seekers receive only € 19.10 Euro per week for each adult and € 9.60 Euro per child. This welfare payment has is the only welfare payment that has not been increased since it was introduced in 2000.

An area that has been highlighted by NGOs and other stakeholders has been the limited funding and term of funding available for social inclusion of ethnic minorities, particularly with regard to the funding of ethnic minority led organisations. The government, under the NPAR, commissioned research into how it might fund such organisations. The findings of the study were published in May 2007<sup>95</sup>. A separate initiative taken by the government in 2006 was the establishment of an Integration Fund on a pilot basis for one year. Nine NGOs and 25 locally based partnership companies<sup>96</sup> were funded in December 2006 for projects that were carried out through 2007<sup>97</sup>. However, this funding was short-term and for specific projects and does not address the persistent need of NGOs, particularly minority led NGOs, for core funding.

This report acknowledges the positive developments that have been attained or are in progress such as the specific goals of the National Action Plan on Social

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<sup>94</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0042:FIN:EN:PDF>

<sup>95</sup> Fitzpatrick and Associates, May 2007..

<sup>96</sup> The Local Development Social Inclusion Programme (LDSIP) is implemented at the local level by Partnership Companies.

<sup>97</sup> Pobal, the statutory agency that was responsible for the administration of the fund, together with the Office of the Minister for Integration, commissioned an evaluation of the Integration Fund. The evaluation process is expected to be completed shortly (mid 2008) and is likely to inform the future development of such a Fund.

Inclusion for 2007-2013. However, it concludes that the exclusion of certain ethnic minorities from initiatives and policies limits the potential of social inclusion measures. Negative, targeted policies also have a negative impact on the capacity of social inclusion measures to achieve their goal.

## 7. National recommendations

### 7.1 General

- Policies need to be developed in a consistent manner, underpinned by human rights principles and equality;
- Disaggregated data is necessary in order to identify and respond to the particular experiences of minorities within minorities and those experiencing multiple forms of discrimination;
- Where rights are guaranteed by law, people need to be able to access these rights. Therefore, there must be adequate information provision, real results and little delay.

### 7.2 Anti-discrimination

- Include all statutory bodies and the police force within the remit of the equality legislation;
- More resources are necessary for the equality bodies to improve their capacity and cut down on waiting lists;
- Review the Intoxicating Liquor Act, which is impacting negatively on Travellers and other ethnic minority groups and extend the powers of the Equality Authority in relation to their role with regard to the Act;
- Introduce a positive duty on government bodies, similar to UK legislation, that focus on *outcomes*;
- Develop consistent data collection systems that focus on outcomes;
- Resource NGOs to provide advocacy support to those wishing to assert their rights under equality and other anti-discrimination legislation;
- The Irish Government should recognise Travellers as a distinct ethnic group and this recognition should be reflected in all policies, programmes and institutional practices that impact on the Traveller community;
- Legislation should ensure the same rights for same sex couples as for heterosexual couples in the immigration process;
- The issue of resources should be addressed as part of implementing the commitment in *Towards 2016* to review expenditure on the equality infrastructure provided by the equality legislation.

### 7.3 Migration and integration

- Build on the Integration Strategy and address gaps such as the position of asylum seekers.
- All government departments need to be made accountable for integration;
- Substantial amendments need to be made to the Immigration, Residence and Protection Bill to address the concerns of NGOs. The Bill needs to have more of a humane focus rather than a security focus;
- Ensure that immigration legislation is underpinned by a human rights framework and that it is not in contradiction with integration policy;
- Include equality proofing in the Immigration, Residence and Protection Bill;

- Introduce a positive duty for public bodies with responsibilities in the area of immigration to eliminate discrimination and to promote equality and good relations in relation to migrants;
- Expand the definition of services under the Equal Status Acts to explicitly include the functions of the State so as to bring immigration control and police powers within the ambit of the Equal Status Acts;
- Ensure rights and entitlements for all migrant workers and their families including the right to marry and introduce a statutory entitlement to family reunification through primary legislation; [CHECK WHERE AT IN IRP]
- Ensure the protection of persons who become undocumented in Ireland;
- Introduce a Bridging Visa for persons who have become undocumented, through no fault of their own.
- Introduce procedural safeguards including an independent appeals mechanism, particularly in relation to decisions of immigration officers;
- Extend the power and remit of the Ombudsman.

## **7.4 Criminal justice**

### **7.4.1 Racism as a crime**

- Resolve deficiencies in the Incitement to Hatred Act as soon as possible;
- Immigration Officers should not be appointed as ELOs.

### **7.4.2 Counter terrorism**

- Put in place proofing mechanisms to ensure that ethnic minorities are not discriminated against through legislation, policy or procedure, as a result of counter terrorism measures.

### **7.4.3 Racial profiling**

- Extend the definition of services in the Equal Status Acts to ensure that An Garda Síochána and all with responsibility around security and law enforcement need to come under the remit of the equality legislation;
- Introduce procedural safeguards including the right to appeal;
- Extend the powers of the Garda Ombudsman to include e.g. immigration officers;
- Extend the definition of services in the Equal Status Acts to include the police.

## **7.5 Social inclusion**

- Re-introduce child benefit as a universal payment.
- Increase the payment to asylum seekers.
- Recognise the diversity within ethnic and religious minority groups.
- Introduce a dedicated funding line to provide core funding for anti-racism NGOs to help build their capacity to promote and enable social inclusion.

## 8. Conclusion

2007 was an important year in relation to combating racism in Ireland. It was a year that saw many positive developments. These included the establishment of an Office of the Minister for Integration and the introduction of a new Programme for Government which includes a number of objectives relating to greater participation of ethnic and religious minorities in civic, social, political, economic and cultural life. There is explicit inclusion of ethnic minorities within the National Action Plan for Social Inclusion which was launched in 2007. 2007 also saw the endorsement of a national Intercultural Health Strategy, which was launched in 2008.

However, while these developments progressed on the one hand, other policies targeting certain ethnic minorities such as dispersal and direction provision and the habitual residence condition, negatively impacted on their capacity to participate in society. Lack of policy and rights in certain areas such as family reunification continued to present issues for migrants. Existing policies such as policies on Traveller accommodation have not been implemented adequately or efficiently. On the legal front also, the 'Race' equality Directive has not been fully implemented; nor has implementation been sufficiently resourced. For a number of years, it has been hoped that new immigration legislation would address many of the issues facing migrants and NGOs have acknowledged that the development of legislation takes time. However, the long-awaited Immigration, Residence and Protection Bill has negated some of this hope as it fails to adequately consider a number of the concerns expressed by NGOs during the consultation process.

The key message from the 2007 Shadow Report is that there are a range of positive developments under way. However, the impact of these positive developments is currently or potentially undermined by inconsistency between these and other policies. Furthermore, there can be a gap between the policy and the reality on the ground. There needs to be equality proofing of government policy and greater monitoring of implementation and progress. This requires commitment in terms of political will and to providing the necessary resources to ensure the policies can be effectively implemented.

The role of NGOs is particularly evident in the responses by ECRI, ACFC and CERD and has been crucial in the development of anti-discrimination and related policy and legal developments at all levels. However, in recent years there have been concerns that the role of NGOs has been somewhat sidelined and undermined. Concern was against expressed following the negative response by politicians and elements of the media to the role played by NGOs including Pavee Point in their efforts to ensure a humanitarian response to the situation of Roma residing on the M50. The role must be safeguarded and enhanced through recognition and the provision of sufficient resources to enable the continuation of their work to address racism.

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## 10. Annex 1: List of abbreviations and terminology

ACFC	Advisory Committee on Framework Convention on the Protection of National Minorities
CEDAW	Committee for the Elimination of Discrimination Against Women
CERD	Committee for the Elimination of All Forms of Racial Discrimination
CPA	Combat Poverty Agency
CSO	Central Statistics Office
DEIS	Delivering Equality of Opportunity in Education
ECHR	European Convention on Human Rights
ECRI	European Council on Racism and Intolerance
EEA	European Economic Area
ELO	Ethnic Liaison Officers
FLAC	Free Legal Advice Centres
FRA	European Union Fundamental Rights Agency
GNIB	Garda National Immigration Bureau
GP	General Practitioner
HRC	Habitual Residency Condition
HSE	Health Service Executive
IBEC	Irish Business and Employers Confederation
ICCL	Irish Council for Civil Liberties
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICI	Immigrant Council of Ireland
IHRC	Irish Human Rights Commission
INTO	Irish National Teachers' Organisation
IRC	Irish Refugee Council
IRP	Immigration, Residence and Protection Bill
MIPEX	Migrant Integration Policy Index
MRCI	Migrants' Rights Centre Ireland
NESC	National Economic and Social Council
NCCA	National Council for Curriculum Assessment
NCCRI	National Consultative Committee on Racism and Interculturalism
NPAR	National Action Plan Against Racism
NTACC	National Traveller Education Consultative Committee
NUJ	National Union of Journalists
ORAC	Office of the Refugee Applications Commissioner
PPF	Programme for Prosperity and Fairness
RIA	Reception and Integration Agency
VEC	Vocational Education Committee

Note on terminology: the terms 'ethnic and religious minority groups', 'ethnic minority groups' and 'religious minority groups' are used throughout the report in the interest of facilitating consistency at a European level. However, other terms

are used when necessary where referring to specific pieces of legislation, e.g. 'race' is one of the grounds on which discrimination is prohibited in the equality legislation; the Scheme on Immigration, Residence and Protection Bill refers to the term 'foreign nationals'. Where the term ethnic and religious minority groups is used, Travellers are included. However, as the Government does not recognise Travellers as a distinct ethnic group it is sometimes deemed necessary to use the term 'ethnic minority groups including Travellers' to ensure that it is understood that the point is also relevant to Travellers.

The Police Force in Ireland is referred to as "An Garda Síochána", meaning "keepers of the peace" in the Irish language. The relevant terms, An Garda Síochána, Gardaí (police plural) and Garda (police, singular) are used throughout the report.

The equivalent of the Parliament in Ireland is "Dáil Éireann", from the Irish language. The terms "Dáil Éireann" or simply, "the Dáil" are used occasionally in the report.



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