

The Significance of the Declaration of Ethnic Minority Status for Irish Travellers

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Abstract

Irish Travellers are a traditionally nomadic ethnic minority indigenous to Ireland. Although recognized as an ethnic minority in adjacent jurisdictions, the Irish state persistently and explicitly denied recognizing Travellers' separate ethnicity and pursued assimilationist policies designed to eradicate Travellers' differences. However, in the late 1980s and 1990s, the state recognized the structural disadvantage and social stigma to which Travellers are subjected, naming them as a protected group in equality legislation, as well as laws addressing incitement to hatred. Through these interventions, the state afforded Travellers rights on the basis of their collective identity as Travellers, while continuing to deny their ethnicity. After sustained campaigning, Traveller ethnicity was recognized by the prime minister of Ireland in 2017. This article explores the reasoning behind, and legal significance of, that statement of recognition in Ireland.¹ We outline the evidence in support of ethnic recognition as a prelude to addressing the question of whether recognition is likely to afford the community any additional rights. We conclude that this is unlikely given the protections afforded to the group prior to ethnic recognition, though we argue that recognition may give the community a firmer basis for arguing for the activation of these preexisting rights.

Keywords: Irish Travellers; ethnicity; racism; antiziganism; nomadism; Roma; gypsy

Introduction

There is no universally accepted definition for *ethnicity*. Similarly, there is no universal definition for *national minority* or *racial group*. However, these terms are used across national legislative codes and international agreements, often in contexts in which, if a group is recognized as having ethnic status, significant rights accrue to that group, with associated responsibilities on the part of the state (e.g., Pap 2014). This article does not seek to problematize these terms nor to question their application in the context of Irish Travellers (on this issue, see Pap 2015). Rather, this article will unpick the legal ramifications of recognizing Irish Travellers as an ethnic group in a context whereby—almost uniquely—many of the rights that are associated with such recognition were already granted by the state and where the state had at least recognized—though not fulfilled—its responsibilities to that group.

In the EU, both the Racial Equality Directive and the EU Charter of Fundamental Rights prohibit discrimination based on racial or ethnic origin, while the Framework Convention for the Protection of National Minorities (FCNM) specifically protects the rights of groups and individuals based on national origin (European Commission 2017). However, Pap (2014) argues that policy makers and legal professionals require a decision on which definition to use in order to adequately protect the rights of the specific group.

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In Ireland, there is no agreed definition for *ethnic group*. The term is not defined legislatively. The census problematically conflates ethnic, national, and racialized identities, asking respondents to specify their “ethnic or cultural background” in accordance with the following categories: Irish/Irish Traveller/Any other White background/African/Any other Black background/Chinese/Any other Asian background/Other (including mixed background) (Central Statistics Office 2020). Pavee Point, the Irish Traveller and Roma Centre, describe an ethnic minority group as one which shares some or all of the following: culture, religion, history, language, or place of origin. This, they state, differs from a national minority (Pavee Point 2017a).

The statement by Prime Minister (*An Taoiseach*) Enda Kenny recognizing Irish Travellers as an ethnic group emphasized that no new rights would be conferred on the community as a consequence. This article addresses the assertion that the historically significant recognition of Irish Traveller ethnicity by the state has no implications for Travellers’ rights and explores the reasoning behind the statement. Following a brief profile of the Traveller community for the benefit of international readership, we present a summary history of the Traveller ethnicity debate, outlining the dimensions of Traveller ethnicity and the logics that are perceived to have informed the Irish state’s denial. We then present an overview of the recognition of the ethnic status of Travellers in adjacent jurisdictions, namely, England, Wales, and Northern Ireland. The Taoiseach’s statement recognizing Travellers’ ethnic status is presented next, and the position it asserts regarding the effect of recognition on Traveller rights is established. We explore the expert and activist opinions that informed this position and consider their perspectives on the utility of ethnic recognition in the absence of additional rights.

A Brief Profile of Ireland’s Traveller Community

Irish Travellers, known in their own language as *Mincéirí*, are a group indigenous to Ireland, who identify politically as part of the wider collective of Gypsy, Roma, and Travellers because of their historic mobility and the ongoing importance of cultural nomadism to their identity. In the 2016 Census of Ireland, 30,987 people self-identified as a Traveller (Central Statistics Office 2017, 61). Accounting for fewer than one percent of the Irish population, Irish Travellers were largely invisible in policy terms from the foundation of the Irish state in 1922 until 1963 when the first government report on Travellers was published. This report documents the state’s position that Travellers were not a cultural group but rather a collection of people with “itinerant habits” that constituted a problem for the state, the solution to which was “absorption into the general community” (Government of Ireland 1963, 11). Indeed, the state explicitly denied claims to ethnic status: “Itinerants (or Travellers as they prefer themselves to be called) do not constitute a single homogenous group, tribe or community within the nation although the settled population are inclined to regard them as such. Neither do they constitute a separate ethnic group” (Government of Ireland 1963, 37).² Reinforcing this position, the state purposefully chose to refer to Travellers as itinerants, recognizing that this was an identifier that the group itself rejected.

The 1963 report noted that the so-called “settled population”—a term used to refer to the nonnomadic majority culture—perceived Irish Travellers as a distinct group. Historically, Irish Travellers played a distinct and important role in the rural economy that dominated in Ireland. They provided mobile seasonal labor to farms, as well as practicing skilled trades (e.g., tinsmithing and blacksmithing). According to MacLaughlin (1995), the first recorded mention of Irish Travellers in the 5th century referenced their association with the occupation of tinsmithing. Consequently, Donahue, McVeigh, and Ward argue that “in the past, while there were sometimes tensions between sedentary and nomadic forms of existence in Ireland, the two could coexist symbiotically in *relative harmony*” (2006, 8).

Although much literature links anti-Traveller sentiment among the sedentary majority to the advent of plastic, mechanization, and a decline in the requirement for the labor and skills of Travellers, it is possible to trace majority animosity toward Travellers much further back in history

(Helleiner 2003). In the 19th century, Irish attitudes toward Travellers were influenced by social Darwinism (O'hAodha 2006). In both the 19th and early 20th centuries science was fascinated with race, and thousands of indigenous people all over the world were put into zoos as human exhibitions to demonstrate racial difference (Purtschert 2015). In colonial Ireland, Travellers found themselves positioned within the symbolic order of the dominant discourse on race (McVeigh 2012). For instance, an 1851 article from Connacht Telegraph comments, “the presiding judge of Kilkenny Petty Sessions court suggested, to roars of laughter from the gallery, that four ‘tinkers,’ ” a historic identifier for Travellers associated with their tradition of tinsmithing, “would be fine attractions for the gawking public in Crystal Palace at the Great Exhibition” (as cited in Dooley, n.d.).

Little changed with respect to Travellers’ standing within the social hierarchy of independent Ireland. Successive research studies find that Travellers are subject to persistent and virulent anti-Traveller racism (Helleiner 2000; McCann, O’Siochain, and Ruaneeds 1994; Fanning 2002). Drawing on a national survey of attitudes toward various groups, MacGréil published a report which found that 60 percent of the settled population in Ireland would not welcome a Traveller as a member of the family (MacGréil 2010); 64 percent rejected Travellers on the basis of their way of life; and 18 percent would deny Irish citizenship to Travellers. In 2012, Tormey and Gleeson published a report which found that attitudes toward Travellers among young people are less favourable than attitudes toward any other group (Tormey and Gleeson 2012).

As a group and individually, Irish Travellers experience extreme exclusion and disadvantage in relation to housing, health, and access to employment (Nolan and Maître 2008; Watson et al. 2011). The unemployment rate among Travellers stands at 82 percent, while seven out of ten Travellers have only primary or lower levels of education, with just one percent completing third-level education. The life expectancy of Irish Travellers “remains similar to the life expectancy of the general population in 1945.” Traveller males live, on average, ten years less than the settled population while Traveller women can expect to live, on average, 12 years less than their settled counterparts. The suicide rate in the Traveller population is nearly seven times higher than that in the general population, with 11 percent of Travellers dying from suicide (AITHS 2010; Watson et al. 2017).

Traveller Ethnicity

Irish Travellers share a distinctive lifestyle and culture based on a nomadic tradition and have been documented as being part of society in Ireland for centuries (Irish Traveller Movement 2018). Indeed, evidence suggests that there has been nomadism in Ireland for as long as there have been people (McVeigh, Ward, and Donahue 2010). According to the latest census results for 2016, there are currently 30,987 Irish Travellers residing in Ireland. This figure represents 0.7 percent of the general population, an increase of 5.1 percent on the 29,495 documented Travellers in the 2011 census (Central Statistics Office 2017).

Although the vast majority of Travellers no longer practice a nomadic lifestyle, nomadism is still regarded as a vital part of their identity and culture. As the Roma scholar Liégeois noted, “whereas a sedentary person retains a sedentary mind-set even when travelling, Gypsies and Travellers, even when not travelling, remain nomadic. Even when they stop, they are still *Travelling People*” (1994).

MacLaughlin asserts that Irish Travellers have a highly developed “geographical imagination.” In other words, “they think across time and place and regard geographical mobility as an integral, but by no means defining, feature of their way of life” (MacLaughlin 1995, 16).

Irish Travellers have their own language known as Cant, referred to by some Travellers as Gammon and by some academics as Shelta (Binchy 1994; O’Baill, 1994). Browne (2002) notes that the status of Cant as a language has been challenged by some, particularly given the dependence on Hiberno-English syntax. However, these minority reservations should be balanced against the finding that this language is in use among the Irish Traveller diaspora as well as in Ireland. One of the difficulties of establishing the provenance of Cant is that Traveller history is largely unrecorded,

partly due to Travellers oral tradition and historical neglect on the part of the state (O’haodha 2008a, 2008b).

Numerous academic studies have documented additional dimensions of Traveller culture and supported claims to ethnic status. Gmelch and Gmelch stated explicitly that Travellers “form a distinct ethnic group within Irish society” (1976, 226) and Okely commented that “the term ‘Traveller’ [... implies] full membership of an ethnic group” (1983, 18). Ten years later, Kenny declared that Travellers were a nomadic ethnic group with a right to travel (1994). Ní Shúinéar systematically applied the concept of ethnicity to Irish Travellers, using Barth’s (1970) definition of an ethnic group. She stated that “we are dealing with a group that fulfils all the objective criteria to qualify as an ethnic group” (Ní Shuinéar 1994, 60).

It is neither possible, nor perhaps appropriate, to rehearse here the arguments made against the recognition of Traveller ethnicity. The campaign for recognition has, we assert, moved on from the question of whether Travellers are an ethnic group to whether their ethnic recognition can contribute to redressing the impact of decades of institutional neglect and interpersonal discrimination. Nonetheless, we think it is useful to make international readers aware that a comprehensive 2006 report published by Ireland’s then Equality Authority, entitled *Traveller Ethnicity*, which brought together diverse research on Traveller culture, concluded that Irish Travellers met both objective and subjective criteria for recognition as an ethnic group. This was based on a variety of factors:

- biological self perpetuation in that Travellers typically marry within the group and group membership is determined by descent;
- shared fundamental cultural values in Traveller values in relation to self-employment, occupational flexibility, priority of social obligations based on kinship, nomadism and distinctive pollution beliefs;
- a field of communication and interaction in that Travellers have their own language;
- a distinguishable category in that Travellers have a name for themselves as a group and know who belongs and does not belong to it, just as non-Travellers have names for Travellers as a group and know to whom these names apply. (The Equality Authority 2006, 63)

It would be more than a decade before the prime minister acted on the recommendations of The Equality Authority to recognize Traveller ethnicity.

State Discourses on Traveller Culture

Clashes of culture between nomadic and sedentary populations have a long history globally (McVeigh 2008, 2012). MacLaughlin (1999) suggests that Travellers in Ireland have, at least since the 19th century, been considered inferior as they were not traditionally landowners. So, it was perceived that they did not have a “territorial stake in the nation-state” (MacLaughlin 1999). Nationalism, presented in this way, suggested that the Irish nation-state, then yet to be achieved, was not compatible with nomadism, instead prioritizing sedentarism.

Delaney (2002) argues that there was no room for Irish Travellers in the new republic, established in the early 20th century. Othering was part of the process of Ireland’s nation building. McVeigh argues that “we measured ourselves against who we were not as citizens—neither having English values or the stigmatised view they had of the general population thereby permitting a racist dialogue in the public mentality in discourse regarding Travellers” (2007, 92). The process of building an Irish national identity thus involved the transfer of “colonial racialised stereotypes” about the majority Irish onto Travellers (Fanning 2012; O’haodha 2006). By 1931 we find MacGréine pleading, “To those people who would seek to “civilise” [Travellers] [...] who refer to them as a “national problem”; “a nuisance to farmers”; and so on, I would say: Leave us our wandering tinkers. House them and they pine; they have no outlet for their restlessness. Why cage a bird? Why civilise a tinker?” (MacGreine 1931, 177).

By the 1940s it became common practice to move Travellers living in traditional encampments off land that was needed for building and which would support the state's agenda of nation building and "civic evolution" (see O'hAodha 2006). These evictions were not handled in a civic manner most of the time and conflicts over land usage became the main type of dispute between Travellers and the settled population. During the period of emergency, anti-Traveller discourse manifested within Dáil Éireann (the lower house of Ireland's parliament).³ For example, in 1942, a Deputy O'Donnell racialized Travellers: "[I refer to] the tramps and others known as gypsies who go round in caravans touring the country. The Irish people generally, both rural and town folks, are very friendly disposed to them but they have become a bit of a nuisance. [...] Those tramps on the roads here [...] do not seem to bother very much about birth control. I saw three generations of such children; they marry very young and breed like rabbits and consumption is not unknown amongst them" (Dáil Éireann 1944, as quoted in Donahue, McVeigh, and Ward 2006, 8). Such representations perpetuated views of Travellers that persisted from colonial times and were reimagined and reinvigorated during the formation of the Irish State (O'hAodha 2006, 109–113).

The 1963 Commission on Itinerancy was populated exclusively by so-called "settled people," with no Traveller representatives on the committee. In fact, all members and those that submitted memoranda to the committee either represented state agencies or agricultural and landowner lobby groups (Irish Traveller Movement 2013). From the perspective of the Commission, the marginality and deprivation of Irish Travellers was a function of a lifestyle choice, not racism. Thus, a key objective of the Commission was to address "economic, educational, health and social problems *inherent in their way of life*" (Government of Ireland 1963; italics added). The recommendations of the Commission, informed by this perspective, were wide ranging and aligned with the view. Parliamentary Secretary to the Minister for Justice (and later prime minister) Charles Haughey expressed that "there [could] be no final solution to the problems created by itinerants until they [were] absorbed into the general community" (Government of Ireland 1963, 111). Thus, while many scholars claim that the progressive dilution of Traveller culture was not a deliberate or thought-out plan but a consequence of urbanization, commercial expansion, modernity, and state building (Mitchell 2011; MacLaughlin 2001), it is well documented that policies were developed specifically to eliminate Traveller culture and ethnicity by means of settlement and assimilation (O'hAodha 2006; Power 2004; McVeigh 2012).

After the publication of this report, local authorities built halting sites—hardstands for the purpose of parking mobile homes—on the basis that "provision of these sites should only be the first step of stabilisation" in a programme aimed at Travellers' eventual assimilation (Government of Ireland 1963, 11). Although, many Travellers preferred the option of practicing nomadism, many believed the sites would permit them to continue travelling (O'hAodha 2006). Conversely, the sites became permanent for the majority of those who moved into them (AITHS 2010). The location chosen for these sites were usually around five to six miles from the outskirts of a town or city, near garbage-dumps, industrial developments, or just "left-over land." Crowley (2009, 14) explains that "permanent settlement was alien and destructive to the traditional Traveller way of life and many Travellers, particularly through their nomadism, struggled to avoid it. Travellers chose some aspects of the programmes and policies and rejected others. For example, many left houses and halting sites after short periods."

By the 1980s, most Travellers were living in urban areas in regulated sites, in standard housing, or on unauthorized sites in the absence of a feasible alternative (Breathnach 2006). Nonetheless, as Crowley states, "it would seem that Travellers were not only despised because they were always on the move but also that they might stay and contaminate sedentary society's social and geographical space" (2009, 20). One of the key obstacles to the implementation of government policy was the objection of settled residents to the location of halting sites in their localities (Bewley 1974, 6–7).

Increased conflict between Travellers, non-Travellers, and local officials brought about a review of the settlement policy, and, a decade or so after the Commission on Itinerancy reported, the *Travelling People Review Body* was established jointly by the Minister for the Environment and the Minister for Health and Social Welfare (Travelling People Review Body and MacEvilly 1983). This

body was composed of 23 members, primarily civil servants, settled volunteers, professionals working with Travellers, and three Traveller activists (Travelling People Review Body 1983). It acknowledged that Traveller assimilation was unacceptable, and they suggested “that it is better to think in terms of integration between the traveller [*sic*] and the settled community” (Travelling People Review Body 1983, 6). The review body also acknowledged Traveller identity, culture, and traditions yet retained “a commitment to Traveller settlement as necessary to Irish modernization” and to working with local authorities to provide basic facilities and serviced halting sites (Helleiner 2003, 100).

Unserviced, unauthorized sites were primitive, lacking water supply, sanitation, and refuse collection. The serviced temporary sites provided by the local authorities were very often overcrowded, squalid, and with very limited facilities. It has been argued that Traveller spaces are deliberately configured by the state to be a space of hardship where sedentarism seems like the only option available for Travellers (Pavee Point 2011). From this perspective, although it has been asserted that national policy is steering away from the assimilationist approach, Watt concludes that, “in short, assimilationist/exclusion policies towards Travellers continue to persist at local government level in Ireland and there are significant gaps between stated policy at a national level and local implementation” (2006, 160).

In 2001, the Citizen Traveller Campaign, run by four Traveller organizations and funded by the Department of Justice, Equality and Law Reform, was established to address relations between the majority and Traveller populations, the character of which serves as an obstacle to the local implementation of national policy to provide Traveller specific accommodation. The state withdrew funding for the campaign after the organization launched a poster showing an image of the Irish flag with an eviction sign on a caravan, which read, “Suddenly in a Caring Ireland, to be a Traveller is a terrible crime.” The poster was perceived to be critical of the Irish government’s plans to introduce antitrespass laws that would impact Traveller nomadism. Nonetheless, with the law in question, the Housing (Miscellaneous Provisions) Act 2002 was passed. This antitrespass law gave local authorities more power to move Travellers off public and private land. Under this law, encampment was criminalized. Travellers could “be moved with less than twenty-four hours’ notice.” If they did not move, they could “be arrested without a warrant,” facing 3000 euro fines or prison (Drummond 2007, 7). The problematic nature of this legislation was recently held to violate the European Charter of Social Rights by the European Committee of Social Rights in its decision on the merits in *European Roma Rights Centre v. Ireland* (2016). In the case, the European Roma Rights Centre (ERRC) alleged violations of Articles 16, 17, and 30 of the European Social Charter read along or in conjunction with Article E as regards the housing conditions and evictions of Travellers, as well as the social, legal, and economic protection of Traveller children. The Committee concluded that there was a violation of the Charter on a number of grounds: (1) the insufficient provision of accommodation for Travellers; (2) the inadequate condition of many Traveller sites; (3) there is inadequate safeguarding for Travellers threatened with eviction under the Criminal Justice (Public Order) Act 1994 or the Housing (Miscellaneous Provisions) Act 1992; and (4) that evictions are carried out in practice without the necessary safeguards. Thus, although the recent history of relations between the state and Travellers is characterized by a turn toward a rights-based discourse, Crowley and Kitchen assert that the evolution of the relationship between the parties might be characterized as developing “from one exclusively consisting of conformist regulation to one supplemented by coercion and co-option in return for recognition and rights” (2007, 130).

Legal Position of Travellers in Ireland

It is important to acknowledge that, while Travellers were not recognized as an ethnic group in Ireland until 2017, by the end of the 20th century Travellers were protected through legislation that recognized the distinct experiences of the community from the perspective of discrimination and incitement to hatred. What is important to note in this context, is that, in the absence of a formal

recognition of the ethnicity of Travellers, these legislative protections remained a gift of the government, one which could be withdrawn at its discretion.

As Ireland approached the end of the 20th century, the state's approach to Irish Travellers became increasingly characterized by a tension between, on the one hand, the influence of international human rights based approaches to minority groups and, on the other hand, a persistent refusal to officially acknowledge that Irish Travellers' minority status was resultant of their position as an ethnic group. In 1984 the National Council on Travelling People published *Charter of Rights of Travelling People*, which asserted the right to recognition of Travellers' cultural identity (Equality Authority 2006, 19). The Equality Authority notes that, during this period, successive bodies commissioned by and reporting to the state acknowledged the existence of Traveller culture. It traces a softening in the state's attitude to "growing activism and public debate, [as a result of which] issues of Travellers' rights began to be recognised as the rights of a distinct minority group" (Equality Authority 2006, 15). Nonetheless, the state persisted in its refusal to officially recognize Travellers' ethnic status.

The Prohibition of Incitement to Hatred Act 1989 was the first in a series of important pieces of legislation offering protection on the basis of ethnicity in Ireland. Under section 2(1) of the Act, it is an offence to use words, behave, publish or distribute written material, or broadcast any visual images or sounds that are threatening, abusive or insulting, and intended, or likely, to stir up hatred against a group of persons in the state or elsewhere on account of their race, color, nationality, religion, ethnic or national origins, membership of the Travelling community, or sexual orientation.

The Act was introduced in order to facilitate Ireland's ratification of the International Covenant on Civil and Political Rights and thus reflects the categories required by that international agreement as requiring protection. Regarding the international agreement, the Equality Authority observes that it "had been identified as requiring legislative protection in order that Ireland could, in the first instance, ratify the International Covenant on Civil and Political Rights. In addition to the grounds of race, nationality and religion required by Article 20 of the Covenant, the original Bill included the grounds of colour, ethnic or national origins to also meet the equivalent requirement of the Convention on the Elimination of all Forms of Racial Discrimination (CERD)" (Equality Authority 2006, 20–21).

In 1989, in the parliamentary debates that shaped the final Act, much discussion focused on the extension of protection to Irish Travellers on the basis of their status as an ethnic group (Equality Authority 2006). For example, Deputy McCartan made a case for recognizing the Traveller community in the Bill, particularly emphasizing the claim of Travellers to recognition of their ethnicity: "The travelling community make the case [...] that they [...] have, as a community, aspects of ethnicity and of ethnical origin that require respect and recognition, and we should have had regard to their peculiar origins and status as an ethnic group and have recognised that concept by including it in the title of the Bill or in the definitions further on in the Bill" (McCartan 1989).

The relevant minister was swayed by the weight of opinion in favor of explicitly naming Travellers in the Act in order to ensure that their protection under the legislation would not be open to (mis) interpretation. However, rather than amending the Bill to name Travellers as an ethnic minority, as suggested by Deputy McCartan, Minister for Justice Gerry Collins, chose instead to name them as an additional protected category. This was a solution that was to be replicated in subsequent equality legislation. At that time, Minister for Justice Collins argued that the determination of Traveller ethnicity was a matter for the courts, as had been the case in England and Wales. While arguments in favor of naming Travellers emphasized certainty and the elimination of the necessity for Travellers to test their protection under this legislation in the courts, Deputy Colley highlighted that the solution that Minister for Justice Collins enshrined in the legislation might have the paradoxical effect of stymieing the ability of the courts to determine in favor of Travellers' ethnic status:

He [the minister] says that in the future the courts may be faced with applications to declare whether the travelling community is an ethnic group. If at that stage the courts have regard to

this legislation, they will find that the Act will refer to ethnic or national origins, or membership of the travelling community. They are separate and different. The courts will then be faced with the problem as to whether they can disregard that completely in their deliberations. We must be extremely careful about what we do with regard to any amendment that we put forward. The Minister is right in saying that we should not tie the hands of the courts in making future decisions. Each one of us has said in his or her own way that he or she believes that the travellers are almost definitely an ethnic group, that they have various characteristics. That is what I understand most, if not all, Deputies to be saying here. I would be concerned that the net result of accepting these amendments would be that the travelling community would then be excluded from being regarded as an ethnic group in the future. (Equality Authority 2006, 25)

Consequent to this introduction of the 1989 Act, the Equal Status Acts 2000-2015 and Employment Equality Acts 1998-2015 name “race, colour, nationality or ethnic or national origins” as grounds of discrimination and also recognize membership of the Traveller community as a further ground of discrimination. In the Equal Status Acts, “Traveller community” is defined in section 1 of the Act as “the community of people who are commonly called Travellers and who are identified (both by themselves and others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland.”⁴

Emily Logan, Chief Commissioner of the Irish Human Rights and Equality Commission, pointed out to the Joint Oireachtas Committee on Justice in 2017 that this definition represents a de facto recognition of Traveller ethnicity (Houses of the Oireachtas 2017a).

Despite the legislative protections accruing to Travellers, the group reports very high rates of discrimination in seeking work, where they are ten times more likely than the majority of experiencing discrimination, and extremely high rates of discrimination in private services, where they were over 22 times more likely to report discrimination, particularly in shops, pubs, and restaurants (McGinnty et al. 2017, 55). Research published by the Irish Human Rights and Equality Commission shows that there is a significant difference between Travellers and other Irish in the specific domain “other public services,” such as social welfare services and local council services. Irish Travellers are four times more likely to experience discrimination regarding other public services; this is not the case regarding the combined public services group (McGinnty et al. 2017).

Despite positive steps in legally recognizing the experiences of Travellers in Ireland, the state persisted in its refusal to officially acknowledge Traveller ethnicity. In its Report to the Committee for the Elimination of Racial Discrimination in 2004, the government stated that, while it respects the rights of Travellers to their cultural identity, their view was “that Travellers do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin” (Government of Ireland 2004, 13).

In 2006 Ireland’s independent statutory Equality Authority recognized Travellers as an ethnic minority and recommended the Irish government do the same (The Equality Authority 2006, 65). The persistent refusal of the Irish state to recognize Traveller ethnicity has attracted the criticism of the International Convention on the Elimination of Racial Discrimination (CERD), the European Commission against Racism and Intolerance (ECRI), The European Framework Convention on National Minorities, the Rights of the Child European Commission, and the EU Race Directive, which all expressed concerns regarding the Irish state’s intransigent position on Traveller ethnicity.

Legal Position of Travellers in Northern Ireland and England and Wales⁵

In England and Wales the case that established the test regarding ethnicity is *Mandla v. Lee* (1983), in that the House of Lords considered the meaning of the term *ethnic group*⁶ as it is utilized in the

Race Relations Act 1976.⁷ The case itself concerned the question as to whether Sikhs were an ethnic minority for the purposes of the legislation. Lord Fraser identified what McVeigh refers to as the two essential conditions of ethnicity: (1) a long shared history, of which the group is conscious as distinguishing itself from other groups, and the memory of which it keeps alive; (2) a cultural tradition of its own, including family and social customs and manners.

In addition to those two essential characteristics, the court identified further characteristics to be relevant in this context: (1) either a common geographical origin, or descent from a small number of common ancestors; (2) a common language, not necessarily peculiar to the group; (3) a common literature peculiar to the group; (4) a common religion different from that of neighboring groups or from the general community surrounding it; (5) being a minority or being an oppressed or a dominant group within a larger community.

In *Commission for Racial Equality v. Dutton* (1989) the Court of Appeal held, applying the Mandla conditions, that Romany Gypsies are a racial group under the Race Relations Act 1976 by reason of their ethnic origins. Dutton was a case brought by the Commission for Racial Equality under section 29 of the Race Relations Act. The case concerned a discriminatory notice outside a public house that read, “No Travellers.” And the court found that the sign indirectly discriminated against Gypsies by imposing on them the requirement of not being a “traveller” in order to gain access to the public house.

It was not until the year 2000 that the question explicitly arose as to whether Irish Travellers were considered an ethnic group under the Act. In *O’Leary and Kiely v. Punch Retail* (The Times 2000), the court was asked whether Irish Travellers satisfied Lord Fraser’s essential conditions and were an ethnic group for the purposes of the legislation. Eight Travellers claimed racial discrimination against five London pubs that they said had refused to serve them because of their ethnic origin. Judge Goldstein said,

Our conclusions therefore are that of the two essential characteristics, namely the long shared history and the cultural tradition, we are satisfied that both these criteria have been sufficiently satisfied. Of the others—the common geographical origin or descent from a small number of ancestors—clearly that is satisfied, they all come originally from Ireland. The common language we have dealt with, the literature we have dealt with and the religious and minority aspects we have dealt with. It follows therefore, that our conclusions clearly are that we are satisfied that the Mandla criteria are satisfied in this case, and therefore Irish Travellers may be properly identified as an ethnic minority, so we answer the preliminary question in the affirmative. (Houses of the Oireachtas 2014)

The judge concluded that Irish Travellers had a shared history stretching back to the mid-19th century, should be given protection as an ethnic group, and thus fall within the protection of the Act. Most eloquently, the judge said, “Modern Irish travellers [*sic*] are guided by the culture and traditions which have been handed down by generations. They do not go around reading history, they practise it” (Allison 2000).

Though it was not until the year 2000 in England and Wales that Travellers were deemed as being protected under the Act, the Race Relations Act 1976 was extended to Northern Ireland in the Northern Ireland Race Relations Order 1997. In the Order, Travellers were explicitly named as a protected racial group in Northern Ireland. Article 5(2)(a) of the Order provides, “In this Order, “racial grounds” [...] includes the grounds of belonging to the Irish Traveller community, that is to say the community of people commonly so called who are identified (both by themselves and by others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland.”

Article 5(3) of the same Order provides that racial group “includes the Irish Traveller community.”⁸ Thus, while Irish Travellers were identified as an ethnic group in England and Wales and Northern Ireland, the same was not true in Ireland. This remained the case until 2017.

The Taoiseach's Statement Recognizing Traveller Ethnicity

Ireland's Traveller community did not regard the state's "Irish solution to an Irish problem"⁹ as sufficient, and Traveller organizations campaigned actively for decades for the official recognition of Traveller ethnicity. In this endeavour they have been supported by international bodies, such as the Committee on the Elimination of Racial Discrimination (CERD), which has criticized the Irish state for their persistent ethnicity denial.¹⁰ In 2017, Irish Travellers' organizations were told that they would finally receive the official recognition for which they had lobbied.

On March 1, 2017, the then prime minister of Ireland, An Taoiseach Enda Kenny, made a short statement to the lower House of Parliament in which he recognized Traveller ethnicity. This statement was made with little notice provided to the activists and Traveller representatives who had campaigned for recognition of their ethnicity (O'Halloran and O'Regan 2017). Despite this, activists from around the country gathered to be present for the historic announcement. Travellers who could not access the Parliament, and their allies, retired to an adjacent hotel and watched the statement on television. Later that evening, the state broadcaster depicted scenes of jubilation as the statement of recognition was read (O'Halloran and O'Regan 2017).

It is notable that the prime minister's statement was not preceded or succeeded by the introduction of a Bill, or even a motion; it stands alone, at just over a thousand words, a brief acknowledgement of Traveller ethnicity, without any legal standing. The statement makes it clear that the act of recognition was intended to be symbolic. The use of the descriptor in the opening statement might initially be interpreted as intending to emphasize the momentous character of the event: "Thank you for making time in the House today for this historic and symbolic recognition of Travellers as an ethnic group within the Irish nation" (Department of the Taoiseach 2017). The Taoiseach was at pains, however, to note that the recognition would not create any "new individual, constitutional or financial rights" (Department of the Taoiseach 2017).

The proximate impetus for the statement is suggested to have been Travellers' description of the "stigma and shame" experienced by the community in Ireland, with the Taoiseach citing personal statements in this respect as having particularly moved him. Reference is also made, however, to majority population interests, specifically via the assertion that the statement was designed to (re) open dialogue with a view to solutions, a motif with a long history in political and policy discourse addressing Travellers in Ireland (see Government of Ireland 1963): "I hope that today will create a new platform for positive engagement by the Traveller community and Government together in seeking sustainable solutions which are based on respect and on an honest dialogue" (Department of the Taoiseach 2017).

This point is preceded by a characterization of the problem to be solved as including criminality, another familiar trope: "Across society [...] there are also darker elements that challenge the law of the land that must be tackled. The Traveller community is not immune to this" (Department of the Taoiseach 2017). Later in the statement there is a further reference to Travellers' "own internal challenges."

The statement recognizes Travellers' professional contributions to society as "*Gardaí* (police), doctors, members of the defence forces, prison officers," although the Taoiseach failed to acknowledge that the representation of Travellers in such professions is likely to be very low given that only 11 percent of Travellers are in work (Watson et al. 2017, 36) and that ethnic diversity among organizations such as the police is very low, with only 0.4 percent of police being from ethnic minority groups (Gallagher 2018). More significantly, the contributions referenced are individual, not collective nor cultural. Although the statement cites Travellers' "unique heritage, culture and traditions," nowhere does the Taoiseach name any characteristic or dimension of Traveller culture or ethnicity: not their language, nomadism, or their rich oral traditions—any of the cultural characteristics by which Travellers meet the objective criteria by which—in other states—they are recognized in law as an ethnic group. This omission is all the more noteworthy given the repeated assertion by the state that Travellers are not an ethnic group but merely share a cultural identity.

The statement does reference the “inequalities and discrimination that the Traveller community face”—with the exceptions of stigma, none of which are named—although the work of Traveller organizations “to improve living conditions, promote health and education and access to services” is acknowledged. Only one reference is made to racism, not directly as a phenomenon to which the community is subject but as a reporting framework within which their social status is communicated to international bodies: “By reporting on the situation of Travellers to the UN and Council of Europe in our periodic reports on the main international conventions/monitoring bodies against racism...” (Department of the Taoiseach 2017).

The statement provides no concrete justification for the decision to recognize Traveller ethnicity except that Travellers themselves desired this. While it could be argued that this is precisely the basis on which recognition should be accorded, it is difficult to perceive how the message of ethnic recognition that the Taoiseach sought to send might be persuasive to anyone who was not already convinced of Irish Travellers’ ethnic status in this context. Indeed, the statement cited Travellers’ preexisting legislative protections as evidence of equal citizenship. Quite contrary to asserting any requirement for cultural or other protections, Mr. Kenny pointedly closed his statement by highlighting that “acceptance and implementation of [...] rights and responsibilities has to work both ways in order for society to function effectively, inclusively and with mutual respect for all citizens” (Department of the Taoiseach 2017). Constructed as beneficiaries of an equitable nation, Travellers—having been granted the boon of a public (but not legally effective) acknowledgement of what is largely characterized as a subjective identification—are reminded of their obligations to sedentarist society.

Informing Recognition

In England and Wales, one of the key consequences of ethnic recognition was that Gypsies—and later, Travellers—were entitled to avail of the protections under equality legislation. In an Irish context, such protections were already available, though at the discretion of the state, not as a matter of right. In light of the position of both the Taoiseach and national Traveller organizations that ethnic status would thus confer no additional rights on Travellers, we ask what the consequences of ethnic recognition have been, if any, with respect to the law. In answering this question, we look to the reports of the Joint Committee on Justice, Defence and Equality (Houses of the Oireachtas 2014), and the Joint Committee on Justice and Equality (Houses of the Oireachtas 2017a). The reports are based on statements and representations made to the Committee from Travellers and academics on the need and desire for recognition, as well as the potential consequences of recognition.

While it could be argued that the civil and political rights of Travellers are reasonably accommodated in legislation and in the constitution, the key needs of the community lie in the respect for, and provision and accommodation of, their economic, social, and cultural rights. The key issue in this context for Travellers today is the lack of provision of appropriate accommodation, which tragically resulted in the death of ten members of the community in Carrickmines in 2015 and was a subject of the case taken by the European Roma Rights Centre. While the right to private ownership of property is protected by the constitution, there is no right to a home or to accommodation. In this context, perhaps inevitably, one of the key issues addressed in the reports is what the cost implications for the recognition of Traveller ethnicity are. It is important to note that in the 2014 report, Martin Collins of Pavee Point argued in his statements to the committee that not recognizing Traveller ethnicity has cost implications.

In that report, the committee first noted that cost “should not be a barrier” to the state doing what is right by its citizens and that cost should not act as a barrier to justice or equality (Houses of the Oireachtas 2014). That said, the report rejected the idea that ethnic recognition would create additional costs to the state. The committee accepted the analysis of a representative from the Equality Authority, who said, “I can clearly see how recognition of ethnicity may have implications

for rethinking how some of the money we currently spend is used, what is prioritised and what is not. However I have tried to think about what significant additional costs there could be and I cannot see what they would be” (Houses of the Oireachtas 2014, 11).

In 2014, Robbie McVeigh noted that in Northern Ireland, and in England and Wales, there were no great costs associated with ethnic recognition. In 2016, he commented that “no unbearable cost or burden fell on any of the jurisdictions after they recognised Traveller identity” (Houses of the Oireachtas 2017a, 39).

In the reports, a further question addressed was whether the recognition of Traveller ethnicity would confer additional rights on the community. The 2014 report seemed to suggest that the recognition of Traveller ethnicity would not create any new rights for the community but rather reinforce existing rights and provide an impetus—and perhaps even a requirement—for the state to appropriately implement, fund and support its existing policies and obligations under its various strategies. David Joyce, a barrister, Traveller, and member of the Irish Human Rights and Equality Commission, challenged the argument that recognition would result in a “flood of claims before the courts,” noting in particular that current legal actions relating to accommodation arise out of existing obligations. He stated, “There is nothing in recognising Traveller ethnicity, however, that will put them above and beyond any other citizen in terms of a cause of action” (Houses of the Oireachtas 2017a, 19).

In its later 2017 report, the committee cites Robbie McVeigh, who develops this last point: he argued that recognizing Traveller ethnicity would place Traveller equality “in the correct paradigm,” which would mean that addressing inequalities would “start from the right place,” being informed by international law (Houses of the Oireachtas 2017a, 15). Again highlighting the consequences of nonrecognition, Pavee Point in those hearings made the argument that this approach reflects an assimilationist mindset on the part of the state, a mindset that it argued was a major contributory in ensuring that many of the recommendations of the government itself were not implemented, including for example, the National Task Force on Travellers, the National Traveller Education Strategy, the National Traveller Health Strategy, and the All Ireland Traveller Health Study.

Indeed, in the 2017 report, significant emphasis is placed on international law and how ethnicity recognition would create significant protections under, for example, the UN International Convention on the Elimination of All Forms of Racial Discrimination. It is possible that what was in mind in this context was the “special measures” mandated for Convention groups “where the circumstances so warrant.” Such “special measures” essentially amount to what is sometimes referred to as affirmative action, which is mandated by the Convention under Article 2(2) for Convention groups.¹¹

All that said, a year following the statement of the Taoiseach, some members of the Traveller community expressed concern regarding the impact and effect of the statement of recognition:

The recognition of Traveller ethnicity by the Irish State was very welcome last year and was long overdue. However, the recognition of ethnicity needs to be more than symbolic in nature and must be followed by real practical actions that will improve the lives of Travellers in Ireland. [...] There is a growing sense of deep frustration in the Traveller community that the recognition of ethnicity has not brought any real change to people’s lives. This will continue to grow. Only through drastic action in areas like accommodation, mental health and discrimination will this change. (Sligo Champion 2018)

Now is the moment to make things fair and equal. [...] Metaphors and euphemisms are vacuous without practical evidence in the area of social policy. (McDonagh 2018)

The state’s priority now must be to give real effect to this acknowledgement in the everyday lives of Travellers through its policy and practice, ensuring the community’s future as a

minority group while also enabling the community to share real equality of opportunity with the majority community. (Bernard Joyce, as cited in The National Traveller Ethnicity Celebration Steering Committee 2018)

Thus, the question as to what the legal significance of the statement is, or was, now needs to be answered.

Legal Recognition Post-March 2017

Since the Taoiseach's statement, there have been two major pieces of legislation introduced in which the ethnicity of an individual (and indeed other personal characteristics) is mentioned or protected but in which membership of the Traveller community is not mentioned as a ground for recognition or protection. For example, in section 15(2)(e) of the Criminal Justice (Victims of Crime) Act 2017, An Garda Síochána (the national police service) must assess the victim in relation to their protection needs and consider their personal characteristics, as well as whether the crime was committed with a bias or discriminatory motive. The personal characteristics named in the legislation are: "age, gender, gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, communications difficulties, relationship to, or dependence on, the alleged offender and any previous experience of crime" (2017b, section 15[2][d]). But the term *ethnicity* is not defined anywhere in the Act. While this may be seen as a progressive step, implicitly recognizing the Traveller community as being protected on the grounds of ethnicity, in fact this may be overstating the case. The Traveller community was never included in the legislation, from the time the bill was initiated in the Dáil (lower house of the Irish parliament), on December 27, 2016. Indeed, during the entirety of the debates on this most important piece of legislation, the Traveller community was mentioned only once, where Deputy Thomas P. Broughan commended the minister of state on the recognition of ethnicity of the Traveller community, which had occurred the previous day (Houses of the Oireachtas 2017b). Similarly, the Data Protection Act 2018 defines "special categories of personal data" in section 2 as personal data revealing, inter alia, "the racial or ethnic origin of the data subject." The term "ethnic origin" is not defined anywhere in the Act. That said, the Traveller community was not included in Data Protection legislation pre-2017, whereas other minoritized groups were.

Conversely, the Education (Admission to Schools) Act 2018 *does* specifically mention the Traveller community. Section 61 of the Act requires schools to have a statement in their admission policies that they shall not discriminate in their admission to the school on a number of grounds that replicate the grounds in Equality legislation, including "the Traveller community ground of the student or the applicant in respect of the student concerned."

Thus, it could be argued that there is no consistency of approach by the state post-May 2018 in relation to the inclusion or exclusion of the Traveller community in legislation. On the one hand, we could interpret the approach taken in the 2017 Act that post-declaration, where the term ethnicity is utilized, should be interpreted as including the Traveller community. However, the Education (Admission to Schools) Act 2018 might suggest that this interpretation is incorrect, and it could equally be argued that the state never intended that Travellers be protected under Data Protection legislation or that Travellers are to be considered a special category of victims in the context of the Criminal Justice (Victims of Crime) Act 2017.

There has been one case that has discussed the legal implications of the Taoiseach's declaration, *Mongans v. Clare County Council* (2017), a case concerning the obligations of the respondent council in relation to Traveller housing and accommodation, in particular a request from that council that the applicants provide a letter to the council on behalf of them and their children "holding [the council] harmless in respect of any personal injuries, loss or damage that may arise from any fire on the premises" (2017, ¶ 10). It was argued, inter alia, in the case by the applicants that the statement of recognition by the Taoiseach "supports the applicants' application for local

authority housing” (2017, ¶ 6). They further argued that Council Directive 2000/43/EC was relevant to the case, given the fact that the statement reflected the principles of the directive. On the issue of the legal significance of the statement, the respondent argued that it is not justiciable and does not give rise to actionable legal rights.

Agreeing with the argument made by counsel for the respondent that the role of the court is to “give effect to legislation that has been passed by the legislator, not to give effect to statements of members of the Oireachtas,” Eager J. cited *Crilly v. Farrington* (2001), concluding, “The court is satisfied that the statement made by the Taoiseach on the 1st of May 2015 has no legal effect clearly it is not legislation but fact [*sic*]” (*Mongans v. Clare County Council* 2017, ¶ 43).

In one sense, the court is correct: statements by politicians—even the most senior politician in the country—are not legislation. But the reliance on *Crilly v. Farrington* perhaps both over-complicates and oversimplifies the issue. This case is authority for what is referred to as the exclusionary rule: that is, when the plain meaning of legislation is not clear, courts cannot rely on Dáil debates to understand the intention of parliamentarians (Dodd 2008). We would argue that a simpler approach can—and indeed should—be taken to the issue: the exclusionary rule of statutory interpretation is redundant in this question, as we should first ask whether the plain meaning of the text is such as to include Travellers.

The essence of the issue here is whether the terms ethnic origin, ethnicity, or ethnic group, in a post-statement context, should be interpreted to include the Traveller community. We would argue that they should. When interpreting words used in statutes, judges first use the literal approach, which requires that the words be given their ordinary meaning: how a word is applied to a particular case “may simply be a matter of common sense or ordinary usage which the courts will treat as a question of fact” (Dodd 2008). Rather than ask the question as to what the legal significance of the Taoiseach’s statement is, then, when interpreting the terms “ethnicity” or “ethnic origin” in the two Acts, we ask what the ordinary meaning of the term is. In this context, it is our belief that we can quite reasonably construe the terms by reference to the Statement of the Taoiseach, which was quite rightly referred to by Eager J as “not legislation but fact”, to include the Traveller community. Further, to suggest that, because of the statement of the Taoiseach, Travellers have *fewer* rights than other ethnic groups, is arguably illogical.

It might be argued that the explicit inclusion of Travellers in the Education (Admission to Schools) Act 2018 would mitigate against this interpretation. However, the context of that inclusion is that those portions of the Act are amending the Education Act 1998 by reference to the Equal Status Act 2000 that, as we have noted, explicitly includes the Traveller community. Thus, the inclusion of Travellers in the Education (Admission to Schools) Act 2018 can be explained by reference to the need for legislative continuity, rather than as an indication that the Oireachtas intended to include Travellers in that Act and thus intended *not* to include the community in the other two pieces of legislation. Similarly, while the community might well have had a preexisting right to special measures under the Convention on the Elimination of Racial Discrimination, the statement of recognition might now offer a platform for the activation of those rights.

Conclusions

The Irish state has, since the 1990s, recognized the disadvantage and hostility to which Irish Travellers are subject by treating membership of the Traveller community as a protected ground in Irish legislation and policy. Thus, Irish Travellers were protected under such legislation in the same way as recognized ethnic groups, not as a matter of right but rather as a gift of the state. In doing so, the state included Travellers within the framework of protections which they duly merit, while failing to directly challenge historical and popular perceptions of Travellers as failed settled people.

This characteristically Irish solution to an Irish problem attracted disapproval from international bodies and academics, as well as being subject to intensive lobbying on the part of the Traveller organizations. In March 2017, An Taoiseach Enda Kenny finally recognized Traveller

ethnicity in a statement to Dáil Eireann (the lower house of the Irish parliament). The recognition of Traveller ethnicity in Ireland was a significant practical and symbolic milestone for Irish Travellers, many of whom had campaigned for decades advocating for the acknowledgement of the unique culture, heritage, and identity distinct to the community (Irish Traveller Movement 2018). As noted by Martin Collins of Pavee Point, “This announcement shines a light on Travellers’ rich distinct history and culture and sends out a message of respect and inclusion. [...] This announcement heralds a new positive starting point in relations between Travellers and the majority population—a relationship that can only flourish and develop when founded on the vital principle of equality” (Pavee Point Traveller and Roma Centre 2017b, 4).

Nonetheless, the statement was largely symbolic, and it explicitly asserted that the recognition of Traveller ethnicity would confer no additional rights on Travellers. Indeed, this fact had been adopted and argued by Travellers and experts before the Joint Committees in 2014 and 2017 when they presented the case for ethnic recognition. Rather, the argument for ethnic recognition among those who were privy to the state’s deliberations (as related in the report) appealed to the psychological, rather than legal, benefits of ethnic recognition. It spoke to the impact of ethnic status on the social standing of Travellers as a group with respect to the majority sedentary culture, and in terms of the potential of ethnic recognition to readdress Travellers’ internalization of others’ constructions of them as failed settled people.

It was suggested, in very broad terms, that ethnic recognition might serve to mitigate the perceived hegemonic sedentary mindset of policy makers, authorities, and service providers. It was further proposed that ethnic recognition would dispel any ambiguity as to whether Travellers experience racism and should be included in anti-racist and intercultural initiatives. Equally, it was asserted that ethnic recognition would produce the automatic protection of Travellers in future legislation addressing groups on the basis of ethnicity, whereas in the absence of recognition Travellers and their allies have previously had to argue for their inclusion, and the inclusion of the community could be withdrawn.

The article recognizes that, given the legislative protections previously afforded to Travellers as a named group, recognition does not afford Travellers any additional rights. We surmise, however, that that there is a possibility that Travellers may be able to draw upon ethnic recognition to support their claims to the activation of rights already accruing to them but which agents of the state have been remiss in fulfilling (e.g., in respect to the provision of culturally appropriate accommodation). Further, where the state chooses, or is obliged, to protect the rights of ethnic minorities or afford protection to groups and individuals on the basis of their ethnicity, there is arguably no means by which Travellers can be excluded from such protection. That said, if there is to be certainty in this regard, Traveller ethnicity needs to be enshrined in relevant legislation, subsequent to the Taoiseach’s statement, ensuring that members of the community are not required to take legal action to test the interpretation of ethnicity. Ultimately, however, the question as to what ethnicity means in an Irish context is no clearer following the statement of recognition on the part of An Taoiseach.

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Notes

- 1 Also known as the Republic of Ireland. The constitutionally correct name of the country is Ireland.
- 2 This second sentence is particularly interesting given the fact that the terms *ethnic group* and *ethnicity* were not included in legislation at that point, and it is not clear what the term meant to the authors of the report.

- 3 This was a period of Irish neutrality during the Second World War (see Spelman 2004).
- 4 A similar definition is used in the Employment Equality Acts, which states: “‘Traveller community’ means the community of people commonly so called who are identified (both by themselves and others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland.”
- 5 Located in the northeast of the island of Ireland, Northern Ireland is a jurisdiction within the United Kingdom of Great Britain and Northern Ireland, partitioned from the jurisdiction of Ireland in the agreement which ended the colonial rule of the United Kingdom over the remainder of the island. The jurisdictions of England and Wales and Northern Ireland are thus Ireland’s closest neighbours and, as a result of their historical relationships, share common legal systems. Given their proximity, Northern Ireland and England and Wales also have sizable Irish Traveller populations, although smaller in both cases than in Ireland. The question as to whether Irish Travellers are recognized as a distinct ethnic group has been long settled in both jurisdictions.
- 6 *Ethnic origins* is defined in section 3(1) of that Act, which provides that *racial group* “means a group of persons defined by reference to colour, race, nationality or ethnic or national origins, and references to a person’s racial group refer to any racial group into which he falls.”
- 7 For a review of the decision in *Mandla v. Lee*, see McKenna (1983).
- 8 For an analysis of housing and accommodation obligation in Northern Ireland, see Maginn, Paris, and Grey (1999).
- 9 A colloquialism which refers to a preference for finding a workaround for problems rather than addressing them head on.
- 10 ICERD applies to both Roma and Travellers, as consistently evidenced in the Committee’s concluding observations to state reports and the particular focus on the Roma seen in its General Recommendation 27.
- 11 For a discussion of this issue, and of the convention more generally, see Thornberry (2016).

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