

# DÁIL ÉIREANN

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## AN CHOMCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

### JOINT COMMITTEE ON JUSTICE AND EQUALITY

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*Dé Céadaoin, 26 Deireadh Fómhair 2016*

*Wednesday, 26 October 2016*

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The Joint Committee met at 9 a.m.

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#### MEMBERS PRESENT:

Deputy Colm Brophy,	Senator Niall Ó Donnghaile.
Deputy Jack Chambers,	
Deputy Alan Farrell,	
Deputy Jim O’Callaghan,	
Deputy Mick Wallace,	

In attendance: Deputy Jonathan O’Brien and Senator Colette Kelleher.

DEPUTY CAOIMHGHÍN Ó CAOLÁIN IN THE CHAIR.

**Recognition of Traveller Ethnicity: Discussion**

**Chairman:** I have been advised that we have apologies from Senator Frances Black. There are two items on the agenda relating to the recognition of Traveller ethnicity. Our first session is a discussion with representatives of the Irish Traveller Movement, ITM, on this important issue. The joint committee has identified this as one its priority issues in its 2016 work programme. We are appreciative of, and would like to recognise, the work of the previous justice committee in addressing the issue. We are not endeavouring to replicate or replace it; we are hoping to build on it.

I welcome Ms Jacinta Brack, public relations and public co-ordinator of ITM, Ms Maria Joyce, co-ordinator of the National Traveller Women's Forum, and Mr. Bernard Joyce, director of ITM. The format of the meeting is they will all be invited to address the committee and make a brief opening statement, which will be followed by an opportunity for questions and answers. We have allocated an hour because this session will be followed by an address on the same topic by Irish Human Rights and Equality Commission representatives.

Witnesses should note that they are protected by absolute privilege in respect of the evidence they are to give to the committee. If, however, they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable. Members should be aware that, under the salient rulings of the Chair, they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable. I invite Ms Joyce to make her opening statement.

**Ms Maria Joyce:** I am delighted to be here on behalf of the National Traveller Women's Forum and I welcome the committee's interest in raising the matter of Traveller ethnic recognition as a priority for its work. I am joined by Mr. Bernard Joyce and Ms Jacinta Brack of ITM .

Travellers have a shared history, culture and language with its own customs and traditions which are recognisable and distinct. There are two essential elements identified in the Act of 1976 and *Mandla v. Dowell Lee* which constitute an ethnic group - a long shared history of which the group is conscious as distinguishing it from other groups, and the memory of which it keeps alive; and a cultural tradition of its own, including family and social customs. Travellers share both of these characteristics. We self-identify as an ethnic group and we are seen as a separate group by others. Our recognition as an ethnic minority in Ireland has been long outstanding. Despite many years of campaigning the first formal reference by the State to our requests was noted in October 2011 when the former Minister for Justice and Equality said the State would give clear consideration to the matter. Five years on, we are still waiting.

In April 2014 the former Joint Oireachtas Committee on Justice issued its report and recommendations on recognition of Traveller ethnicity as follows: that either the Taoiseach or Minister for Justice and Equality would make a statement to Dáil Éireann confirming State recognition, that the Government would then inform relevant international bodies of that decision and that a time-limited dialogue would be undertaken with Traveller representative groups about new legislation, or amendments to existing legislation that were required. Two and a half years on and still nothing. To say we are bitterly disappointed at this continued denial of Traveller

ethnicity is putting it mildly.

In July 2015 the position of the State was publicly confirmed for the first time and is, according to the Attorney General's office, that there is no impediment to State recognition under two principle concerns, cost and additional legal implications. In the meantime, calls from domestic and international human rights bodies, treaties and covenants, to which Ireland is a party, have appealed to the Irish Government to afford Travellers the right to have our unique identity recognised. These calls have been left unanswered. Only last week, the director of equality at the European Commission's Directorate-General for Justice cited that it may issue proceedings against Ireland for alleged discrimination against Travellers. She referred to repeated calls from bodies such as the United Nations and the Council of Europe for Ireland to recognise Traveller ethnicity, as Travellers satisfy internationally recognised criteria. She also stated that Travellers are the most marginalised community in Ireland.

In our current position, we are more vulnerable to indirect discrimination in State policy and practice and cannot rely on automatic comprehensive domestic protection. This was evidenced three weeks ago when the Criminal Justice (Aggravation by Prejudice) Bill was supported and moved on to Committee Stage without reference to Travellers. Lack of recognition means we do not benefit from automatic inclusion in such proposed Bills. It also sends out a message on the part of the State to the effect that the institutional and societal racism, discrimination, prejudice and oppression that Travellers experience in every aspect of their daily lives is acceptable. Traveller women living 11 years less than settled women is not acceptable. Suicide rates six times higher in the Traveller community than the national average is not acceptable. Ten people are dead, five of them children, because we do not have adequate provision of high-standard, Traveller-specific accommodation. Travellers the length and breadth of this country are living in intolerable conditions and this leads us to ask "What is the delay?". After all, as Travellers, we satisfy the standard legal and sociological criteria for recognition – that is undisputed internationally. Domestic and international human rights bodies have consistently reminded the Irish State of its obligations to Irish Travellers to have our ethnicity recognised as set out in international human rights treaties ratified by the Irish Government. The British and Northern Irish authorities, Scotland and Wales have recognised Travellers as an ethnic group, separate from non-Traveller Irish people. The Irish State, as directed by the Attorney General's office, has also conceded there is no impediment to our recognition.

Mr. Bernard Joyce will discuss the importance of State recognition to us as a community. Fundamentally, recognition of our ethnicity would be a step towards real equality for Travellers in Irish society. In the 30 years and more since the founding of Traveller organisations we have called for acknowledgment of our unique identity and place in Irish society. We want Travellers to be valued for the people we are and the contribution we make to Irish society and to be elevated by the State and in the mindset of all its people. This could bring about a significant positive step on the journey of re-righting the ill-effects of marginalisation, exclusion and oppression and create an opportunity to shape a better future for Travellers.

**Chairman:** I thank Ms Joyce. I now call Mr. Bernard Joyce, director of the Irish Traveller Movement.

**Mr. Bernard Joyce:** I, too, am very honoured to speak today on behalf of the Irish Traveller Movement on the matter of Traveller ethnicity recognition. I thank the Chairman and the committee for their invitation to us to come here today. This is our second time in two years to appear before a committee of the Houses.

## RECOGNITION OF TRAVELLER ETHNICITY: DISCUSSION

Ms Maria Joyce outlined how the issue of our ethnicity is undisputed and that we belong to an ethnic group. I was born a Traveller. This is my identity; it belongs to me. I cannot become a non-Traveller. I belong to a community who share a history that is owned by us, culture that belongs to us and values and beliefs that we share together as a community. We are a unique people on this island. We share a historical experience dating back hundreds of years and, unfortunately, we experience discrimination, marginalisation and exclusion on this island, which has created huge gaps in our social, health and life outcomes.

Ethnicity is not the same as race, nationality or place of birth. Recognising Traveller ethnicity will not make us less Irish. It will, however, acknowledge our dual identity of being both Irish and Traveller, similar to Irish Americans and African Americans. Having my identity recognised, defined and included would enhance my pride of place in Irish society my sense of being part of rather than separate from it.

What we seek from the Irish State is an acknowledgment that our view of ourselves as a community is valid, and should be recognised as such. Fundamentally, it is about respect and inclusion of our identity that has been denied since the foundation of the Irish State. Now is the time to do right by us. Now is the time to make this decision.

One particular advantage to ethnicity recognition is the opportunity to enhance community esteem and address internalised oppression. Internalised oppression, which supports the notion that the majority population is right and somehow superior to us, leads to poor self-image, low self-esteem, a lack of pride in one's culture and identity, stress, depression and even suicide among our community. The low expectations that we both have of ourselves and of our community sadly is not unique to us. Minority groups across the globe share its impact on the well-being of their communities. However, despite the difficulties facing our community, the crisis relating to our mental and social well-being and the vulnerabilities threatening our young people, as a community, we are a resilient, proud and honourable people. Recognising our minority ethnic status would mean that we would be automatically included, as Ms Maria Joyce said, in future anti-racism and integration policies and initiatives.

Our desire is to be valued for the people we are and to be elevated by the Irish State, bringing about a positive step on the journey of re-righting the ill-effects of past policies. The 1963 Report of the Commission on Itinerancy on Travellers further marginalised our community. Recognising Traveller ethnicity would also create the opportunity for further collaboration and an improvement in trust between the State and Travellers. I must state that recognition, however, is not a gift to be bestowed by the State or by others, our ethnicity without question is our unique identity. Our recognition is part of a process of healing and reconciliation between Travellers and their relationship with the State. The historical context of our position and of our right as individuals and as a group to self-identify as being Traveller and the recognising of our ethnicity has both symbolic and practical benefits.

I thank the committee for this opportunity. It has been two years since we were last here. In those two years, we have seen the Minister responsible previously make an announcement that ethnicity would be recognised within six months. A year has passed and we are still here. Our community has been very much let down. I hope this is part of a process where there will be an opportunity to progress Traveller ethnicity and Travellers' rightful place within our society.

**Chairman:** I thank Mr. Joyce. I will take questions from members, starting with Deputy O'Callaghan.

**Deputy Jim O'Callaghan:** My name is Jim O'Callaghan and I thank our guests very much for attending. They are very welcome.

The report from April 2014 was compiled by the previous committee. This committee will stand by that report. I can understand the witnesses' frustration that it has not been implemented, specifically the recommendations contained in it.

On the general issue of Travellers, in my assessment there are five sets of statistics that are simply unacceptable from this State's point of view, namely, statistics in respect of infant mortality, education, unemployment, suicide and life expectancy in the Traveller community. To what extent do the witnesses believe that those serious problems in the Traveller community will be alleviated if recognition is granted, as previously recommended by the report?

**Chairman:** The witnesses can share their responses. Deputy O'Callaghan will have supplementary questions to ask, so we will take each of the Deputies and Senators in turn.

**Mr. Bernard Joyce:** The level of exclusion and marginalisation relates to one's self-identity. The vast majority of Travellers do not choose to be socially excluded but are excluded regardless. We have seen this even more with our young people. I believe there is a strong connection between mental health, well-being and social inclusion. I also believe that there is a strong connection between one's identity and feeling a sense of pride in one's identity and a sense of belonging. Belonging and that sense of identity have not been accepted, acknowledged or complimented in Irish society in a way that it should be. We see this even more in parts of Ireland where Travellers are dispersed. We have seen young Travellers feel a sense of shame about who they are and their identity, and that is more to do with how society judges the Traveller community. We want to move to a situation where Travellers feel they can belong and feel strong about who they are as people, but also where society acknowledges that. There is so much more that needs to be done in that regard.

As we saw recently, the statistics on education have got even worse because of a lack of resources. When one considers the cuts to the Traveller sector, one sees that no other community has endured the level of cuts that have taken place to education, accommodation and services. We have seen something like an 80% cut in education services. Such cuts are unprecedented compared to other communities and we must ask why is that the case. What we have not touched on in terms of statistics is a strong, underlying aspect that Travellers state that they experience discrimination not once, but a multitude of times in one day. It is not that they go out and experience discrimination once or three times in a lifetime; a young Traveller can experience discrimination three times within an hour of walking out his or her front door. They can experience discrimination in trying to enter a shop, among their peers or in schools. This has an impact on a day-to-day basis. I have referred to the internalised pressure and to the fact more and more Travellers avoid services close to where they live, such as schools, and are moving eight to nine miles to access services outside their towns.

The difference between the unemployment rate for Travellers and that for the general population is almost incomparable. The national figure is 11%, but the figure for Travellers is something like up to 82%. It is absolutely incredible. There is a lack of resources and supports. In terms of employment opportunities, it is absolutely an indictment of the State and the failure of every single Department to deliver adequate resources and address the gap in terms of division, exclusion and marginalisation. Travellers are almost being blamed and held responsible for their unemployment, their treatment and the lack of accommodation, and that is not acceptable.

I do not know whether my colleague would like to add anything.

**Ms Maria Joyce:** We welcome Deputy O’Callaghan’s comment that these statistics are unacceptable because they are. Traveller infant mortality at three times the national average is absolutely unacceptable. Mr. Joyce has spoken about the unemployment rate for Travellers being in excess of 84%. During the recession when the national unemployment rate was at 14% and 15%, it was a crisis. Traveller unemployment is not considered a crisis even at absolutely astronomical levels. The suicide rate for Travellers is six times higher than the national average. These are not just statistics; these are people; this is a community. When one considers some of these figures, for example, suicide rates, it is clear we have a crisis and an epidemic, but there is no co-ordinated policy response, or any response, from the State for a significant community within its borders, and it is not addressing it in any comprehensive way.

We would welcome recognition tomorrow morning. We do not see it as the panacea to solving all the issues and problems but we see it as the first step in the right direction in that regard. Mr. Joyce talked about what recognition means as a Traveller, but basic fundamentals, such as respect, dignity and inclusion, and the impact they will have on every aspect of Travellers’ lives, cannot be measured. Recognition will also mean that where Travellers have been excluded from policies developed by the State, in some instances intentionally, if they were recognised as an ethnic minority, they would not be excluded from those policy documents.

**Deputy Jim O’Callaghan:** Do I take it from the witnesses’ answers that, to summarise, they believe there will be practical benefits of the State’s recognition of Traveller ethnicity and that it will not be just some political formula that would be of no consequence?

**Ms Maria Joyce:** Yes.

**Deputy Jim O’Callaghan:** Finally, what is their assessment as to why recognition has not been granted as of yet?

**Ms Jacinta Brack:** Initially, the State was reluctant to recognise ethnicity on the basis of cost and potential legal implications. Those are certainly the arguments that have been put forward, say, in the past five years. Prior to that, as Mr. Joyce mentioned earlier, the State did not acknowledge Travellers’ wish and desire to be recognised. The first admission of this came under a universal periodic review, UPR, process, under which Ireland was examined, and at which the then Minister, Alan Shatter, was the first Minister to say that he recognised Travellers’ wish and desire and that he would give clear consideration to the matter. The Attorney General’s office has now confirmed that there is no such impediment.

**Deputy Jim O’Callaghan:** The Equal Status Act already prohibits discrimination against Travellers as a particular ground. What other potential legal expansion could be caused by this?

**Ms Jacinta Brack:** I am not a legal expert, but part of the problem is that Travellers cannot rely on the Equal Status Act, despite the fact that it takes into account the race directive, which is the transposing law. This is directly because Travellers are not identified and named specifically as an ethnic group. That would have been evident, as Mr. Joyce said earlier, in the Criminal Justice (Aggravation by Prejudice) Bill brought before the Dáil. Ironically, when the current legislation, the Prohibition of Incitement to Hatred Act, was going through the Houses, it did not include Travellers either, and national Traveller organisations had to lobby for inclusion. The same goes for the Press Council.

To go back to Deputy O’Callaghan’s first point, we consider the matter on the basis of the

legal benefits, the practical benefits and the symbolic benefits of the wish and desire of Travellers. However, regarding education, Travellers are not currently covered by the UN Convention on the Rights of the Child, for instance. Therefore, if Travellers were to rely on the Equal Status Act to seek redress for indirect discrimination, they would not be able to rely on the current domestic legislation. We saw this directly in the case we supported, which was taken to the Supreme Court, of a young boy in Tipperary who could not access a place in a secondary school because he could not comply with the father-son rule. That is a difficulty for Travellers also. There are a number of legal implications but it would mean that Travellers would be automatically included in Bills, which would be a huge benefit in the future.

**Deputy Mick Wallace:** I thank the witnesses for attending. Politicians probably tend to disappoint in the way we represent people but it is obvious from listening to the witnesses that we, and those who came before us, have not done enough for them. It is good to hear their side of the story. I have heard it many times and I accept that we have not done enough from our end.

To follow up on Deputy O’Callaghan’s question on the reason the State has taken its position for so long, and Travellers have been marginalised for a very long time, aside from the question of costs, which is always a stumbling block for Governments, what do the witnesses believe is the reason this has gone on for so long? How should we challenge the *status quo* to change the way issues are perceived?

**Ms Maria Joyce:** To add to what Ms Brack has already said, one of the key aspects is the lack of political will to make it happen. There is a lack of political leadership in terms of getting behind the issue of ethnic recognition. We are starting to see that we have allies, but it has long been the case that there was no political leadership or courage in terms of recognition of Travellers as an ethnic minority. That is at the core of the reason we have not seen political leadership on this issue. I do not know whether that is as a result of pressure being put on at local level or whatever, but this issue should be beyond local politics. Political leadership should be shown on it. Statements are made. We come in and make submissions to the committee but a long time passes before anything happens. We need those political champions, and we need political leadership from our politicians. Unfortunately, we do not see a representative of the Traveller community in the Houses of the Oireachtas but there are measures that can be taken to address that. That does not have to be a complicated process. We have seen a catch-up as a result of quotas around women in terms of the inequality in the numbers of men and women in the Dáil. Initiatives could be put in place that would allow for visibility of Travellers in the Houses of the Oireachtas but, primarily, the problem is the lack of political leadership.

**Deputy Mick Wallace:** If Ms Joyce were a TD, how would she go about addressing the problem?

**Ms Maria Joyce:** We have political allies in here, and TDs are standing up on the issue. Increasingly, we see parties adopting Traveller ethnic status as part of their policies but the issue cannot be allowed to be taken off the agenda, and we are seeing that. Senator Kelleher made a passionate speech in the Seanad last week on Traveller accommodation. We need more of that, and we need the issue to remain on the agenda.

**Deputy Mick Wallace:** Ms Joyce spoke about the UN Convention on the Rights of the Child. In terms of Travellers, does she believe there is a lack of international recognition of what has gone on here since the foundation of our State?

**Ms Maria Joyce:** The biggest support has been from international human rights bodies. We have seen it through the Committee on the Elimination of Racial Discrimination, CERD, and other instruments to which Ireland has signed up. It has consistently come back and raised the issue of lack of recognition by the Irish State of Traveller ethnic status. No later than last week it was looking to see why the State has not recognised Travellers as an ethnic group. Those organisations have been strong allies, particularly in the past decade or so, because they have consistently asked the State why it has not recognised Travellers as an ethnic minority.

**Ms Jacinta Brack:** Ironically, being before an Oireachtas committee, ethnicity recognition, technically speaking, is not a political exercise as such. The previous committee, which did good work, outlined that it would be better if there was no legislative change for recognition but rather it would be something the Taoiseach of the day would acknowledge in the House. That ties into the idea that Travellers *de facto* are an ethnic group and therefore that is not a gift to be bestowed but something that the State should acknowledge.

However, in its absence, and as Deputy Wallace said, there is an underlying problem as to the reason that has not happened until now. Unfortunately, and I am sure most Traveller leaders would agree, that has directly accrued from State policy around Travellers, and possibly a hostility in that relationship. If we reflect on that, that takes account of all of the social indicators Deputy O’Callaghan pointed out with regard to infant mortality and all those other issues. However, the State has to reflect on itself and it is possible that in acknowledging Traveller ethnicity it will rewrite the wrongs of the past.

In terms of other jurisdictions, a state apology was made in Australia. In Taiwan, a group was given an apology by the state but was recognised as having a distinct 2% ethnic group within its majority population. That has happened in other places, including for the Sami people in Sweden. It is not unprecedented in the European context but it is long overdue here. I hope that makes the position more clear.

**Chairman:** Does Mr. Joyce wish to come back in?

**Mr. Bernard Joyce:** To reply to Deputy Wallace, our Traveller ethnicity cannot be looked at without looking at the treatment of Travellers by the State. Ireland is a very new state in terms of independence but it is also a state that has been colonised for hundreds of years, and Travellers have lived as a nomadic group on the island of Ireland. When we look at the treatment of Travellers, we also have to look at the attitudes and the prejudices that prevail. Ireland recently introduced equality legislation but the race directive had been in place in Europe for a significant length of time. I live in the midlands, and it will take me an hour to bring myself and my five children to Newry. It is ironic that in terms of the country that I was born in, and that my father and his father was born in, Meath is our home town yet we find that the status of our ethnicity as an indigenous people is not recognised. We can go to another jurisdiction and find that there is a recognition of our ethnicity. There is something fundamentally wrong with that. We all have pride in who we are but have pride in who we are under extreme pressure. We know that some people within the community have given up, and they struggle. One can see the effects of that in terms of further isolation.

Representatives of the European Commission were in Ireland recently. I have met them, as have members present. They are also asking the Irish State, as are others, why this issue has taken so long. There is an underlying institutionalised prejudice and racism and you cannot take one without the other. The State has a long way to go. I do not see this recognition as the silver bullet that will address all of the other issues. I see it as part of a process whereby when



we engage with the State, we engage on an equal footing with members - even Deputies - and that they are not looking at Travellers as somehow being failed Irish settled people, because we are not. I grew up in a time of segregation when schools were separated. I was put into special classes and was given different times. I struggle with that, even today, because that type of treatment was unacceptable. Why did that treatment happen and why were we growing up on the roadside without facilities and without access to supports? I do not claim to be a leader but what brought me in to this is that I do claim to be a person who wants to address the wrongs of Ireland. I feel very proud of being Irish but I feel very strongly that part of this is being an Irish Traveller. It is who I am and is in my DNA. It is important that this is a political decision not for one Member or one party, it is a decision that has to be made, as Ms Maria Joyce has said, by Dáil Éireann. I would take great confidence and sense of pride in being Irish if that decision was made. It is not about how long is a piece of string, it is about when that decision would be made. That is fundamentally why we are here. We would like to see a timeline put onto this process.

**Chairman:** I thank Mr. Joyce. A number of members are indicating to speak. I am not missing out Senator Kelleher but I have to try to accommodate the committee members first in deference to their specific interest and work on this matter. I have noted the names of those who have shown their hands to speak. They are Deputies Jack Chambers and Jonathan O'Brien, followed by Senator Colette Kelleher, who is most welcome to the committee, and Senator Niall Ó Donnghaile. That is the order of those who have shown and I hope to proceed with it. If others would like to show, that is all I can do.

**Deputy Jack Chambers:** I thank Mr. Bernard Joyce, Ms Maria Joyce and Ms Jacinta Brack for their presentation. They have presented raw facts which are truly shocking and show how the core pillars of the State in education, health care and housing have really undermined and forgotten a community and group in Irish society. As my colleague Deputy O'Callaghan has said, when one looks at infant mortality rates, educational outcomes and pretty much every metric we use to look at any group or pocket of any community, the statistics are off the Richter scale. To me this is shocking in the year we are in. It is something that we have to positively address. The report has made its recommendations and I know members have asked questions already but I would like to know about the international context. From doing some background work I know that the Sami people received recognition in the 1970s and there also has been recognition in the North, Scotland and Wales. As part of the type of process referred to by Mr. Joyce, where possible changes to some of the core political and policy issues could actually result in positive changes in outcomes for the Traveller community, can the witnesses outline or give some perspective on the comparative experience and what changes have occurred in the metrics of the communities in other places and how recognition has helped elsewhere?

**Ms Maria Joyce:** One of the key benefits of recognition, as raised particularly by the Sami people, was to self-esteem and to the value of their culture, ethnicity and way of life within the country they were part of. That self-esteem, particularly for the younger generations, was one of the core fundamentals that they felt as a benefit of recognition. As has been said, everything will not be corrected tomorrow but recognition would mean the inclusion of the Traveller community in anti-racism and inter-cultural initiatives. For example, Travellers were excluded from the integration policies that were developed by the State. Recognition would mean inclusion of the Traveller community in wider human rights legislation, domestic and international, which will start bringing about change. In response to a question that was asked earlier, the mindset in Ireland has to change. We are coming from the policies and mindsets of the 1960s such as the Commission on Itinerancy, which saw the Traveller community as a problem and

saw Travellers as needing to be assimilated and corrected. It is not just mindsets because we have seen it reflected in policy after policy of the State with regard to Travellers being in some way at fault for the inequalities and oppression they experience within the Irish State. Recognition would bring changes to the esteem within the community. I am incredibly proud to be a Traveller but younger Travellers in particular are bombarded with negativity from all angles, pretty much most of the time, be it through the media, policing, the Judiciary or through political statements. A combination of the measures will start to move things in a way that they need to be moved. There are some positive policies that have been developed in partnership with the State in trying to address some of those inequalities but one of the key areas in which we fall down is the lack of implementation. When considering the recognition of Traveller ethnicity, the State should be held more to account when there is no implementation of policies that are in place for Travellers to address some of that inequality. A combination of a number of factors are needed to start to address those figures. We see, very strongly, that recognition of Traveller ethnicity is one of those starting points.

**Chairman:** I thank Ms Maria Joyce for that. Is Deputy Chambers happy with that response?

**Deputy Jack Chambers:** That is fine.

**Chairman:** Before I bring in the next tranche of speakers I wish to indicate that we have another session coming after this so I ask that people be mindful that we have another group coming in on the same issue. I now invite Deputy Jonathan O'Brien to contribute.

**Deputy Jonathan O'Brien:** I thank the Chairman. At the outset, I reiterate Deputy Jim O'Callaghan's comments about the previous committee having done a lot of work on this issue. The work this committee is doing is not to replace that committee's work but will complement it and keep the issue on the political agenda. I also acknowledge the efforts by the Chairman, Deputy Ó Caoláin, to keep this on the agenda. There is no doubt that the State's treatment of the Traveller community is absolutely disgraceful. I would fully support any Taoiseach or Minister for Justice and Equality of the day who would come into the Dáil Chamber to acknowledge Traveller ethnicity. Any Taoiseach or Minister for Justice and Equality who did that would find strong support across the political spectrum. The question is, why has it not happened to date? There are probably a number of reasons, but the glaringly obvious reason is that we have a permanent government within the State which is unaccountable, has not been elected, and which has dictated policy for decades. There is institutional prejudice against Travellers at that level in the State. This is one of the reasons in my opinion. Not only should a Taoiseach or Minister come in and acknowledge Traveller ethnicity, he or she should apologise for the State's treatment of the Traveller community over decades, going back to the commission on itinerancy right up to the present day, even 12 months ago and the appalling aftermath and treatment of the Carrickmines tragedy, which was absolutely disgraceful.

There absolutely needs to be political will, but I cannot get my head around what is stopping any Taoiseach or Minister from coming in and acknowledging Traveller ethnicity. It is not something that will be opposed in the Chamber. It is not something that any political party will seize on as an opportunity to score a political point. There is cross-party support for this and it needs to happen. There is no excuse for it and no rationale as to why it cannot happen. Even if it was an issue of cost, how is cost measured? We have financial costs but we also have human costs. While these excuses may have been reasons down through the years, they do not stack up, and they particularly do not stack up with the Attorney General's statement that there is no impediment when it comes to cost. This is about a political choice by the Taoiseach or the Minister of the day coming in, not, as has been said, bestowing a gift on the Traveller commu-

nity but acknowledging it; and not only acknowledging it, but acknowledging that the State has played a huge role in decades of institutional societal racism, prejudice, discrimination and the need to recognise this. The recognition of Traveller ethnicity would be a start, and an apology would go an awfully long way in the community. This is what needs to happen. I do not believe anyone on the committee would be opposed to this, and if there is, that person should not be on a committee entitled the Joint Committee on Justice and Equality.

**Chairman:** Much of what Deputy O'Brien has said has already been addressed, but there is one little element that was new, which is a reference to an apology. Will the witnesses comment on this? If possible, I ask for just one person to comment because I want to give everyone the opportunity to participate. The witnesses can draw lots as to who will take it.

**Mr. Bernard Joyce:** I welcome Deputy O'Brien's remarks. An apology would certainly go a long way in reconciliation between the communities, but an apology needs to go further in terms of real meaningful-----

**Deputy Jonathan O'Brien:** It needs to be a sincere apology.

**Chairman:** Senator Kelleher has been very patient.

**Senator Colette Kelleher:** I am not known to be.

**Chairman:** She is very welcome to the committee.

**Senator Colette Kelleher:** I thank the Chairman. I thank the witnesses for their wonderful presentation and kind words. I went to the Traveller Counselling Service conference in Dublin Castle last week, which was really well attended and included two Ministers. I was struck by the positivity of the conference even in the face of adversity. There were people there who in recent weeks had lost young men to suicide, but they were there wanting to work. The name of the conference was Bridging the Gap through Partnership, and the resilience that has been described was clear, as was the link between recognition of ethnicity and people's sense of well-being and self-esteem. There are many legal and political implications, but people's sense of themselves and the wish to live was really clearly made. Two European bodies have made judgments against the Government regarding violations of Traveller rights, including the recognition matter. Will the witnesses briefly update the committee on these judgments? Do they recommend that the committee considers the findings of the judgments and advises the Government on their implications?

**Ms Jacinta Brack:** One particular judgment was made in May this year, under Article 16 of the European Social Charter, whereby Ireland was found to be in violation of five grounds regarding Traveller accommodation, specifically the way in which Travellers are evicted from accommodation and inadequate safeguards, and the inadequate provision of Traveller accommodation. This bears a context here because the committee did not find this on the basis of discrimination, although ethnicity might be something which would have supported the argument. It found Ireland to be in violation on five grounds. The other recent finding was from the European Commission, which found that Ireland will possibly face infringement because of its lack of recognition of Traveller ethnicity and with regard to the inadequate provision of Traveller accommodation. The Committee of Ministers recently endorsed the findings of the collective complaint under the charter, on October 5, and the finding of the European Commission was just a week ago.

**Chairman:** Ms Joyce made reference to the Committee on the Elimination of Racial Dis-

crimination, CERD, earlier in her remarks. I am reminded we are due for review under CERD in 2018, and this would be a matter that needs to be addressed comfortably in advance of that date.

**Ms Maria Joyce:** So the eyes of the world are watching us-----

**Chairman:** Absolutely.

**Ms Maria Joyce:** -----irrespective of what we choose to do or not to do. We will get external pressure on how we are falling short on Traveller rights, Traveller outcomes, Traveller health and all of the various indicators we have discussed.

**Senator Niall Ó Donnghaile:** I thank the witnesses for the presentation. I have a number of points to make and a question to ask. I will not hit the witnesses with a load of platitudes regarding statistics. While I appreciate the statistics, I do not need to tell the witnesses how awful they are because they know better than anyone around the table the very negative impact on the Traveller community. I am a new member of the committee and I appreciate the Chairman maintaining engagement on this issue because it allows us new members to become better informed as we do work on the issue in the time ahead.

The issue of an apology was mentioned and I want to touch on this because I thought some of the points raised by Deputy O'Brien were pertinent. In the North we engage with the Government all the time to campaign and lobby the British Government, EU colleagues and others on the issue of apologies and recognition of hurt, pain and loss inflicted on communities in the North. It tells us it is doing this, and it is an absolute stain on it and a shame that it would have the audacity to ask other people for apologies, as right as it is in doing this and as justifiable and as much as they are needed, without affording the apology to our Traveller citizens for the hurt, pain and institutionalised prejudice, sometimes brutality inflicted on them.

My question is on the issue of recognition, and recognition in the North has been touched on. Many of our Traveller communities in the North still face the same issues outlined by the witnesses, even with recognition. For the benefit of those of us who are new and those of us coming to this issue, and some of this has been touched on, will the witnesses expand slightly on what it will look like? What will it mean in a practical legislative tangible way for the Traveller community? I appreciate the issue of recognition of itself is important culturally, psychologically and for the community, but in terms of some of the issues touched on by Ms Joyce, for example, the lack of Traveller representation in the Houses, do they call for quotas? Would it allow for this? Perhaps it is too much. Perhaps the witnesses can provide us with information, and if this is the case I would appreciate it.

**Ms Maria Joyce:** It is already covered in that it would mean the automatic inclusion of Travellers in any anti-racism or intercultural initiatives in the State and in various Departments, such as those with responsibility for health or education. We have seen situations where Travellers have been excluded from some of the policies that have been developed around integration and anti-racism even though there is absolutely no rationale to justify it. Fundamentally it will mean that where these kinds of policies are being developed by central Government or within the various Departments Travellers will automatically be included. We hope that in practical terms it will mean greater or real partnership in terms of engagement with Travellers by the State. There are spaces where we engage in consultation and unfortunately we have been in those spaces for many years. If one even takes the accommodation sector as an example, there have been 18 years of consultation yet the numbers of Travellers on the roadside, sharing ac-

accommodation, or in crisis accommodation is increasing. It is not indicative of something that is working. We want real partnership in which we are part of the decision-making processes in a real way.

Deputy O'Brien spoke about Carrickmines, which should have been considered a heart-breaking and devastating event in the history of the State. While there was certain goodwill, we saw very quickly that when it came to accommodating the grieving families of the people who had died, not even space for accommodation could be created. Some of the statements that came out politically at the time said it was right that the settled majority should be consulted if a Traveller is living beside them. In the aftermath of ten people dying, they could not even find accommodation to create a safe space for the grieving families. We need real partnership in terms of the practicalities and the positive policies that are not being implemented. One would like to think there will be mechanisms of accountability where if policies are not being implemented, the buck stops somewhere but that is not the case if one looks at statistics in education, inequality of access, participation and outcomes for Traveller children and in terms of health, both physical and mental, across the whole community. One would hope that one of the practical benefits will be direct partnership between the State and Travellers and Traveller organisations.

**Chairman:** I thank Ms Joyce and Senator Ó Donnghaile. I have no further questions to ask the witness. Did Mr. Joyce want to say something?

**Mr. Bernard Joyce:** I fundamentally believe that the treatment of Travellers based on their culture is wrong. Society and Ireland has moved on. We are a very diverse society and we welcome different communities. Our make-up and DNA is very different but we are all human. I feel strongly and passionately about that but I also feel a certain hurt and pain that people have within the community. Carrickmines was a tragedy but it also brought out a sense of the attitudes that exist within Irish society. We do not want another Carrickmines. We want to see a community that can be supported, enabled and take pride in who it is. The question in terms of recognition is only one part of the process going forward. If one looks at Northern Ireland and the process that has taken place there, we are starting from a very different footing in terms of the political activation and lobbying. We are asking for recognition of a more symbolic nature.

The second part is in terms of the State addressing the ills of past policies. The 1963 itinerancy report refers to issues such as simulation not integration. It referred to removing the culture within the Traveller community and absorbing it into the wider community. We are concerned about the new generation, that when they go into schools, they do not feel a sense of shame about who they are. When a lot of young people go into schools, teachers ask whether they should use the word "Traveller". This is because there is no leadership at a national level. That is something that needs to be driven from today and needs to be progressed. Given that the State has been independent for almost 100 years, the timing is right for the decision to be made on the recognition of Traveller ethnicity before the end of the year. If that was something the committee could recommend, it would be significant from a Traveller perspective.

**Deputy Jonathan O'Brien:** There is another Carrickmines waiting to happen. I represent the constituency in Cork where Spring Lane is located. Mr. Joyce will be well aware of Spring Lane. It is a Carrickmines that is going to happen. The reason it will happen is because of the underlying discrimination and prejudice against the families living on that site. That is led at community and local level. It is being fostered because at institutional and State level it has been almost made acceptable to discriminate against Travellers.

**Ms Maria Joyce:** I totally agree with what Deputy O'Brien has said about Carrickmines and the potential for something similar to happen. Throughout the country, the potential for that in Traveller-specific accommodation is frightening. Only one short year on from that tragedy, things have gotten worse and there has not been a serious knuckling down to address the issues that need to be addressed in terms of Traveller accommodation.

**Chairman:** I will make a brief comment before finishing. It is important to record that the last committee, under the chairmanship of Deputy David Stanton, did very sound work on this issue. This committee recognises it is important to inject fresh new impetus. We have a new configuration in terms of politics represented in the Houses of the Oireachtas. It is critically important, as some of those who have spoken have indicated, that there has been a big influx of new voices and they are having their chance to be a part of this for the report. We hope it will make the critical difference. The intent is that it will encourage and embolden those who can bring this issue across the line. For me, and I would imagine for all my colleagues on the Joint Committee for Justice and Equality, this past 12 months has been a period during which I have experienced a repeated sense of shame as a citizen - shame over the tragedy of Carrickmines and the fact, as has just been recorded, that it could happen again; shame at the repeated evictions in Dundalk; shame at the closed school doors; and shame at the media which continues to label. There is much to be done and the bringing of Traveller ethnicity into formal recognition would help to address all of that, hopefully in the very near future.

I thank Bernard Joyce, Maria Joyce and Jacinta Brack for their contributions today. They were most illuminating and very helpful. I thank my colleagues on the committee. I invite the witnesses to join us for a photograph which we will append to the report which will go to the Minister, who will see who has come before us and the quality of their contributions. We will suspend for five minutes and resume with our second session, which will be with the Irish Human Rights and Equality Commission.

*Sitting suspended at 10.10 a.m. and resumed at 10.15 a.m.*

**Chairman:** The committee will now resume in public session. This is the second of our two meetings this morning on the issue of the recognition of Traveller ethnicity. The next part of our discussion is with the representatives of the Irish Human Rights and Equality Commission. I welcome Ms Emily Logan, Chief Commissioner, and Mr. David Joyce, a member of the commission, to the meeting. On behalf of the committee, I thank them both for their attendance. The joint committee has identified the issue of the recognition of Traveller ethnicity as one of the priority issues in its 2016 work programme. We are very cognisant of the value of the previous committee's addressing of this particular subject. Our efforts are intended to complement and build on that work not to replicate it or in any way set it aside. It is a process. We hope this exercise, not only today but in our subsequent engagements over the next couple of weeks, will make a valued contribution to the issue.

The format of the meeting is that the commission's representatives will be invited to make a brief opening statement and this will be followed by a question-and-answer engagement with members. Before we begin, I draw the attention of the witnesses to the situation in respect of privilege. Witnesses should note that they are protected by absolute privilege in respect of the evidence they are to give to the committee. If, however, they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any

person or an entity by name or in such a way as to make him, her or it identifiable. Members should be aware that, under the salient rulings of the Chair, they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable. I invite the Chief Commissioner to make her opening statement.

**Ms Emily Logan:** Mr. David Joyce and I are here to represent the Irish Human Rights and Equality Commission and thank the committee for giving us the opportunity to do that. As Ireland's national human rights institution and national equality body, the commission not only has a statutory remit to protect and promote human rights and equality in Ireland but also a remit to promote a culture of respect for human rights, equality and intercultural understanding. A core part of our three-year strategy statement is the promotion of pluralism and the acceptance of difference and we are committed to encouraging a culture of respect for freedom, dignity and understanding of human rights and equality in the State.

Along with its predecessor bodies, the Irish Human Rights Commission and the Equality Authority, the commission has consistently raised concerns about the human rights and equality protections afforded to the Traveller community in Ireland. We will continue to raise these matters at every opportunity domestically and internationally. The recognition of Travellers as a distinct ethnic group is not in doubt, yet for the purpose of international agreements and before the United Nations and other international bodies, overt recognition has continued to be denied by successive Governments. This is a serious and ongoing concern and the commission strongly considers that the time has come for the State finally to move on the recognition of Travellers as an ethnic minority. The State is bound by the international consensus that self-determination forms the basis of a person identifying as belonging to a particular ethnic or racial group. International bodies have historically and continue to recognise the Traveller community as an ethnic minority and have consistently recommended the Irish State does likewise. We already see *de facto* recognition of Traveller ethnicity in our equality legislation. The definition of "Travellers" adopted by the Oireachtas for the purpose of the Equal Status Acts states: "'Traveller community" means 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."

We also see implicit recognition in other contexts, such as the inclusion of Travellers as a specific group for the purposes of the Council of Europe Framework Convention for Protection of National Minorities, as well as the State's reports to the United Nations at the time of its examinations under the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and under the International Covenant for the Elimination of all forms of Racial Discrimination.

Against this backdrop, the logic of the State's ongoing refusal to recognise Traveller ethnicity must be questioned. As recommended by the predecessor to this committee in its 2014 report on the recognition of Traveller ethnicity, "It is no longer tenable for this State to deny Traveller ethnicity".

Protections under the UN International Convention on the Elimination of all forms of Racial Discrimination, to which Ireland has been bound since ratification in 2000, are largely linked to ethnicity. Importantly, continued inaction by the State on Traveller ethnicity diminishes the State's international credibility with the UN. Ireland will be examined with regard to its obligations on the elimination of racial discrimination in 2017 through a written submission, followed by an oral examination before a committee in 2018. The commission believes the matter of

## RECOGNITION OF TRAVELLER ETHNICITY: DISCUSSION

Traveller ethnicity requires resolution well in advance of this important examination of our record on racial discrimination before the United Nations.

There is no legal impediment to the recognition of Traveller ethnicity. This important change to recognise our indigenous Traveller community does not require a referendum nor does it require primary legislation. The Government committed in front of the United Nations Human Rights Council in 2011 to recognise Traveller ethnicity. What is required is not even a ministerial order but a statement in the Dáil. It, therefore, begs the question as to why this has not already happened.

The negative impact of non-recognition on the engagement between the Traveller community and State is unnecessary. With the unequivocal recognition of a distinct culture and identity, we can better anticipate and respond to the needs of the Traveller community. In late 2015, following the Carrickmines tragedy, we heard in political debates how several local authorities had not even drawn down moneys allocated for Traveller accommodation. It is perhaps more useful now to think about how recognition will be the catalyst for a rethink of how we spend public money on policies affecting Travellers and how priorities should be considered in a new light.

We can build on a strong foundation of equality of standing in the context of the relationship between the Traveller and settled communities. From that starting point, the issues which are important to our society can begin to be discussed in a more meaningful and mutually respectful context. With that, we can continue the work of understanding what needs to change in law and policy to support members of the Traveller community, for example, in accessing education, culturally appropriate and safe accommodation and health care, among other priority areas.

Respect for Traveller cultural identity must be reflected in Government policy decisions. How can this happen in the absence of recognition of Traveller ethnicity? It is the Irish Human Rights and Equality Commission's position that it cannot. There continues to be a strong political argument in favour of recognition. We recognise the political leadership shown by this committee and its predecessor. There needs to be a significant and symbolic step in a longer conversation, however. The recognition of Traveller ethnicity must be placed in the broader international context of discussion of others, outsiders and division. This is an opportunity for us to show our national political leadership, setting ourselves as a standard bearer against those who would seek to hold back progress towards equality and human rights provision. We must show through our political actions, our Irish fortitude against international voices of intolerance and mark our determination to act positively.

The achievement of equality and respect for human rights must involve access to recognition, status and standing in society and to relationships of respect. The recognition of Traveller ethnicity is central to any equality of status or standing for the Traveller community.

**Deputy Jim O'Callaghan:** Why does the commission believe recognition has not yet happened? Deputy Jonathan O'Brien indicated earlier on that there may be dark reasons as to why. Maybe it is more a benign reason in that there is a concern among officials in the Department of Justice and Equality that recognition will give rise to new causes of action which may result in litigation.

**Mr. David Joyce:** I am not sure if it would be correct to argue it would enhance the legal rights of Travellers. A significant number of rights already exist under the Constitution, while the international conventions to which we have signed up also confer rights. They have not



resulted in any extra litigation or a flood of cases before the courts. The argument that ethnicity will create extra litigation does not follow.

Breaches which exist and give rise to causes of action relate to accommodation and provision. Many of those causes of action already exist in our domestic legislation where there is a failure by a local authority to fulfil its statutory obligations. International conventions to which we have signed up are not directly applicable before our courts. We cannot realign them as tools in legal argument. The only rights which can be relied on probably exist in our domestic legislation.

I cannot see how the recognition of ethnicity confers extra political and legal rights specifically on Travellers. It may have an impact on a broader notion of equality in the State. There is nothing in recognising Traveller ethnicity, however, that will put them above and beyond any other citizen in respect of a cause of action. That is the commission's understanding.

**Ms Emily Logan:** The notion of self-determination has been misunderstood. Not only has there been a protracted denial of Traveller ethnicity but somehow the idea that consensus between the community itself must be reached before Traveller ethnicity can be recognised misunderstands the principle of self-determination. It is up to individuals to self-identify as a member of an ethnic group.

As someone working in human rights for many years, I know there has been hostility towards economic, social and cultural rights in Ireland. Ireland is not unique in that regard. We are talking about people who have particular needs and require additional assistance from the State. There are many other groups who require additional assistance from the State. The State already devotes considerable resources to supporting Travellers. Taking the example of housing, many local authorities did not draw down moneys for Traveller accommodation. That is where the deeper and more uncomfortable questions begin.

After the Carrickmines tragedy, we saw the political discomfort with the public response to providing accommodation for the bereaved families. We cannot pretend or hide the fact it creates discomfort. As a non-Traveller, I do many interviews in which I am not asked any questions about members of my community. Traveller leaders are constantly asked about feuding or questions which are discriminatory or prejudiced in nature. I do not expect that nor am I asked those kinds of questions. Our starting position should not be one of prejudice. The lens through which we should look at this is one of respect. Of course members and leaders of the Traveller community are willing to talk about the uncomfortable, as well as the more positive, matters. We, as a community, must start from a position of respect in order to engage in that discourse.

**Deputy Jim O'Callaghan:** Is the Irish Human Rights and Equality Commission aware of any other groups in Ireland that are seeking ethnic recognition?

**Mr. David Joyce:** I am certainly not aware of any, let us say, indigenous Irish groups. The reality is that groups in Ireland, and particularly new communities, are, by definition, ethnic groups in any event under our current law. Irrespective of whether ethnicity is based on nationality or based on religions and other factors, they are effectively ethnic groups under the law that exists. The concept of ethnicity is defined in the Equal Status Act - there are objective criteria which those groups meet. So there are numerous ethnic groups in Irish society. The distinction here is that we are talking about an indigenous community in Ireland which, in my personal belief and in any objective belief, fulfil the objective criteria to define an ethnic group. The public statements of the State effectively deny that.

One could ask what other ethnic groups we are talking about. We could talk about language groups. Could the people living in Gaeltacht areas suddenly say that, based on a language, they are an ethnic group? Possibly, but that is not a call. The point is that there are ethnic groups under the current legislation and certainly under objective criteria. However, Travellers being an indigenous Irish group seem to be the only group that seems to be denied that.

**Deputy Jonathan O'Brien:** The question everyone is asking is why we have not acknowledged Traveller ethnicity. In the context of the work done by the previous committee, of the work of this committee and of the work done outside the Oireachtas, nobody has ever come up with a valid reason. Deputy O'Callaghan touched on my own belief, which I will repeat. I am of the view that there is an institutional prejudice against Travellers within the permanent government. Governments come and go; permanent civil servants stay. It is not beyond reasoning that there is that high-level opposition to recognising Traveller ethnicity. I have not been able to come up with any other rationale or reasoning for it. It is very frustrating.

As Mr. David Joyce said, we do not even need a new legislation. We simply need a Minister for Justice and Equality or the Taoiseach to come in and make a statement. It is a statement that could be made at any time and would probably get the support of the vast majority of Oireachtas Members. One would have to question why that statement has not been made. I just do not understand it.

In response to the question of whether it would give rise to an increase in legal cases, Mr. David Joyce's answer was that, in his opinion, it would not. It is just another reason that has been knocked off the list of possible reasons for it to be denied. For years it was supposed to have been down to cost; it is no longer an issue of cost. It is no longer an issue of increased legal cases. The only reason I can come up with is that there is an institutional racism against Travellers at the highest level in the State. There is even a possibility that in some people's minds if they give that recognition to Traveller ethnicity, then it is almost like an admission of guilt that for the past 40 or 50 years, the State has been engaged in institutional racism against an indigenous section of people. That is the only rationale I can come up with.

**Ms Emily Logan:** After the Carrickmines tragedy we met officials in Dún Laoghaire-Rathdown County Council who have great power to make decisions that affect Travellers. We know that accommodation is one of the determinants of health, so it is fundamental. From that meeting it was clear that there was a lack of understanding of culturally appropriate decision making. That is not to suggest that the people held prejudicial views. My observation was that these people had no training whatsoever and had not been given any guidance on how to make a culturally appropriate decision. These officials were responding to a public demand to not accommodate the bereaved families in Carrickmines.

The Deputy mentioned institutional racism. I think it pervades our society, sadly. Some politicians have shown great leadership, but we need people to have that courage and take that step. Given that we are gradually deleting things off that list of what were perceived obstacles to recognition of Traveller ethnicity, what is left? What is left is what the Deputy described as institutional thinking and political leadership. In the spirit of the legislation to which we operate, which uses the word "encourage", which may sound soft, our job is to try to encourage political leadership.

We are seeing it across Europe, which is a concern. More migrants will be coming to Ireland. If we cannot get it right for our own indigenous people, what does that say for our future? This is a first step to Ireland growing up and facing up to its history. While it is uncomfortable,

it requires both institutional and political leadership.

**Deputy Jonathan O'Brien:** My point is that while we can never excuse people's prejudice or racism against the Travelling community at a local level, why is it allowed to continue? Following an incident such as what happened in Carrickmines, is it any wonder that members of the settled community feel comfortable, wrong as it is, with standing up and saying they want no Travellers in their back yard when they see the example of the State treating members of that community as second-class citizens? It is about political leadership and political will, which has to come from the top down but also has to come from the bottom up. One can call them dark forces or whatever, but there is an institutional racism against Travellers in this State. In some people's minds, acknowledging their ethnicity would be admitting that we treated them wrong for the past 40 years and are not willing to admit that yet.

**Mr. David Joyce:** There needs to be an understanding of institutional racism and some of the actions and outcomes of an institution's action and the impact on a particular group where it has not allowed for the possibility that the group will come out worse because the policies of a particular institution. The State obviously is an institution and the Dáil is an institution within that. Once one can identify that and the outcome of actions of an institution, one could say that within that institution there is certainly a blindness to the needs of minorities. If that is based on racism, one can describe it as that and call it for what it is as institutional racism. It does not mean that individuals within the institution are inherently racist or that they hold racist opinions - I refer to the workings of a group.

Parliaments - and not just the Irish Parliament - are classic at doing this. Parliaments across Europe are sometimes blinded by not equality-proofing legislation to ensure that groups with cultural, ethnic or racial backgrounds in their societies are treated equally and by not assessing the impact of the legislation. That can be put down to institutional racism. What happens in national parliaments reflects society because the members of the parliament are elected by the people. A majority view of the Traveller community was reflected in public comment following Carrickmines. It is only logical that this will be reflected in parliament. Some of the legislation passed by the Irish Parliament had the ingredients of an institution that was blind and did not proof itself, and reflected a negative and racist attitude towards members of the Traveller Community. Organisations such as the commission are established by parliaments to ensure that does not continue. Our role is to comment on legislation and sometimes to focus the thoughts of Parliament on equality and human rights in legislation. That does not remove the responsibility of Parliament to behave in a proper way but we can ensure that legislation should not have the same impact on minorities, particularly the Traveller Community.

**Deputy Jack Chambers:** I thank the witnesses for their statements. Has the commission had any direct engagement with the Ministers or Department officials about this? This seems to be a problem. There are several political channels, this committee is one, the Dáil is another. If they have had a meeting what did the officials or the Ministers say?

**Ms Emily Logan:** Five or six members of the commission met the Minister of State at the Department of Justice and Equality, Deputy Stanton during the summer. We had also engaged with him as chair of the predecessor committee. He has very publicly expressed his support as a politician. I do not think there is any individual issue but it is difficult to know quite what the impediment is if there are no legal impediments. We have spoken to the Minister of State, Deputy Stanton and to the Minister for Justice and Equality. I do not on an individual basis get a sense that either of them would oppose the recognition of Traveller ethnicity.

**Deputy Jonathan O'Brien:** If it is not a cost or legal issue and if there is no impediment even at the level of the Minister and the junior Minister, what is stopping it from happening?

**Deputy Jack Chambers:** Have there been any discussions about this at departmental level?

**Ms Emily Logan:** We have spoken to officials who have been involved in this, particularly someone who has been absolutely on mission in respect of this. It is very difficult to understand or pinpoint where the problem is but there is definitely a discomfort or apprehension around this simple first step of recognition. I do not know the answer but the individuals we have spoken to have explicitly expressed their support for recognition of Traveller ethnicity.

**Mr. David Joyce:** It is quite hard to understand. The real challenge is not so much that organisations like this commission or Traveller organisations have come before this committee to try to get an answer. The challenge is to the State, including the Government and Parliament, to explain why it is not happening. International committees that have studied this and that we have obligations to report to as a State, are basing their assessments on objective criteria which they believe Travellers will fill. The commission's position is coming from the objective criteria to define ethnicity. Those who refuse to acknowledge or accept the reality of Traveller ethnicity perhaps need to explain why. It is not for us to be able to explain to the committee why it is not happening. I would like the objections explained much more clearly. Perfectly valid arguments have been put forward in the past, such as does it cost more? Do Travellers constitute an ethnic group by objective criteria? What does it mean? Will it be an extra cost to the State? These are reasonable and legitimate concerns. They have been addressed consistently over recent years. The previous committee considered that. I believe there is advice from the Attorney General as well which states that there are no legal or extra-legal implications. The challenge is for those who continually prevaricate on the question to explain why they prevaricate. It is not for me, the commission or the Traveller organisations to say the State should recognise Traveller ethnicity. It is for those who are denying it to explain that denial. If there are other valid reasons they can be addressed but the real valid reasons have been addressed in recent years and the challenge is back to those who are denying it.

**Chairman:** In our previous session with representatives of the Irish Traveller Movement and the National Traveller Women's Forum there had been the expectation that following the publication of this committee's report that there would be a statement of recognition within a relatively short period. I do not doubt the resolve of those who made that statement and undertook to see the matter delivered. The passage of time since then has most certainly affected the confidence of the Traveller community and wider society who are eager and anxious for this measure to be delivered. We hope that, whatever has contributed to the dilatoriness since, our having addressed this issue and the publication of our report hopefully before the end of next month will reinforce that earlier demand and help us get across the line.

In Ms Logan's opening remarks she referred to the fact that we will be coming under greater international scrutiny in respect of the elimination of all forms of racial discrimination. She indicated that the written response required from this State in 2017 which is just around the corner is to be followed by an oral engagement with the Committee on the Elimination of Racial Discrimination, CERD, in 2018. Could she elaborate on this in the wider context of addressing racial discrimination? The State's failure, if it is the case at that time, to formally recognise Traveller ethnicity would have to be a component part of the written submission and the acknowledgement of this State's failures.

**Ms Emily Logan:** Three institutions are interested and there will be momentum in the next

few months on Traveller ethnicity and the protection of Travellers in Ireland. One is the Committee on the Elimination of Racial Discrimination. The convention is inextricably linked to ethnicity, therefore most of its provisions relate to ethnicity or look to provide services for the Traveller community on the basis of its ethnicity. There is a bit of confusion. We are being judged by the international community, which accepts our indigenous Traveller community as ethnic.

The second is the European Commission, in regard to the EU race directive. It has already been to Ireland for meetings. Mr. Joyce may have mentioned this at the last session. It has expressed concern about the ongoing mistreatment of the Traveller community. I was contacted by a third person yesterday, Mr. Nils Muižnieks. I do not know if committee members know him. He is the Human Rights Commissioner on the Council of Europe, which is the regional human rights institution. It is related to the European Court of Human Rights and includes 47 member states. He specifically wants to do a country visit. He has heard concerns about the treatment of Travellers and Roma in Ireland. His wanting to visit Ireland is an unusual and extraordinary move. International momentum and concern will develop over the next few months. We want to keep that momentum going, as the Chairman said earlier.

Any time we sit before the UN there are ten treaty monitoring bodies. We independently report on Ireland's progress on human rights in front of these UN experts. They always start with a preamble about the wonderful work that happens in Ireland in terms of overseas development, our humanitarian work and our international reputation for human rights. We are asked why we are so talented overseas or internationally, but cannot come to terms with our demonstrably poor past in terms of how we have treated the Traveller community and our respect and dignity for that community as we head into a new phase. Carrickmines shocked all of us to our core. We should use that tragedy as a positive step to move things forward.

**Chairman:** I thank Ms Logan. It will prove to be the case that members will recognise and accept that the recognition of Traveller ethnicity is a new beginning in the relationships between indigenous communities on the island. There has been, at times, a fraught relationship between some in the settled community and the Traveller community. The matter has to be addressed.

What role can education play, in terms of the work of the Irish Human Rights and Equality Commission, in impacting on political consciousness? I would see it as a new starting point. There is much to be done in confronting the forces that imbue discriminatory thoughts and ideas that perpetuate the most unacceptable disposition of, sadly, so many, as has been demonstrated over the years in our society towards our Traveller brothers and sisters.

Education is central in addressing those faultlines in our societal make-up. From the point of view of the Commission, does Ms Logan, in her engagement with the Government and Department, insist on the development of programmes within all levels of education that would properly contribute to combatting those faultlines?

**Ms Emily Logan:** The Irish Human Rights and Equality Commission has a role to play in raising awareness and promoting a culture of respect for human rights and equality. Training and education is a key part of that. We have collaborated with the IPA to run a professional diploma course in human rights and equality for people working in public and civil administration. The course was launched the week before last, and was oversubscribed. There are 50 people working from within the public sector on the course, including people from the court system, gardaí, hospitals and health care professionals. We were pleased with the uptake of the course. It is a beginning.

## RECOGNITION OF TRAVELLER ETHNICITY: DISCUSSION

One of the new provisions in the Irish Human Rights and Equality Commission Act introduced on 1 November 2014 is what is called a positive duty. Traditionally, human rights were articulated as a negative obligation to prohibit discrimination, but section 42 places a positive obligation on the State and all public bodies to do three things. The first is to eliminate discrimination, the second is to promote equality of treatment and opportunity, and the third is to have regard for human rights.

We are already working with some key organisations to try to pilot the training and education scheme. We have had conversations with the LGMA, the local authorities' representative body. It is a key sector, in particular given today's discussion on Traveller accommodation as a fundamental part of security and as a determinant of health for Travellers. We are starting with local authorities and housing.

We are also working with the Ombudsman and regulators who investigate thousands of cases a year and hear from thousands of complainants. If they start making recommendations and embedding that thinking in the recommendations we will, over time, get a response from public bodies. We are also working with some community development organisations.

The fourth strand is higher education. We have a pilot project with University College Cork on the public sector duty to encourage academic institutions, as educators and influences of education regionally, to get on board. We are at the early stages of development.

The Chairman is absolutely correct. Education is key, and as a human rights and equality commission we will put our shoulder to the wheel and play a part. It is a small part of what is required. We are here for the long haul. This kind of work takes a long time but we are absolutely committed to the process.

**Chairman:** I accept and welcome the additional information Ms Logan has shared. Higher education is very important in addressing discrimination. It needs to start at the earliest stage of the formation of thoughts, ideas and interpersonal relationships. I look forward to seeing more on that in the future.

I am reminded of a phrase my grandmother taught me many years ago, "There are good goods in small parcels." I am sorry that all members were not able to attend the second session, but I thank those who have for contributions they made. I also thank the commissioner, Ms Logan, and Mr. Joyce, whom I have heard speak before on this issue and for whom I have great respect. It is wonderful to have the opportunity to have him come before the committee today. I also thank his colleague, Mr. Brian Dawson, from the Irish Human Rights and Equality Commission who is in the Gallery. He is also welcome.

I invite the witnesses to join our montage of photographs for the report to the Minister.

*Sitting suspended at 11 a.m. and resumed in private session at 11.10 a.m.*

The joint committee adjourned at 11.20 a.m. until 9 a.m. on Wednesday, 9 November 2016.