



Joint Submission on Ireland's Third Periodic Report under the International Covenant on Economic, Social and Cultural Rights

Authored by Doras Luimní and the Irish Refugee Council

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Introduction

Doras Luimní and the Irish Refugee Council would like to extend our gratitude to the Department of Foreign Affairs and Trade for extending an invite to us to make a written submission on the draft report of Ireland's Third National Report to the United Nations Committee on Economic, Social and Cultural Rights (hereinafter 'the Report'). In the first instance we would like to say that we are very appreciative of all that the state, through successive governments, government agencies and civil servants, has done to improve the situation of people living in the country to enjoy economic, social and cultural rights since Ireland ratified the convention. We will continue to work with the government of the day to highlight areas where we believe that work remains to be done and look forward to maintaining a constructive working partnership.

We take on board the Department's caveat that the information in the report relates to the period ending on the 31st of December 2010 and the majority of our comments relate to that time frame. However, since the draft report does at times make reference to positive initiatives that have been announced post 31st December 2010, (see paragraph 448) in the interest of balance, we have drawn attention to occasions where previously positive initiatives from 2010 have had a negative impact in 2011.

About the organisations:

Doras Luimní is an independent non-governmental organisation which works to support and promote the rights of all migrants living in Limerick. We provide a range of services, some of which are designed to meet the specific needs of the migrant community and others which are available to the wider Limerick community. Our main areas of work are advocacy and campaigns, integration and intercultural work, capacity building, and the provision of an advice and information service. Our work contributes to the enhancement of Limerick as a place to live, through supporting and facilitating the development of a more integrated community which is welcoming to all.

The Irish Refugee Council is Ireland's only national non-governmental organisation working with and on behalf of refugees and asylum seekers. The main focus of our work is on those in the asylum system who are applying to be recognised as refugees. For almost 20 years, we have observed the changes that have been made in response to the arrival of refugees in Ireland. Based on extensive experience working directly with those affected, we have seen the huge financial cost of a failed system and the untold damage that has and is being done to men, women and children in the asylum process.

The Economic, Social and Cultural rights situation in Ireland as it pertains to asylum seekers, migrants and refugees

This submission raises concerns in relation to the law, policy and practice of the Irish government in relation to asylum seekers, recognised refugees and migrants.

The areas which we have identified of greatest concern are as follows:

- The right to work and the self-determination of asylum seekers.
- Health concerns for people living in Direct Provision, in particular the impact on mental health.
- Impediments to full enjoyment of the right to education for asylum seeker children.
- Right to support for domestic violence affected migrant women.
- The limited supports available for exploited migrant workers.
- The closure of the Office of the Minister for Integration and the downgrading of the work of integration from a Minister of State portfolio to an administrative office, now known as the Office for The Promotion of Migrant Integration.
- Access to social protection for migrants

PART A : Policies, Legislation, Conventions and Treaties

Immigration and Protection

1. Refugee Act 1996

We are very concerned at the reiteration of the focus on “minimum standards” in para. 69. We do not believe minimum standards should be the aspiration of a state when recognising the rights of individuals. We believe the state should aim for the highest standards and best practices in all areas of its work but particularly when it comes to the treating of vulnerable individuals in relation to their housing and lived experiential needs.

2. Immigration Act 1999, Immigration Act 2003 and Immigration Act 2004.

We are concerned by the use of the term “non-national” in paragraph 70. This is not an appropriate term to describe individuals generally. It negates their humanity and defines them as “others” to a degree that can be quite dangerous in public discourse, particularly when they are not a homogeneous group.

3. Immigration, Residence and Protection Bill 2010.

Reform of the Irish immigration and protection systems was first proposed in 2001 and initial preparations for the Immigration, Residence and Protection (IRP) Bill took place in 2001-2002. A Bill was published in 2008 but was withdrawn and a subsequent Bill was being debated when the last government fell in January 2011.

The current Minister for Justice, Equality and Defence re-introduced the IRP Bill 2010 and has indicated that there will be substantial amendments at an early date in the lifetime of the current government. Although the 2010 Bill contains some positive reforms, notably the introduction of a single procedure for the consideration of asylum and subsidiary protection claims, it also represents a missed opportunity to make real changes to the efficiency and procedural fairness of the Irish immigration and protection system.

Crucially, law reform of this nature will not affect the thousands of asylum seekers currently in Ireland and there is a substantial risk that the new law, in particular the promise that the single protection procedure will speed up the process, will distract from the dire living conditions in which current asylum seekers find themselves and will fail to bring in a truly independent and effective remedy against negative immigration and protection decisions.

Social Protection

1. Domestic Violence Act 1996

Although there are many supports now in place for individuals who experience domestic violence, there are individuals who, due to their “other” status cannot access these protections. People who are classified as the dependent spouse of work permit holders cannot access the remedies listed because once such a remedy is acted upon their circumstance change and they therefore no longer satisfy the conditions of their permission to reside in the state. This leaves them at risk of deportation or becoming undocumented if they choose to leave the violent situation or at personal risk to their health and well-being by remaining to live with the violence.

2. Child Care Act 1991

We are concerned about the claim in para. 75 that the “welfare of the child is of paramount importance.” The track record of the state’s capacity, through the HSE, of protecting separated children up and until December 2009 is questionable. 513 separated children have gone missing while in State care between 2000 and 2010, the whereabouts of 440 of whom are still unknown.¹

We are also concerned about the inconsistency in practice across the country with some separated children being the subjects of care orders whilst others are left with less protection.

We are concerned about children who are granted dependent status under a migrant worker’s permit to remain and are given no autonomous rights. These children, especially where they have experienced a violent domestic environment, have little recourse to safety as their residency and access to state family benefits are dependent on them living with the permit holder.

Housing

1. Housing (Miscellaneous Provision) Act 2009

We are concerned that para. 84 might imply a universal application of this Act. However, many migrants, irrespective of their residency status, cannot access social housing. This is because the social housing policies requires a significant number of reckonable years of residency prior and post the application date in order to qualify. This is a negative in the context of the provision of social housing, which also has the consequence that an individual deemed ineligible for social housing is automatically disqualified from state supplied rent relief for short term housing needs. This puts individuals at a very real risk of homelessness.

¹ *Missing Separated Children in Ireland*, Barnardos (2011), p.1. Available at <http://www.barnardos.ie/assets/files/Advocacy/Separated%20Children/Barnardos%20Briefing%20Note%20on%20Missing%20Separated%20Children.pdf> or *Separated Children Living in Ireland*, Ombudsman for Children’s Office (2010) available at http://www.oco.ie/assets/files/publications/separated_children/SeparatedChildrenProjectReport.pdf

Due to the 2004 Habitual Residence Condition (HRC)², the individual may not have access to homelessness services and supports. This is reinforced by the additional powers mentioned in para. 86. The guidelines and policy directions that are issued can be subjective and are open to interpretation. As a result, where you live can determine the level of service offered.³

2. Direct Provision and Dispersal

Direct Provision (DP) is the name given to the system for accommodating asylum seekers in Ireland. Under the scheme, asylum seekers live in hostel-style accommodation centres, mostly run by private contractors, where they receive full board and their basic needs are directly provided. There are a few centres which operate on a self-catering basis but these are the exception and are diminishing. Single residents and mothers with one or two children are often required to share bedroom and bathroom facilities. Whole families which include both parents are often allocated just one room. Under the scheme, asylum seekers cannot work and are not entitled to social welfare or child benefit. A weekly allowance of €19.10 per adult and €9.60 per child is provided.

The scheme was established in 2000 as a measure to provide a temporary accommodation solution for the growing number of asylum seekers arriving in Ireland. At the time it was envisaged that asylum seekers would spend approximately six months in DP. In reality the majority of asylum seekers live in the centres for more than three years.⁴

DP is operated on an administrative basis by the Reception and Integration Agency (RIA). RIA is a functional unit of the Irish Naturalisation and Immigration Service (INIS), a division of the Department of Justice and Equality.⁵

3. The Receptions Directive

Ireland has opted out of the Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (the Receptions Directive)⁶. As a result, Ireland has continued its policy of Direct Provision and Dispersal which negatively

² "The term "habitually resident" is not defined in Irish law, but it conveys a degree of permanence – meaning that a person has been here for some time, from a date in the past, and is intending to stay for a period into the foreseeable future. It implies a close association between the applicant and the country from which payment is claimed and relies heavily on fact." - <http://www.welfare.ie/EN/OperationalGuidelines/Pages/habres.aspx>.

³ You must have been assessed by a local authority as being eligible for and in need of social housing in the last 12 months. If you don't have a housing need assessment, you must go to the local authority to have your housing need assessed. The local authority must be in the area that you intend to live and claim Rent Supplement. Only when you are assessed as eligible for and in need of housing can you apply for Rent Supplement. Rent Supplement is not payable while the [local authority](http://whatsnew.citizensinformation.ie/2011/03/14/what-is-rent-supplement-who-can-qualify-for-rent-supplement/) is carrying out a housing needs assessment. <http://whatsnew.citizensinformation.ie/2011/03/14/what-is-rent-supplement-who-can-qualify-for-rent-supplement/>

⁴ *One Size Doesn't Fit All: A legal analysis of the direct provision and dispersal system in Ireland, 10 years on*, Free Legal Advice Centres (2010).

⁵ www.ria.gov.ie

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0009:EN:NOT>

impacts on the ability of asylum seekers to enjoy their economic, social and cultural rights and has refused to allow asylum seekers to work.

PART B : Articles of the Convention

Article 1: Right to Self-determination

Asylum seekers

As referred to in para. 93 of the Report, there have been no developments relating to this article of the Covenant and we think this is very disappointing.

Article 1, section 2 of the Covenant states: “in no case may a people be deprived of its own means of subsistence”. Since 2000 the government have operated a policy of direct provision and dispersal for asylum seekers. Through this policy and subsequent amendments to social protection legislation such individuals are now denied any independent means of subsistence. Asylum seekers are not allowed to work in order to accrue a living wage, they are not eligible to access further education in order to enhance their suitability for the Irish labour market. They are prohibited from maintaining themselves through personal autonomy in where they live, how they live, what they eat, with whom they share their personal space with and how they raise their children. This is also contrary to section 3 of Article 1 as it prevents such individuals from “the realisation of the right of self-determination.”

People living in Direct Provision must endure unsatisfactory living experiences due to the length of time it takes the state infrastructure to determine “Leave to Remain” applications and to address Judicial Reviews of decisions made with regards to immigration cases. As a result they must suffer the same psychological and physical deterioration as those who are experiencing long term unemployment, such as apathy, stress, depression and grave difficulties in entering or re-entering employment.⁷

Migrants

Dependants of Migrant Workers are denied their own means of subsistence, a right they previously enjoyed until 1st July 2009 when changes to the system were applied. Under the present system, they are totally dependent.

Article 2: Non-discrimination and Equality

Asylum seekers

The system of Direct Provision and Dispersal has the effect of denying asylum seekers of their enjoyment of their economic, social and cultural rights by virtue of their status contrary to Article 2(2).

⁷“Long-Term Unemployment as Social Exclusion”, Iskra Beleva (1997) available on <http://www.unesco.org/most/p86doc3.htm>

The cost of the DP system for 2010 was €79 million, while the projected cost for 2011 is €67.5 million. The system is costly in both human and financial terms, and cannot be justified by reference to the straitened economic circumstances in which Ireland now finds itself.⁸

Article 3: Equality between Men and Women

Asylum seekers

Female asylum seekers within the DP system are vulnerable to physical and sexual violence both from within their own families, from other DP residents and vulnerable to exploitation including by those outside the centres.⁹ In addition, women who have undergone trauma, especially sexual violence, before coming to Ireland may be further traumatised by living in a mixed sex environment.

The Irish state must take positive steps to protect the equal right of women to enjoy their rights to bodily integrity, physical and mental health through reorganising accommodation to allow for female only environments.

Female asylum seekers and poverty

Child benefit in Ireland is traditionally paid to mothers as a means to afford women some independent financial security. However, asylum seekers are not eligible for child benefit, but receive only a weekly allowance of €9.60 per child. In these circumstances, mothers find it next to impossible to provide for their children's basic needs.

Violence Against Women

Doras Luimní believe that in its understanding of Violence Against Women the state have a traditional approach with the needs of a monoculture influencing policy development. We note that despite being brought before the Oireachtas (Houses of Parliament) for the first time over 10 years ago and on a number of subsequent occasions (most recently in July 2011), the Female Genital Mutilation Bill has yet to be passed into law. There are at least 3,000 women and girls affected by FGM in Ireland today and an unknown quantity at risk for the future.¹⁰ Even when passed this legislation will not do anything for those already

⁸ "It is widely acknowledged that the substitution of benefits in kind is more expensive than cash benefits (Home Office 1998)", Schuster, L. 'A comparative analysis of the asylum policy of seven European governments'. *Journal of Refugee Studies*, 13 (1)(2000), p 118-131, at p. 6.

⁹ *Understanding Gender based violence: an African Perspective*, AkiDwA (2008); *Am only saying it now: experiences of women seeking asylum in Ireland*, AkiDwA (2010); 'Asylum seeker rape case raises security fears'. *Irish Examiner*, 13 September 2011.

¹⁰ Criminal Justice (Female Genital Mutilation) Bill [Seanad]: Second Stage Wednesday, 13 July 2011 available on <http://debates.oireachtas.ie/dail/2011/07/13/00022.asp>

mutilated but it will be able to offer some protections to young girls who are currently under threat.

Dependent spouses of work permit holders, women not deemed to be HRC compliant and women living in Direct Provision Centres do not seem to be considered to any great extent in the infrastructures outlined in para. 143-45 of the Report. Explicit recognition of the vulnerability of these three groups to domestic violence and exploitation is required.

Steps to overcome Human Trafficking

Doras Luimní supports the work of the Anti-Human Trafficking Unit but we remain concerned about a number of issues that the legislation and subsequent policy development does not address. Although the referral mechanisms are in place, and continue to be honed, we remain of the opinion that they are cumbersome particularly outside the greater Dublin area. We also believe there is too much of a reliance on an overstretched state supports system to meet the needs of these specific groups and we are concerned that said supports do not have the capacity. This is particularly the case in relation to victims from EU states. We believe that accommodation for victims from outside the EU is wholly inappropriate and the use of Direct Provision Centres should stop immediately.

Article 6: Right to Work

Asylum seekers

Asylum seekers do not have the right to work in Ireland, regardless of the length of time they have been in the asylum system. Asylum seekers cannot avail of the free university education or vocational training that is available to Irish citizens. As asylum processing times can run for up to five or more years, this leads to asylum seekers becoming de-skilled and decreases their chances of obtaining full and productive employment in the future.

Access to the Labour Market

Doras Luimní encourage the many endeavours made by the current and previous governments to address unemployment. However, for some members of society opportunities for employment are restricted due to state activities. Individuals who receive “Leave to Remain” after spending years in the asylum system are at immediate risk of long term unemployment. This is due to the lengthy periods spent living in such conditions in which time they become deskilled, demotivated, institutionalised and dependent. Many have acquired mental health issues due to the Direct Provision experience or a lack of relevant therapeutic care for pre-arrival situations.

We believe that migrant workers are under pressure to accept deteriorating working terms and conditions simply to retain their jobs in the current economic climate. The power of the

relationship, despite improvements, still rests very much with the employer rather than the employee. The evidence presented to the state is that migrant workers are the first to be let go from employment¹¹ and are the last to be employed¹² yet they are being scape-goated in public discourse as being partly responsible for the increasing unemployment figures in the state. Further work is needed by government and political leaders to redress this perception.¹³

Equality in Employment

Doras Luimní is concerned that para 163(8) glosses over the serious disadvantage this clause causes to non-practitioners of the Catholic or Church of Ireland faiths. The equality structure should promote diversity in the workforce in all elements of its infrastructure and should not allow for individuals to be excluded from any area of life, including employment opportunities, due to any characteristic.

Redress for Migrant Workers

Although there is a significant amount of legislation in the area of employment, in our experience redress for migrant workers who have experienced exploitative labour practices is limited. There is no major deterrent for unscrupulous employers to engage in illegal practices as if they are caught at most the outcome is that they pay the employee what is owed. There is very little recourse to compensation or criminal liability.

Article 9: Right to Social Security

There are many barriers to social protection in the Irish state. The Habitual Residence Condition is often misinterpreted and is used to exclude individuals from receiving support from the state when faced with poverty. This has the greatest impact on migrants. Immigration stamps and the conditions attached to them are also used as a means to refuse social welfare payments to individuals who are at risk. There appears to be a lack of understanding by government officials about how various policies should be implemented, about the purpose of the social protection system and about their diverse customer base.

Article 10: The Rights of the Family

Asylum seekers

¹¹ *Towards a Strategy for the Inclusion of Migrant Workers in Trade Unions*, Siobhan Philips (2011)p. 7 available on http://www.ictu.ie/download/pdf/ictu_migrant_workers_a5.pdf.

¹² *Discrimination in Recruitment: Evidence from a Field Experiment*, Economic and Social Research Institute (2009) available on http://www.esri.ie/news_events/latest_press_releases/field_study_reveals_stron/

¹³ *How Politicians Construct Transnational EU Migrants* Haynes, Amanda, Power, Martin J & Devereux, Eoin (2010) available on <http://dorasluimni.org/images/stories/pressreleases/transnationalmigrantsreport-nov2010.pdf>.

We submit that the system of DP fails to provide protection to the family unit due to its negative impact on health, especially mental health, and family relationships. The cramped and strained environment of the DP centre, in addition to the stress caused by long periods of inactivity, leads to domestic violence and in some cases family breakdown.

The institutional setting of the DP centres is entirely unsuitable for family life. Parents are denied the opportunity to provide for their children, to manage their diets, or to control with whom their children come into contact. Many children growing up in DP have never seen their parents cook or work, nor have they ever slept in a separate bedroom from their parents. At this point it is not possible to evaluate the future impact that prolonged institutionalisation will have on the children growing up in DP.

In addition, the significant delays in dealing with family reunification applications leaves families entitled to be together in Ireland separated for lengthy periods and family members abroad sometimes left in very vulnerable circumstances.

Asylum Seeker Children

Babies born to asylum seekers while they are awaiting a decision on their protection application are obliged to lodge an application for asylum in their own right. This is an unnecessary extra bureaucracy in an already over complex protection system.

We also believe that the focus of the state and other agencies is often times creating a hierarchy of need. Accompanied minors living in the Direct Provision need to have the same consideration as other children in the state. They are often overlooked and remain invisible within their parents' cases. The needs of Children in Direct Provision are not assessed on their own merit. The children are housed there because of their parents request for asylum. Finally, after 10 years, the state determined it was inappropriate to house unaccompanied minors in hostel situations. Indigenous children are only as a last resort put into institutions. Accompanied children are housed in hostels that are forms of institutions, why do they not get the same consideration of unaccompanied or indigenous children? Note the recent outcry when the Priory Hall Families were housed in the Regency Hotel and the signs they used in their protest "Refugees in our own country". We believe that is now socially acceptable to house "refugee" families in hotels for indeterminate lengths of time but not Irish families. This is a direct link to the normalisation of DP.¹⁴ We also maintain that to enforce children to remain in the Direct Provision system, an environment that is volatile, invasive and institutional, has negative impacts on the children who are housed there for long periods of them, sometimes five plus years. This is not good practice to address the children's needs.

¹⁴ Dáil Debates Priority Questions: Building Regulations available on <http://www.kildarestreet.com/debates/?id=2011-10-20.422.0>

Child Poverty

There are approximately 2,000 children living in Direct Provision.¹⁵ The minimal allowance of €19.10 per adult and €9.60 per child means that children are denied the opportunity to participate fully in the extra-curricular aspects of school life and to socialise with their peers in the local community. The crowded and confined conditions in the DP centres leave little room for children to play or study.¹⁶

Separated Children

We welcomed the introduction of the equity of care model for separated children seeking asylum in Ireland. However, three significant failings persist in the protection of separated children.

Firstly, we are concerned about the numbers of children who may be inappropriately age assessed and therefore are being placed in adult asylum seeker accommodation centres.

Secondly, there is anecdotal evidence to suggest the number of children who go missing in the asylum system is growing. Para. 284 mentions that the focus of child care services has been on “protection”. However, we have already highlighted above the situation of the significant number of children who have gone missing from state care over the last ten years.

Thirdly, the reference to aftercare for aged out separated children in para.303 belies the reality in which 18 year olds are removed from familiar surroundings and dispersed to adult accommodation in another county, often in the middle of the school year. This removes them from the supports of foster families, friends and school and negatively impacts on their education as well as their emotional development and security. RIA maintains that transfers so not occur in the middle of a school year but this is contradicted by our experiences working on the ground.¹⁷

Article 11: The Right to an Adequate Standard of Living

The Right to Adequate Food.

Asylum seekers

¹⁵ Reception and Integration Agency, *Monthly Report* (June 2011), available at [http://www.ria.gov.ie/en/RIA/RIAJune\(A4\)2011.pdf/Files/RIAJune\(A4\)2011.pdf](http://www.ria.gov.ie/en/RIA/RIAJune(A4)2011.pdf/Files/RIAJune(A4)2011.pdf)

¹⁶ *Direct Provision and Dispersal: is there an alternative?*, Irish Refugee Council on behalf of the NGO forum on Direct Provision (2011).

¹⁷ ‘Mustafa came as a teenager, but still faces deportation’, *Irish Examiner*, 29 September 2011. Available at <http://www.examiner.ie/ireland/mustafa-came-as-a-teenager-but-still-faces-deportation-169015.html>

In our experience the standards in DP Centres can be arbitrary and often there is inadequate food to meet the needs of the residents. One of the most common issues raised by asylum seekers living in DP is diet over which they have little or no control. However, due to denied access to self-catering accommodation, the labour market and social supports, residents cannot purchase adequate food themselves and provide for themselves. The meagre allowance of €19.10 (adult)/€9.60 (child) does not cover the weekly nutritional needs of an adult or child. Catering on a mass scale for a very diverse group of people cannot meet their needs on a long terms basis, especially those of children or adults with particular physical ailments.

There is inadequate provision for special dietary needs. Residents often complain that foodstuffs are of poor quality or out of date and that there is a lack of fresh vegetables.¹⁸ Childhood nutrition is an ongoing challenge and there have been reports of the HSE offering to take children into care, or partial care, in cases of severe malnourishment, rather than facilitating parents in catering for their own children.

The Irish Refugee Council has also received reports from a small number of centres where catering was not provided on a daily basis and residents regularly had to ask management for money with which to buy food.

The Right to Housing

Asylum seekers

The aspiration that every household would be able to access housing “suited to its needs, in a good environment” is not the reality. Asylum seekers are one such group who are denied such a home.

As the accommodation of asylum seekers does not fall under the auspices of local authorities, the 2008 Housing Needs Assessment does not reflect the overcrowding situation in DP. RIA produces monthly and annual reports containing detailed statistics on occupancy and capacity of each accommodation centre. However, the reports do not detail floor space or the number of bedrooms per centre. The contracts between the Department of Justice and the private operators emphasises the “maximisation of capacity in each bedroom at all times”.¹⁹ Up to five people can be required to share one bedroom. Parents share with school going children, contrary to the Housing Act 1966²⁰, or two unrelated women with their children will be placed together. The Irish Refugee Council and Doras

¹⁸ AkiDwA (2010); ‘My soul destroying life as an asylum seeker’, *The Journal* <http://www.thejournal.ie/readme/column-my-soul-destroying-life-as-an-asylum-seeker/>

¹⁹ FLAC (2010), p.92.

²⁰ S.63 Housing Act 1963: ‘A house shall for the purposes of this Act be deemed to be overcrowded at any time when the number of persons ordinarily sleeping in the house and the number of rooms therein either
a) Are such that any two of those persons being persons of ten years of age or more of opposite sexes and not being persons living together as husband and wife, must sleep in the same room, ...’

Luimní have also received complaints of inadequate sanitary facilities for the number of people accommodated. In one instance, a hostel was left without shower facilities for several weeks and the residents were obliged to use the facilities in another property operated by the same contractor.²¹

Caravan accommodation is still used in one centre and 323 individuals were housed in this accommodation in 2010.²²

RIA's house rules provide for the expulsion of a resident in certain circumstances, usually persistent violent or aggressive behaviour, vandalism or damage to property or allegations of such conduct.²³ According to media reports, 12 asylum seekers have been expelled from DP centres in the last 18 months.²⁴ Some asylum seekers claim that the expulsions came about where individuals were seen to persistently complain about conditions.²⁵ Once outside the DP system, asylum seekers are forced into homelessness and destitution. There is no consideration for the fact that many of the individuals involved have undergone trauma and suffer from mental health problems, exacerbated by the living conditions in DP.

Migrants

Another group that encounter difficulties are Stamp 4 visa holders who do not have refugee status. The interpretation that is being applied to the Social Housing Policy appears to be that such individuals have to have 5 years reckonable residency prior to applying for social housing which is very difficult as it is in the transition period from their previous Stamp to Stamp 4 that their greatest housing need occurs.

Article 12: Right to Health

Mental Health Services

Evidence has shown that living in DP and living with Domestic Violence impacts detrimentally on a person's mental health yet Irish State policy enforces individuals to remain in these circumstances for excessively long periods of time without recourse to a better quality of life, suitable remedies and a solution to the health issue.

Asylum seekers

²¹ Further examples of overcrowding, including testimonies of residents, can be found in *One Size Doesn't Fit All* (2010) pp. 89-92.

²² RIA, *Annual Report*, (2010), p.20. Available at

<http://www.ria.gov.ie/en/RIA/RIA%20Annual%20Report%202010.pdf/Files/RIA%20Annual%20Report%202010.pdf>

²³ Minister for Justice Dermot Ahern, Written Answer in response to Deputy Pat Rabbitte, TD. (1 October 2008).

²⁴ 'Asylum seekers evicted "as last resort"', *Irish Examiner*, 10 September 2011. Available at www.examiner.ie

²⁵ *Ibid.* .

The system of DP coupled with the stress and long delays in the asylum process has a detrimental effect on physical and mental health. Studies show that there is a link between both communal living and long periods of unemployment and inactivity and health problems.²⁶

‘Reach Out’ – the National Strategy for Action on Suicide Prevention (2005-2014) recognises asylum seekers and refugees as being one of the vulnerable groups at risk of “mental health problems and of deliberate self-harm and other suicidal behaviour”²⁷ and determines that action should be taken to:

*“Develop services, supports and information / education resources to improve mental health and well-being and reduce any increased risk of suicidal behaviour among marginalised people, learning from the review in 15.1, in consultation with members of marginalised groups.”*²⁸

49 people have died while in DP but the Department of Justice has been unable to provide information on how many died by suicide or as to the cause of death in these cases.²⁹ Without this information, it cannot properly be determined whether the DP system itself is contributing to these deaths and therefore whether the state is failing in its duty of care towards those who are its responsibility whilst in the state.

The funding of mental Health Provision to Asylum Seekers is a cause for concern. The policy of DP and dispersal creates barriers to accessing appropriate counselling, as asylum seekers often must travel long distances and have limited financial means to do so. This negates any therapeutic advantage of the session as it is surrounded by stress. We recommend that the resources spent on service provision and travel should be redirected to a regional health service.

Disability

The DP system accommodation is often inappropriate for those with disabilities. There are a number of residents with mobility problems known to the Irish Refugee Council. In one case a single woman in a wheelchair is accommodated on the second floor in a building with

²⁶ *Asylum seekers – don’t let them just sit and wait, six months in a centre is the limit*, Dutch Refugee Council (1997), p7.; Reilly, C. ‘Bearing culture in mind, *Irish Times* (5 January 2010); Stewart, R. *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 (2007); McMahon, J. *et al*, ‘A survey of asylum seekers’ general practice service utilisation and morbidity patterns’, *Irish Medical Journal* 100 (5)(2007), p461; Amnesty International Irish Section, Mental Health Lobbying Network, *Background Note on Mental Health and Asylum Seekers/Refugees*, (2008).; Nolan, B. *et al*, ‘Unemployment and Health’ in Cleary, A. & Treacy, M.(ed), *The Sociology of Health and Illness in Ireland*, (Dublin, University College Dublin Press, 1998), pp.104-5.

²⁷ ‘Reach Out’ – the National Strategy for Action on Suicide Prevention (2005-2014), DOHC, (2005), p. 37

²⁸ *Ibid*.

²⁹ Minister for Justice, Alan Shatter TD, Written Answer to Deputy John Lyons, TD, (1 June 2011) Available at <http://www.kildarestreet.com/wrans/?id=2011-06-01.1033.0&s=section%3Awrans+speaker%3A325#g1034.0.q>

carpeting and with a lift which is frequently out of service. She requires assistance to come downstairs and lives in fear that a fire will break out when she is in her room and no one will come to assist her.

Article 13: Education

Asylum seekers

Child asylum seekers can attend primary and secondary schools on the same basis as Irish children. However, several issues impinge on the ability to fully enjoy the right to education and to reach their full potential. First, many families report difficulties in accessing school transportation, which is essential as often accommodation centres are quite isolated.³⁰ Secondly, the institutionalised poverty which DP forces upon asylum seekers means that children cannot fully participate in the extra-curricular and socialisation aspects of school life.

Thirdly, residents of DP may be transferred at little notice to a different part of the country, sometimes in the middle of the academic year interrupting school life.³¹ Transfers are increasingly common as RIA has adopted a policy of downsizing and discontinuing contracts with some DP operators in line with the drop in asylum applications. In addition, Ireland continues to deport school age children along with their families interrupting their education.

The vast majority of national schools in Ireland are still run by religious denominations. In areas where demand for school places exceeds supply, schools operate an admissions policy of giving first priority to children of their denomination and/or to children whose parents or siblings are past pupils of the school. This disproportionately discriminates against asylum seekers who are less likely to fulfil these conditions.³²

Adult asylum seekers can access language and computer courses while in Direct Provision. However, capacity is very limited and waiting lists are long. There is no opportunity for adults to improve their skills, education or experience while waiting for their asylum and subsidiary protection applications to be processed, which can take in excess of five years.

Migrants

There is a growing problem of individuals existing in Ireland but not able to really live and participate. Doras Luimní would question the appropriateness of including the Adult English

³⁰ AkiDwA (2010), p12.

³¹ See *Impact of the Transfer System in Direct Provision* Doras Luimní, (2010) available on <http://www.dorasluimni.org/images/stories/PDF/transfersystemimpact.pdf>.

³² This has occurred to Traveller children who similarly find it impossible to fulfil the family requirement. A 13 year old Traveller recently took a case against this admissions policy under the Equal Status Act, the case is ongoing in the High Court.

Language programme within the framework of the Adult Literacy programme. In order to acknowledge the importance of communication, a separate English language programme for adults and children should be funded and rolled out across the state. Without access to specialised language education, immigrants will not have the opportunity to become engaged members of society and fully realise their economic, social and cultural rights. The Report states in para.480 that “priority is given to learning the language of instruction” yet English Language Support Teachers have been cut throughout our educational system. Similarly in para. 483 it is difficult for the VEC sector to take up the Adult Refugee programme en masse in the face of continuing budget cuts.

Migrants

The Children of work permit holders are not eligible to access the “Free Fees” Initiative and are obliged to pay so-called “International Fees” in order to take up a third-level offer of a place of study. These can be up to three times more expensive than the cost associated with their Irish peers and is often times prohibitive for their parents working in the Irish economy. This is despite many of these children having spent a significant amount of their childhood and schooling in Ireland.

Para. 478 of the Report is misleading as the Office of the Minister for Integration no longer exists.

Article 15: The Right to take Part in Cultural Life

Due to the closure of the Office of the Minister for Integration, para. 516 and para. 522 are no longer effective or in place. Although the Report refers to an awareness raising campaign in 2006 (para. 518), little has been done in the intervening 5 years.

As a consequence of the difficult economic circumstances in Ireland, there has been a hardening in public attitude and discourse towards migrants and now more than ever there is a need for positive messaging and supportive campaigns. The onus is being put on the NGO sector to fill this gap yet the resources of the Community and Voluntary Sector are being cut and threatened continually due to austerity.

CONCLUSION AND RECOMMENDATIONS

Doras Luimní and the Irish Refugee Council recognise that the current economic climate has placed strains on all state resources. However, financial limitations do not excuse a state from its obligation to respect, protect and promote economic, social and cultural rights.

In the case of asylum seekers, the policy of the state has the direct effect of denying asylum seekers the enjoyment of the rights under the ICESCR. As mentioned above, the system of Direct Provision and Dispersal has a significant cost implication and therefore cannot be supported on financial grounds. We recommend that resources be re-directed to an alternative system of accommodation and the adoption of low cost policies for the improvement of the socio-economic rights of asylum seekers. We consider that there are migrant specific gaps in the report to the ICESCR. As we stated above we acknowledge the work that is being done at all levels to ensure individuals are being enabled to access their rights within the state however, we are concerned that a number of individuals are being excluded from realising their rights because of the arbitrary migration stamps being applied to them rather than any real or significant reasoning. We would be concerned that this application of status by the Department of Justice is detrimental to individuals realising their rights as agreed by the state ratifying the Treaty and thus goes against the spirit of the convention. We recommend that exemptions from access to state services are reviewed and a policy granting services to those with a genuine need as opposed to excluding on the basis of immigration status be considered.

Recommendations:

1. End the system of long term accommodation in direct provision.
 - a. Remove to self-catering accommodation after a period of 6 months.
 - b. Increase the financial allowance to allow for a reasonable level of subsistence.
2. Provide for female only accommodation.
3. Cease the practice of transferring school age young people, including former separated children, in a manner that interrupts their schooling life.
4. Return to the Immigration, Residence and Protection Bill at the earliest opportunity and ensure that it contains the safeguards, structures and procedures necessary to introduce a fair and efficient system for migrants, asylum seekers and refugees.
5. Review determining factors to grant state supports to those with an identified need.

This submission is presented by Doras Luimní and the Irish Refugee Council