



Pavee Point Travellers Centre's

Response to the draft

Irish Report on the ICCPR

November 2006

Pavee Point Travellers Centre welcomes this opportunity to respond to the preliminary draft of Ireland's third report under the International Covenant on Civil and Political Rights (ICCPR). In responding to this report, Pavee Point will use the headings or Articles and /or paragraph numbers of the State's draft report.

Introduction

In paragraphs 4 - 9 the incorporation of the European Convention on Human Rights (ECHR) is discussed. Pavee Point has a number of questions in this regard:

- ∂ What impact has this incorporation made in practice? These introductory paragraphs give the implication that progress has been made but there would be little sense of that on the ground.
- ∂ With regard to Section 3 of the 2003 Act, how aware are state bodies that they are obliged "to perform its functions in a manner compatible with the State's obligations under the Convention"? Again there is no sense on the ground that this obligation has filtered through and registered within the system.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;*
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;*
- (c) To have access, on general terms of equality, to public service in his country.*

Paragraphs 419 - 420 cover issues raised by the Human Rights Committee in response to previous reports. While the response given may be theoretically correct at one level the reality on the ground is very different.

As the current lively discussion on the Register of Electors illustrates there are many problems in this area. Dealing with such problems when one is a member of the majority population can be trying enough, but is very difficult when one is a member of minority population whose experience of public services is one of misunderstanding and exclusion. This dynamic is compounded when the agency that has failed to deal with your accommodation issues either appropriately or effectively is also the agency with responsibility for the electoral register. For example, in order for Travellers living on the roadside or in unofficial accommodation to register to vote the Local Authority must acknowledge that they are resident in the area: there are numerous examples where LA have refused to do this and so Travellers have not been able to exercise their right to vote.

Also in the last election accessing the Supplementary Register created major difficulties in one local area: as unregistered voters were expected to attend the local Garda station to register themselves to vote. Effectively this disenfranchised the Travellers living locally: as far as they were concerned they were on the local register and they queried why they were being asked to do this.

In terms of omissions Pavee Point was struck by the lack of reporting on subsection (c) of this Article which talks about access to public services 'on general terms of equality'. This is a major issue of concern for Travellers and one the Equal Status Act does not adequately address given the limitations imposed on it by its own Section 14. A number of commentators noted that the incorporation of EU's Race Directive into Irish law should have addressed this issue but failed to do so.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

It struck Pavee Point as very odd that the two pieces of legislation reported on cover the issue of employment - the Unfair Dismissals Acts 1977 to 2001 and the Employment Equality Act 1998. Surely the ICESCR would be the more appropriate instrument for these pieces of legislation?

There are two glaring omissions in this section: the Equal Status Act 2000 and the Equality Act 2004. The latter Act updated the two pieces of equality legislation to incorporate into Irish law three EU Directives covering equal treatment in employment on the grounds of gender; age; religion; disability; and sexual orientation; and on the ground of race in the area of employment and service delivery.

Though most of the changes made to the equality legislation in light of these directives were positive, Pavee Point and other organisations concerned with the issue of equality have criticised the minimalist nature of their incorporation. In particular many commentators feel that an opportunity was missed to strengthen the sanctions against discrimination and so act as a real deterrent.

Also Pavee Point and other Traveller organisations are concerned that the Government's continuing refusal to recognise Travellers as a minority ethnic group will have repercussions for any Travellers wishing to use the EU Race Directive directly in a court case.

Another issue of concern for Pavee Point was the removal from the Equality Tribunal of discrimination cases against the licensing trade through the Intoxicating Liquor Act 2002 to the District Courts. You may wonder what such an act has to do with civil and political rights – the link is very simple and illustrative of the status of Travellers within Irish society. It has generated a sense within the community that the equality legislation is not longer there or available to Travellers and that therefore they cannot exercise their rights. Such a dynamic is compounded by the erroneous reporting both within the media and by others that this move has affected Travellers only. There is no doubt that it was sought to prevent Travellers from challenging discrimination but it affects all nine grounds. While the two equality institutions have a responsibility and seek to inform the public, accessing information from the District Courts is more problematic and in many incidents the courts do not appear to be aware of this legislative change.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Given the wording of Article 27 what is report on is rather curious: the focus is very much on what the State is doing *for* Travellers rather than how Travellers are being facilitated to enjoy their own culture or use their own language, Cant. Indeed in the two paragraphs reporting on linguistic minorities only Irish (a curious classification given it is the first official language) is reported on and there is no mention of Cant at all. Most Travellers feel that their culture has been undermined by the State through an odd mixture of hostility and kindness. In 1995 Task Force report and since in the NAP Incl 03-05 the State acknowledged the need to recognise and support Travellers culture and identity but this has not been translated into policy development or practical action.

With regard to what is contained in paragraphs 438 – 457 Pavee Point has a number of concerns it wishes to raise:

1. Pavee Point would not agree that most of the recommendations of the 1995 Task Force report were implemented and would query the assertion made in Para 439 that the second progress ‘report represents a consensus view’;
2. Pavee Point is deeply concerned that no replacement to the Monitoring Committee has been established;
3. Pavee Point has challenged from the very beginning the injustice of the existence of the HLWG with no representation of Traveller organisations on it. The March 06 report recommends ‘meaningful consultation’ as Para 440 notes. However consultation is meaningless without proper representation at the developmental and implementation stages of any policy or practice change.

4. Again Pavee Point finds it appalling that an interagency mechanism will be used to assess how the roll out of the interagency approach is progressing. How under an Article focusing on *not* denying minority rights can a Governmental department propose working on minority's issues without including the minority concerned in all stages of the process.
5. In Para 443 the report claims that significant progress 'has been made in the area of Traveller health'. How does the Irish Government know this when there is little or no ethnic data collected within the health system and the proposed All Ireland Health Study has still not commenced which would seek to update a survey carried out almost 20 years ago?
6. Pavee Point completely refutes the assertion in Para 445 that the Traveller Health strategy has been implemented.
7. The impression given in Para 446 is that Travellers and their representative groups have an influence on the budget flowing through the THUs. This was the case but is no longer true since the establishment of the HSE: there is also uncertainty as to the futures of the THUs in light of re-structuring in the health sector. At present Traveller groups have no idea on what the money earmarked to address Travellers health issues is being spent and are deeply concerned that these monies were not ring fenced. However, Traveller organisations are aware that of the €11m spent since 1998 less than 50% went directly into Travellers' health.
8. It should also be noted that the HSE have established a working group on Travellers and other minority ethnic groups on which there is no representation from any NGO.
9. Para 451 – 457 deal with the issue of accommodation. The impression given is that a lot of progress has been made but Traveller organisations query this. For example, though the number of families living on the side of the road has decreased local Traveller organisations have noted a marked increase in doubling up in halting sites and other Traveller specific accommodation in recent years.
10. Para 456 describes the Traveller accommodation programmes and what they have delivered. A number of things should be noted here. Firstly, the increase in Travellers living in private rented accommodation which is hardly facilitating them 'to enjoy their own culture'. Secondly, the criminalisation of trespass through the 2002 Miscellaneous Housing Act has travelling impossible: a reality compounded by the State's inability to provide transient halting sites. Thirdly, the Irish Traveller Movement estimates that extrapolating out from the target set in the 1995 Task Force that the current accommodation plans are already 360+ units short.
11. It should also be noted that the National Traveller Accommodation Consultative Committee, which was established on a statutory footing, has not been re-established though the original committee's term of office ended in March '06.