



Community Work Ireland is the new name for the
Community Workers' Co-operative
Continuing to work collectively to support and
promote community work as a means of
addressing poverty, social exclusion and
inequality and advancing human rights

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Direct Provision and the International Protection Application Process

Community Work Ireland Submission to the Joint Oireachtas Committee on Justice and Equality

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Introduction

Established in 1981¹ Community Work Ireland is the national organisation that promotes and supports community work/community development as a means of addressing poverty, social exclusion and inequalities. CWI is a membership organisation comprising over 800 individuals and organisations that support community work/community development and work in the most disadvantaged communities throughout Ireland. For 25 years Community Work Ireland, has played an important role in working to advance policy and programmes that meet the real and pressing needs of disadvantaged communities throughout Ireland seeking to ensure the meaningful participation of communities in the decision-making processes that affect their lives.

Nationally we participate as active members of the Irish Refugee and Migrant Coalition and represent the coalition on the Department of Justice committee on Community Sponsorship, we are members of the European network against Racism, the Community Platform² and through the Platform the Community and Voluntary Pillar³. Internationally we are represented on the European Community Development Network⁴

¹ As the Community Worker's Co-operative

² The Community Platform is a network of 28 of the main national organisations working to address poverty, social exclusion, and inequality. Our objectives are to facilitate solidarity amongst the organisations involved, organise community sector participation in partnership arrangements with the State, and establish a critical voice for equality, rights and anti-poverty interests at a national level.

³ http://www.esr.ie/ESR_papers/vol37_3/03%20Larragy.pdf

⁴ <http://eucdn.net/>

and the International Association for Community Development⁵, the National Women's Council of Ireland⁶ and the Coalition to Repeal the Eighth Amendment. CWI is also a member of the National Women's Council of Ireland and the SDG Coalition.

Community development is a professional discipline and approach based on the principles of participation, collectivity, community empowerment, social justice & Sustainable development, human rights, equality & anti-discrimination⁷. It is an approach to addressing significant social and economic issues that emphasises early intervention and the involvement, engagement and participation of those affected by these issues in the process of needs identification and strategy/project development to address these needs.

Community development involves promoting the rights and voice of marginalised groups including refugees, asylum seekers, other people who are migrants, Travellers, Roma, other minority ethnic groups, , LGBTI people, older people and people with disability⁸ recognising the multiple barriers and forms of oppression and discrimination experienced in particular, by women from these communities.

It is within this context that CWI welcomes the opportunity to submit to the Committee our views on the Direct Provision system and the International Protection Application Process in Ireland.

Context

Forced global migration and the displacement of people from their home countries due to war and persecution, is a current and increasing reality throughout the world. It is a reality which presents and will continue to present serious challenges for those with no choice but to leave their homes in search of asylum, safety and a secure future for themselves and their families.

It is a reality too, which places a significant responsibility on receiving countries to develop systems that meet the needs of asylum seekers in a manner that protects and promotes their human rights, dignity, empowerment and inclusion. A responsibility to recognise and respond appropriately to the diversity that exists amongst asylum seekers in terms of religious, ethnic and cultural backgrounds as well as gender, age, family status, marital status, levels of ability/disability and sexual orientation.

The system of direct provision in Ireland since its introduction 19 years ago, has long been an issue of concern for Community Work Ireland members and has been well documented as having negative human rights implications for those who are placed there and has been widely condemned for the damage that it does. Nevertheless, successive governments have systematically refused to develop an alternative model.

In 2011 the UN Committee for the Convention on the Elimination of Racial Discrimination CERD Concluding Observations 2011⁹ stated that 'The Committee is concerned at the negative impact that the policy of 'direct provision' has had on the welfare of asylum-seekers who, due to the inordinate delay in the processing of their applications....as well as poor living conditions, can suffer health and psychological problems that in certain cases lead to serious mental illness.....(arts. 2, 5 and 6)

The Committee encourages the State party to take all necessary steps with a view to expediting the processing of asylum applications so that asylum-seekers do not spend unreasonable periods of time in asylum centres which might have negative consequences on their health and

⁵ <http://www.iacdglobal.org/>

⁶ www.nwci.ie

⁷ All Ireland Standards for Community Work - <http://communityworkireland.ie/all-ireland-standards-for-community-work/>

⁸ ibid

⁹ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/IRL/CO/3-4&Lang=En

general welfare. The State party should take all necessary measures to improve the living conditions of asylum-seekers by providing them with adequate food, medical care and other social amenities including also a review of the direct provision system’.

In 2014 the UN Human Rights Committee stated that ‘The Committee is concerned that victims of trafficking who exercise their right to apply for asylum are not granted a “recovery and reflection period” or temporary residence permission and are held in Direct Provision centres. It is also concerned at inadequacies in the legal support provided to victims of trafficking and the absence of legislation protecting their rights (arts. 2 and 8). The State party should ensure that effective and appropriate assistance and protection is afforded to potential victims of trafficking, including by adopting without further delay the necessary acts of legislation which are compatible with international legal standards’¹⁰

In its report on Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women the Irish Human rights and Equality Commission highlighted a number of key issues affecting women in the direct provision system and stated that, ‘the Commission is of the opinion that accommodation of victims of human trafficking in direct provision centres does not comply with the Convention. The Commission recommends that victims of human trafficking be accommodated in appropriate single-gender facilities with access to the necessary services and supports. This approach echoes recommendations made by civil society organisations working with victims of human trafficking’¹¹

They noted significant levels of abuse and harassment experienced by women in direct provision centres ‘The Commission was struck during its visits by reports of harassment experienced by female residents of both direct provision centres. Women made reference to catcalling, verbal abuse and propositioning, and the effect this behaviour had on their wellbeing. 13 The Commission calls for the recommendations of the Working Group on the Protection Process to be fully implemented. The Commission recommends that gender-sensitive mental health and counselling services be provided to all women living in direct provision, and that the implementation of the Reception and Integration Agency’s guidelines on sexual violence be monitored as part of inspections of direct provision centres. The Commission also recommends that both publicly and privately owned centres are made subject to the Public Sector Duty, and that that all staff are trained in gender equality and human rights’.

Regarding the rights of children in direct provision, the UN Committee on the Rights of the Child stated in March 2016 that ‘The Committee is concerned about reports that:

- (a) Numerous centres do not have adequate facilities for families with young children;
- (b) Asylum and refugee accommodation centres do not offer adequate child protection services, sufficient access to education for children or sufficient access to appropriate clothing and food in general, including culturally appropriate food for minority faith children accommodated in such centres;
- (c) The child allowance provided to asylum seekers has not kept pace with the rises in cost of living and inflation in the State party.

The committee recommended that the State party establish and implement regulations to ensure that the business sector, including in the context of public procurement, complies with international and national human rights, labour,

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https://www.ihrec.ie/app/uploads/download/pdf/un_hrc_concluding_observations_on_ireland_and_icpr_24_july_2014.pdf

¹¹ https://www.ihrec.ie/app/uploads/2017/02/Overview_Ireland-and-the-Convention-of-the-Elimination-of-Discrimination-against-Women.pdf

environment and other standards, particularly with regard to the rights of the child. In particular, it recommends that the State party:

(a) Strengthen its regulatory framework for the industries and enterprises operating in the State party to ensure that their activities do not negatively affect the rights of the child or endanger environmental and other standards;

(b) Establish independent mechanisms to monitor the implementation by business enterprises of international and national environment and health standards; appropriately sanction and provide remedies when violations occur; and ensure that appropriate international certification is sought;

(c) Require companies to undertake assessments, consultations and full public disclosure of the environmental, health-related and human rights impacts of their business activities and their plans to address such impacts;

(d) Be guided by the United Nations “Protect, Respect and Remedy” Framework, accepted unanimously in 2008 by the Human Rights Council, while implementing these recommendations¹².

The Special Rapporteur on Child Protection, Geoffrey Shannon, has also raised concerns about the detrimental effect of Direct Provision accommodation on children and on parents’ ability to provide adequate care. He describes the system as amounting to institutionalised poverty.¹³

The International Protection Application Process is complex, drawn out and fails to fully recognise and cater for the support needs of those who have experienced severe trauma and who are not au fait with the application process.– additional resources are required for the Legal Aid Board and the IPO to ensure the integrity of decision making process. Many asylum seekers are now waiting 15 months for their first interview. The process is a lengthy and difficult and complicated and frequently applicants do not get benefit of legal advice. People need guidance and advice to ensure they give the full information needed to support their application. This frequently is not the case leading to a 2-tier system for those with and without additional legal support.

The UN Human Rights Committee noted in 2014 that ‘The Committee is concerned at the lack of a single application procedure for the consideration of all grounds for international protection, leading to delays in the processing of asylum claims and prolonged accommodation of asylum seekers in Direct Provision centres which is not conducive to family life. It also regrets the lack of an accessible and independent complaints mechanism in these centres (arts. 2, 17 and 24).

The Committee recommends that the State party take appropriate legislative and policy measures to establish a single application procedure with a right of appeal to an independent appeals body without further delay, including the adoption of the Immigration, Residence and Protection Bill. It should also ensure that the duration of stay in Direct Provision centres is as short as possible and introduce an accessible and independent complaints procedure in the centres’¹⁴.

Recommendations

¹² https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CRC/C/IRL/CO/3-4&Lang=En

¹³ https://www.irishrefugeecouncil.ie/wp-content/uploads/2013/12/DP_Report_Final.pdf

¹⁴ *ibid*

CWI members are of the view that the current system of direct provision is not fit for purpose, undermines the human rights of asylum seekers and contributes to the perpetuation of a cycle of poverty, segregation and alienation of asylum seekers, contributing to increased racism and divisions within Irish society.

Support for Community Development

CWI members advocate for true integration and the empowerment of asylum seekers to have a voice in Irish society. This requires a process of community development and engagement which should be recognised and resourced. We therefore call for the Introduction of a distinct funding line between the Department of Justice and Equality and the Department of Rural and Community Development for community development and integration supports for asylum seekers which will; create the supports and the spaces for the voices of the refugees themselves to be heard in the development of responses to meet their needs; address opposition, antagonism and racism; put in place supports for particular groups of asylum seekers including women (who may for example have experienced violence or separation from their children) children (who may for example have experienced violence or separation from their parents) , older people and victims of the wars in their country of origin.

Direct Provision

- Undertake a root and branch review of the system from, proofing all aspects from a human rights and equality perspective
- Develop an action plan for the overhaul of the system based on human rights standards and international best practice to include:
 - Flexible provision based on the needs and concerns of individual asylum seekers, their background and experience (e.g. targeted supports for children, women who have experienced violence and rape, older people);
 - Provision of adequate income which maintains a standard of living above the poverty line
 - Provision of accommodation which respects and promotes the dignity and autonomy of asylum seekers;
 - Wrap around services including medical and psycho-social care that are available and easily accessible;
 - Future proofing of the system to ensure that it will be fit for purpose in the coming years in acknowledgement of the 2,000 asylum seekers who come and are very likely to continue to come to this country on an annual basis;
 - Recognition of the importance of integration into Irish society from day 1 of an asylum seekers arrival in Ireland working from the assumption that they will be given refugee status, subsidiary protection or leave to remain
- Remove the profit motive from the system and identify a key role and allocate supports for NGOs and social housing organisations in the provision of accommodation and integration supports for asylum seekers.

International Protection

Ensure a fair and efficient protection procedure - The introduction of the International Protection Act provides an opportunity to create a system which is fair and efficient and which grants protection for those who need it. In order to effectively realise this, applicants must have access to early legal advice and representation. The procedure must also be adequately resourced with expertly trained personnel to ensure fair and high-quality decision-making and to address the current backlog¹⁵.

¹⁵ Irish Refugee and Migrant Coalition - Pathways to Protection and Inclusion: Ireland's role in global refugee protection and migration movements

Other forms of Protection

Enact effective hate crime legislation and a comprehensive national anti-racism strategy. At a time when racism is on the rise, we need to send a clear message that racism and hate have no place in our communities and that our society should be inclusive of all. For the Department of Justice and Equality to introduce effective hate crime legislation and a comprehensive National Anti-Racism Strategy. This will assist in tackling hate crime and finding effective ways to address all forms of racism and prejudice¹⁶.

¹⁶ *ibid*