

# DÁIL ÉIREANN

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**AN COMHCHOISTE UM DHLÍ AGUS CEART, COSAINT AGUS COMHIONANNAS**

**JOINT COMMITTEE ON JUSTICE, DEFENCE AND EQUALITY**

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*Dé Céadaoin, 12 Meitheamh 2013*

*Wednesday, 12 June 2013*

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The Joint Committee met at 09.30 a.m.

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## MEMBERS PRESENT:

Deputy Marcella Corcoran Kennedy,  
Deputy Alan Farrell,  
Deputy Seán Kenny,  
Deputy Pádraig Mac Lochlainn,  
Deputy Finian McGrath,  
Deputy John Paul Phelan,

Senator Ivana Bacik,  
Senator Paul Bradford,  
Senator Martin Conway,  
Senator Eamonn Coghlan,\*  
Senator Katherine Zappone.

\* In the absence of Senator Rónán Mullen.

In attendance: Deputy Aodhán Ó Ríordáin..

DEPUTY DAVID STANTON IN THE CHAIR.

*The joint committee met in private session until 11 a.m.*

### **Development of New Prison in Cork City: Motion**

**Chairman:** The purpose of today's meeting is to discuss the motion re proposed approval by Dáil Eireann and Seanad Éireann of the development of a prison in the townland of Rathmore in the city of Cork. A briefing document has been circulated. The format of the meeting is that the Minister will brief the committee on the motion and then there will be a question and answer session. I invite the Minister to introduce the motion.

**Minister for Justice and Equality (Deputy Alan Shatter):** Thank you, Chairman. I am happy to introduce the motion. I thank the committee for delaying until 11 a.m. this morning as, unfortunately, I had a Cabinet meeting which took somewhat longer than anticipated.

The existing prison in Cork, whose main cell block dates from the early 19th century, is no longer fit for purpose. Conditions in the prison are particularly poor; the prison does not have in-cell sanitation, it lacks the basic infrastructure required of a modern prison system and suffers from chronic overcrowding - all of which have been strongly criticised by the inspector of prisons and places of detention and the council of europe committee for the prevention of torture and inhuman or degrading treatment or punishment, CPT. The Inspector of Prisons and Places of Detention is of the view that the maximum capacity of the prison should be 146 prisoners. However, the prison has typically accommodated 270 or more prisoners - 80% more than its design capacity.

Early in my appointment as Minister, I visited Cork Prison and saw at first hand the chronic levels of overcrowding and inadequate physical infrastructure. I subsequently instructed the director general of the Prison Service, Mr. Michael Donnellan, to come up with proposals to address these serious issues as a matter of urgency. A strategy entitled, Unlocking Community Alternatives - a Cork Approach, was submitted to me early in 2012, following which I announced that I would proceed with the implementation of the strategy to address overcrowding and accommodation issues in Cork Prison. The Prison Service was given approval to proceed to prepare detailed plans for a new prison in Cork city adjacent to the existing prison on Rathmore Road.

The main purpose of the new prison facility is to replace the substandard prison accommodation in Cork and, in particular, to provide a modern prison facility designed on the principle of rehabilitation and resettlement. The construction of a new, modern prison in Cork will eliminate the practice of prisoners having to slop out, provide adequate and suitable accommodation for all prisoners in accordance with our national and international obligations and will also provide the infrastructure necessary for the education and rehabilitation of prisoners thus enhancing public safety. Building on the site adjacent to the existing prison will also ensure value for money for the taxpayer. Deputies and Senators will be aware that the Cork Prison visiting committee recently expressed concern in its annual report for 2012, which I published, about the archaic and Dickensian conditions in some parts of Cork Prison and has welcomed the Government's commitment to a new prison in Cork.

The day-to-day design capacity for the new prison complex is approximately 275 spaces for prisoners based on double-cell occupancy. The prison will have a peak accommodation capacity for 310 prisoners but that will only be reached in emergency-type circumstances. All of the

cells will be of a size acceptable to the Inspector of Prisons and Places of Detention for double occupancy and all will have integral toilets and showers. I am satisfied that the planned capacity of 275 prisoners is adequate for the needs of the prison's catchment area.

The development will consist of buildings of a floor area of approximately 15,000 sq. m on a site of approximately 2.64 hectares. The buildings will be one, two or three storeys in height. The secure facilities will be bounded by a standard height prison perimeter wall approximately 7.2 m in height. As can be seen from the illustration of the building it is effectively a H shape.

Development consent for the proposed new prison development in Cork is being sought under Part 4 of the Prisons Act 2007. Part 4 sets out a special procedure that may be applied for the purpose of determining whether consent should be granted to larger prison developments. The purpose of the 2007 Act was to provide a more open and transparent mechanism for major prison developments under which an environmental impact assessment meeting EU standards must be prepared and where the Houses of the Oireachtas make the decision whether to grant development consent. This is done in the form of a resolution, which we are discussing today, which must be then confirmed by an Act. The confirming legislation can only be published after the resolution has been passed because the dates of passing of the resolution must be included in the text of the Bill. The initial stages of the process have already been progressed. On 30 June 2012,<sup>1</sup> I issued a direction under section 18 of the Prisons Act 2007 that Part 4 of the Act is to apply to the proposed construction of a prison on a portion of the site used as Cork Prison.

The Director General of the Prison Service appointed the Sweett Group to carry out the environmental impact assessment. The assessment was laid before both Houses of the Oireachtas on 8 November 2012. On that date, public notice was given of the proposed prison development, the environmental impact assessment and visual representations of the proposed development were made available to the public and observations and submissions were invited. The Prisons Act 2007 provides for a six-week consultation period.

A rapporteur, Mr James Farrelly, was appointed to prepare a report identifying the main issues raised and summarising the submissions and observations received. His report has been laid before the Houses of the Oireachtas and published. The purpose of the report of the rapporteur is to identify those who have made submissions, identify the main issues raised and to provide a summary of the submissions and observations received. There is no provision for the rapporteur to comment on the validity or otherwise of submissions made nor is there any provision for him to make any recommendations. Twelve submissions, including a detailed submission from Cork City Council, and several petitions were received as part of the public consultation process, which raised a number of issues and concerns about the proposed development.

To facilitate the Houses of the Oireachtas in their consideration of the matter, the Minister must lay before the Houses a document stating the location, purpose and size of the development, its land use requirements and an estimate of any residues and emissions expected; an environmental impact assessment, visual representations of the exterior of the development, and the report of the rapporteur. I took the opportunity to lay a document, in accordance with section 26(3) of the 2007 Act, setting out my observations on the environmental impact assessment and the rapporteur's report.

Moving from the background documentation to the proposed resolution, which is to be considered by the joint committee, the resolution is the consent required for the Cork Prison development to proceed. It is, in layperson's terms, the planning permission for the prison. It follows the format prescribed by section 26 of the Prisons Act 2007, including the requirement to list

the main measures taken to avoid, reduce or off-set any possible significant adverse effects of the development on the environment. It also details an alteration to the original proposals that I have made in response to concerns expressed during the public consultation process and sets out the conditions that are to be complied with in the construction of the prison.

Before turning to the details of the issues being addressed, I repeat that while the resolution is the planning permission, it must still be confirmed by an Act of the Oireachtas before it takes effect. If the necessary resolution is passed, I will introduce a two-section Bill to confirm that resolution and give it statutory effect. A fundamental principle of the design and location of the prison has been to minimise and mitigate the impact of the development. The environmental impact assessment goes into considerable detail on the mitigation measures proposed to minimise adverse impact on local residents. The public consultation process and the rapporteur's report identified specific concerns on the part of local residents. In so far as is practicable, further measures are being taken to address these concerns.

Visually conditioned concrete with a light-coloured finish will be used on the sections of the perimeter wall most visible to the public. In order to address a specific concern raised during the public consultation regarding the impact on residential property adjacent to the proposed development, I propose to alter the development, in accordance with section 25 of the Prisons Act 2007, by providing for the reduction of the height of the perimeter wall around the horticultural area at the northern end of the site to approximately 5.2 m. This alteration is set out in the resolution.

The Irish Prison Service will draw up a good neighbour policy which will provide a framework under which the concerns of local residents during the construction phase can be fully dealt with. The Irish Prison Service project manager will act as liaison officer and will set up a local consultation group to address any issues that arise during the construction period.

A construction environmental management plan will be drawn up by the principal contractor and approved by the Irish Prison Service and implemented in keeping with best practice. The implementation of a traffic management plan will form a key part of the construction environmental management plan. The contractor and the Irish Prison Service will liaise closely with the Garda Síochána, Cork City Council and other interested parties in preparing a traffic management plan that will minimise the impact of construction traffic on local residents and businesses. It is expected that there will be no increase in vehicular or pedestrian traffic once the new prison is operational.

As regards security issues, the existing prison is the only closed prison in the State that does not have a prison standard perimeter security wall. As the new prison will have such a wall and will also have an outer *cordon sanitaire* secured by a 2.5 m fence, security risks will be significantly reduced. I would like to emphasise that in the context of some concerns expressed by local residents. This will be a more secure prison in the context of the perimeter walls and the other constructions to take place than is the current prison. In saying that there has not been any major security issues, in practical terms, in recent years with the current prison. The need to prevent drugs or contraband being thrown into the prison from outside was also carefully considered in the design of the prison and informed the positioning of perimeter blocks, wall and building heights and distances of recreational yards from points outside the building.

With regard to privacy issues, the CCTV system will be restricted to ensure that it is not used in a manner that facilitates viewing into residential property. That is something about which local residents should not have concerns. In addition, obscured glazing will be used in

all windows overlooking neighbouring residential property.

In order to mitigate noise pollution and dust during the construction of the prison, the perimeter wall will be constructed before construction of the prison building begins. Extensive noise, vibration and dust monitoring will be undertaken during construction. An extensive professional programme of vermin eradication will be undertaken on the site and its environs in the weeks immediately preceding the commencement of the works.

As regards local infrastructure and services, the Irish Prison Service and the selected contractor will engage fully in discussions on drainage and water supply with Cork City Council at detailed design stage. Sustainable urban drainage design system principles will be applied to the site.

As there is a need urgently to proceed with the project because of the chronic overcrowding and inadequate conditions in Cork prison, I am anxious for the resolution to be passed by both Houses before the summer recess so that tendering for the construction of the new prison can proceed.

This is a major development in the context of our Prison Service in providing a new modern, fit for purpose prison to meet our needs in this area. I am pleased that I have available to me the funding required for this project to proceed. I thank my Government colleagues for their support with regard to this particular project at a time when we know that money is scarce, but it is of huge importance if we are to deal with the issues of offending and reoffending, meet our international obligations, ensure that people are treated in prison in a humane way and that we are in a position within the Prison Service to do what is necessary in providing supports, and ensuring that those who are returned to the community from prison are less likely to reoffend than has been the case in the past. It is important that we have this type of new modern prison facility, which I hope would receive the full support of members of the committee.

**Chairman:** I thank the Minister. For his information, a number of the committee members visited Cork Prison last year and we were struck by the need, as the Minister has suggested, for major changes to be made. A 19th century building does not lend itself to any major re-development and therefore I personally believe what the Minister is doing is correct. We saw the overcrowding and the conditions in the prison and it is urgent that this be done. I am fully behind this proposal.

I am also interested in Unlocking Community Alternatives - a Cork Approach, which links in with one of the reports the committee sent to the Minister on penal reform earlier in the year. We are anxious that the review the Minister has undertaken would progress. It is very welcome that this is happening and as a committee we are glad to be able to feed into that and assist in any way possible. Deputy Mac Lochlainn is on his own. Does he want to ask any questions?

**Deputy Pádraig Mac Lochlainn:** I was one of the members of the delegation that visited the prison and in fairness to the governor, from the outset he made it clear that the conditions are unacceptable. We desperately need a new prison and therefore we are very enthusiastic about this proposal.

In fairness I note the Minister has gone some way to addressing the planning concerns. I presume that is the reason the Act was introduced in 2007 because where a prison is built is always a contentious issue. We had an opportunity to see the new site and to get a flavour of some of the challenges. A number of the issues are outlined in the summary from the rapporteur

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including proximity of houses to what will be huge walls and so on. I note the Minister has gone some way towards addressing those concerns.

We support the motion. We must move as quickly as possible to the construction of a new prison and also to meet our responsibilities to rehabilitation and adhere to international best standards. I do not know if it is possible to determine if there is more we can do to address the residents' concerns about noise during construction stages. Some of them spoke about the possibility of window replacements in the houses. I urge that we do all we can to address the residents' concerns but it is in the public interest for us to proceed. With the caveat of the Minister doing what he can to address residents' legitimate concerns in the area, I support the motion.

**Deputy Alan Shatter:** I thank the Chairman and Deputy Mac Lochlainn for their comments. I very much value members of this committee visiting our prisons. At this stage I think I have visited all the prisons in the State and done so quietly without any media palaver. I thought it was important that I meet all our governors and have an opportunity to see conditions. I took the opportunity to talk to some prisoners when I visited the prisons and many of those working in the Prison Service.

Without a doubt we had to do something about Cork Prison. It is a great pity that at a time when the State was more flathulach with money this development did not occur at least ten years ago but, nevertheless, I very much value the support of the committee in what we are doing. We are very conscious of concerns of residents. That is the reason we have responded in the way we have and the reason we will have in place a senior official to engage in liaison with the residents if issues arise during the construction phase. The purpose of building the outer perimeter first is to ensure that once it is constructed, the internal construction works have as little impact on local residents as is possible. I am happy to say to the committee, and particularly to Deputy Mac Lochlainn who raised the issue, that we will maintain that liaison and try to maintain good relations. I am conscious that when a new building of this nature is being constructed there is always some local concern. The reality is that this will be a much better facility than the current one. It will provide greater security as opposed to lesser security.

In the context of the region generally and Cork in particular, the provision of such new facilities, the other work we are doing within the Prison Service such as the community based measures for dealing with offenders in Cork, and the pilot scheme we have running are all designed to try to ensure we reduce reoffending and that, where possible, people can be rehabilitated within our prisons while at the same time properly serving the sentences imposed by the courts. People are imprisoned for very serious offences and the general community must understand the State will play a role in deterring people from offending. However, having played that role, it must do what is necessary and in the public interest to try to ensure people do not re-offend. This is all part of what is necessary and I greatly welcome the joint committee's support in this regard. When the project is complete, I am sure members of the joint committee will wish to visit and have a look at what is there. There will be two phases in that the construction phase must be completed, after which there will be the fitting-out phase. At present, the projected time for opening the prison is in or about the spring of 2016. Were we able to achieve that quicker, I would be very happy for us to so do and I reiterate I appreciate the joint committee's support for what we are doing.

**Chairman:** I thank the Minister. Are there plans for the old complex?

**Deputy Alan Shatter:** That is an issue to which we must give further consideration, as once we move into the new complex, a large, old and unfit for purpose building will remain.

Clearly, it cannot be used for what it has been used for in the past. As to whether it can be used for some other purpose or something in the public interest or whether what I expect would need to be some fairly dramatic internal change within the building could result in it being available for some alternative use are matters we can consider in the future. However, we are a couple of years away from being obliged to make decisions in that regard.

**Chairman:** I thank the Minister and his officials for their attendance.

### Messages to Dáil and Seanad

**Chairman:** In accordance with Standing Order 87, the following message will be sent to the Dáil:

The Joint Committee on Justice, Defence and Equality has completed its consideration of the following motion:

That Dáil Éireann:

noting:

— that the Minister for Justice and Equality, having considered the need for a new prison in the Cork area, has decided to proceed with the development of a prison on a portion of the site used as Cork Prison, in the townland of Rathmore and city of Cork;

— that the Minister for Justice and Equality has caused the documents specified in section 26(2) of the Prisons Act 2007 (No. 10 of 2007) relating to the development of a prison to be laid before each House of the Oireachtas together with a document containing the observations of that Minister on the environmental impact assessment and the report of the rapporteur;

— that the proposed development relates to the construction of a prison:

(a) located on a portion of the site used as Cork Prison, in the townland of Rathmore and city of Cork;

(b) for the purpose of accommodating approximately 300 prisoners;

(c) which shall consist of buildings of a floor area of approximately 15,000 square metres within a site of approximately 2.64 hectares;

(d) the secure facilities within which shall be bounded by a perimeter wall approximately 7.2 metres in height; and

(e) which shall consist of buildings with a height of one, two and three storeys;

— that the following alteration having been made by the Minister for Justice and Equality to the development, in accordance with section 25 of the Prisons Act 2007 (No. 10 of 2007), in order to mitigate its visual impact:

— the reduction of the height of the perimeter wall forming the eastern, western and northern boundaries of the horticultural area at the northern end of the site to approximately 5.2 metres;

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— that an environmental impact assessment was prepared with respect to the proposed development;

— that the Minister for Justice and Equality invited submissions or observations relating to the development of the prison from members of the public:

(a) by means of advertisements placed:

(i) in the following national publication on 8 November, 2012:

*The Irish Examiner*; and

(ii) in the following local publication on 8 November, 2012:

*The Evening Echo*;

(b) by the erection of site notices at two locations on the perimeter of the site; and

(c) by causing an announcement of the proposed development to be published:

(i) on the website of the Irish Prison Service; and

(ii) on the website of the Department of Justice and Equality;

— that the proposed development will not have any significant effect on any European Site, within the meaning of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

— that the main measures taken to avoid, reduce or offset any possible significant adverse effects of the development on the environment are:

(a) the use of visually conditioned concrete with a light-coloured finish on the sections of the perimeter wall most visible to the public;

(b) the implementation of a traffic management plan as part of the construction environmental management plan;

(c) the mitigation of light impact by the use of low-level lighting and lighting cowls and the directing of all security lighting, other than the lighting in the area between the perimeter wall and the outer fence, inwards and away from residential property in the area of the prison boundary;

(d) the application of sustainable urban drainage design system principles to the site with the aim of ensuring that the surface water run off rate shall not exceed existing site greenfield rates;

(e) restrictions on the CCTV system to ensure that it is not used in a manner that facilitates viewing into neighbouring residential property;

(f) the use of obscured glazing in all windows overlooking neighbouring residential property;

(g) the mitigation of noise and dust by the construction of the perimeter wall before commencement of the construction of the prison buildings;

and

(h) appropriate landscaping of the entrance and car park areas;

— that a visual representation of the exterior of the completed development appears at the end of this resolution;

— that the conditions relating to the construction of the new prison to be complied with by the principal building contractor or developer engaged by the Minister are:

(a) that the development shall not vary in any material way from that outlined in the environmental impact assessment and the visual representations of the exterior of the completed development as laid before the Houses of the Oireachtas;

(b) that the construction schedule shall give priority to the construction of the perimeter wall in order to minimise the impact of construction within that perimeter on persons residing in the local community;

(c) that construction shall not commence until a construction environmental management plan has been drawn up by the principal contractor and approved by the Irish Prison Service and implemented in keeping with best practice and in particular the construction phase mitigation and other measures specified in sections 3.2, 3.4, 3.5, 3.6, 3.7, 3.8 and 3.11 of the environmental impact assessment shall be adhered to by the body or bodies contractually responsible for the construction of the development including any subcontractors;

(d) that normal construction and excavation work shall only take place between 08.00 hours and 19.00 hours Monday to Friday and between 08.30 hours and 16.30 hours on Saturdays, with no such work taking place on Sundays or public holidays;

(e) that an extensive programme of vermin eradication on the site and its environs shall be undertaken in the weeks immediately before the commencement of the works; and

(f) that appropriate noise, vibration and dust monitoring shall be undertaken throughout the construction period;

and

resolves to approve the development of the said prison in the townland of Rathmore and city of Cork.

In accordance with Standing Order 72 the following message will be sent to the Seanad:

The Joint Committee on Justice, Defence and Equality has completed its consideration of the following motion:

That Seanad Éireann:

noting:

— that the Minister for Justice and Equality, having considered the need for a new prison in the Cork area, has decided to proceed with the development of a prison on a

portion of the site used as Cork Prison, in the townland of Rathmore and city of Cork;

— that the Minister for Justice and Equality has caused the documents specified in section 26(2) of the Prisons Act 2007 (No. 10 of 2007) relating to the development of a prison to be laid before each House of the Oireachtas together with a document containing the observations of that Minister on the environmental impact assessment and the report of the rapporteur;

— that the proposed development relates to the construction of a prison:

(a) located on a portion of the site used as Cork Prison, in the townland of Rathmore and city of Cork;

(b) for the purpose of accommodating approximately 300 prisoners;

(c) which shall consist of buildings of a floor area of approximately 15,000 square metres within a site of approximately 2.64 hectares;

(d) the secure facilities within which shall be bounded by a perimeter wall approximately 7.2 metres in height; and

(e) which shall consist of buildings with a height of one, two and three storeys;

— that the following alteration having been made by the Minister for Justice and Equality to the development in accordance with section 25 of the Prisons Act 2007 (No. 10 of 2007) in order to mitigate its visual impact:

—the reduction of the height of the perimeter wall forming the eastern, western and northern boundaries of the horticultural area at the northern end of the site to approximately 5.2 metres;

— that an environmental impact assessment was prepared with respect to the proposed development;

— that the Minister for Justice and Equality invited submissions or observations relating to the development of the prison from members of the public:

(a) by means of advertisements placed:

(i) in the following national publication on 8 November 2012:

*The Irish Examiner*; and

(ii) in the following local publication on 8 November 2012:

*The Evening Echo*;

(b) by the erection of site notices at two locations on the perimeter of the site; and

(c) by causing an announcement of the proposed development to be published:

(i) on the website of the Irish Prison Service; and

(ii) on the website of the Department of Justice and Equality;

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— that the proposed development will not have any significant effect on any European Site, within the meaning of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I.No. 477 of 2011);

— that the main measures taken to avoid, reduce or offset any possible significant adverse effects of the development on the environment are:

(a) the use of visually conditioned concrete with a light-coloured finish on the sections of the perimeter wall most visible to the public;

(b) the implementation of a traffic management plan as part of the construction environmental management plan;

(c) the mitigation of light impact by the use of low-level lighting and lighting cowls and the directing of all security lighting, other than the lighting in the area between the perimeter wall and the outer fence, inwards and away from residential property in the area of the prison boundary;

(d) the application of sustainable urban drainage design system principles to the site with the aim of ensuring that the surface water run off rate shall not exceed existing site greenfield rates;

(e) restrictions on the CCTV system to ensure that it is not used in a manner that facilitates viewing into neighbouring residential property;

(f) the use of obscured glazing in all windows overlooking neighbouring residential property;

(g) the mitigation of noise and dust by the construction of the perimeter wall before commencement of the construction of the prison buildings;

and

(h) appropriate landscaping of the entrance and car park areas;

— that a visual representation of the exterior of the completed development appears at the end of this resolution;

— that the conditions relating to the construction of the new prison to be complied with by the principal building contractor or developer engaged by the Minister are:

(a) that the development shall not vary in any material way from that outlined in the environmental impact assessment and the visual representations of the exterior of the completed development as laid before the Houses of the Oireachtas;

(b) that the construction schedule shall give priority to the construction of the perimeter wall in order to minimise the impact of construction within that perimeter on persons residing in the local community;

(c) that construction shall not commence until a construction environmental management plan has been drawn up by the principal contractor and approved by the Irish Prison Service and implemented in keeping with best practice and in particular the construction phase mitigation and other measures specified in sections 3.2, 3.4, 3.5, 3.6, 3.7, 3.8 and 3.11 of the environmental impact assessment shall be adhered to

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by the body or bodies contractually responsible for the construction of the development including any subcontractors;

(d) that normal construction and excavation work shall only take place between 08.00 hours and 19.00 hours Monday to Friday and between 08.30 hours and 16.30 hours on Saturdays, with no such work taking place on Sundays or public holidays;

(e) that an extensive programme of vermin eradication on the site and its environs shall be undertaken in the weeks immediately before the commencement of the works; and

(f) that appropriate noise, vibration and dust monitoring shall be undertaken throughout the construction period;

and

resolves to approve the development of the said prison in the townland of Rathmore and city of Cork.

*Sitting suspended at 11.25 a.m. and resumed at 2 p.m.*

### **Recognition of Traveller Ethnicity: Discussion**

**Chairman:** The committee is resumed in public session. The purpose of today's meeting is to continue the committee's examination of the topic of recognition of Traveller ethnicity. I welcome Dr. Robbie McVeigh and Dr. Jim Mac Laughlin. I thank them for coming here today and for their assistance to the committee in its deliberations on this topic. The format of today's meeting is that they will be asked to make a brief opening statement of approximately five minutes' duration picking up their main points and then we will have a question and answer session. I ask everybody to turn off all mobile telephones because they interfere with the sound system here. That includes mine. It is not fair on the staff who must listen, etc.

Before we begin, I draw the attention of all witnesses to the position on privilege. Witnesses should note that they are protected by absolute privilege in respect of the evidence they are to give this committee. However, if they are directed by the committee to cease giving evidence in relation to a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise nor make charges against any person or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that members should not comment on, criticise or make charges against a person outside the House or an official by name or in such a way as to make him or her identifiable. Dr. Robbie McVeigh is on first and I call on him to make his opening statement.

**Dr. Robbie McVeigh:** I thank the Chairman. I will expect him to tell me to stop after five minutes.

**Chairman:** We will be a little flexible.

**Dr. Robbie McVeigh:** It is probably better to have what I say explored and the discussion

anyway. I will speak to the opening statement provided to the committee but I will keep it to five minutes.

In trying to help the work of the committee, I thought I would focus on two experiences that I had, essentially as an expert witness on this issue. I suppose that is important because it is sometimes quite difficult, as members will see in the statement I made to the committee, to find a case against Traveller ethnicity. In both of those processes there was an attempt to construct that case and it is important for the committee to hear that as far as it is possible for me to represent it.

In the first one, I am talking about an experience specifically focusing on Traveller ethnicity in Northern Ireland and work that I did for the Standing Advisory Commission on Human Rights which addressed the issue of Traveller ethnicity alongside other issues. In the second one, I was an expert witness in a court case in London which was addressing the question of the principle of whether Irish Travellers should be protected under the Race Relations Act in England and Wales. In both of those examples, I was an expert witness supporting the position on Traveller ethnicity but there also was an expert witness making a case against it. That is why I think the documentation is important in terms of the broad discussion of the issue.

In terms of subsequent discussions, there have been three arguments in opposition to Traveller ethnicity. The first is that it would not be good for Travellers and that it would be politically reactionary. The second is that it would be just too costly for the State to recognise Traveller ethnicity. The third, the one I will engage with substantially and which we can discuss, is that Traveller ethnicity is not proven. It is argued there is just not enough evidence to make the judgment.

The question of whether recognition of Traveller ethnicity is good for Travellers is one for Travellers to answer. Overwhelmingly in Ireland, North and South, Travellers support the recognition of Traveller ethnicity. This is a valid position to hold. I would not argue that one should not provide that analysis, but it is not the same as the question as to whether Traveller ethnicity should be recognised. It is an argument about the politics of holding the position.

On the point about recognition being too costly, there are two points to be made. The first is that cost is not the primary way in which people should make decisions about issues of justice. Second, when one considers the consequences of recognising Traveller ethnicity, both in the North and across the water, one realises there were no great costs. Travellers were more centrally incorporated into an infrastructure of anti-racist work and practice but the immediate costs were not great.

Let me address the question of whether we need more evidence, although I will not reiterate the point I made in the court case. If one considers the evidence in detail, one must conclude that the only case one can construct in opposition to Traveller ethnicity is that there should be less evidence, and that there is too much evidence in support of the principle. As I stated, if one wanted a very tangible, immediate example – I could go through them in detail – one would look to the Westview Cemetery in Atlanta, where one finds the grave of the founding father of the Irish Traveller community in the United States. His gravestone states he was born in Ireland in 1830. The really important implication is that Tom Carroll and the other Travellers who emigrated to the United States took Traveller culture and ethnicity with them. It was clearly formed before the Great Irish Famine, an Gorta Mór, so there is no question but that the identity or culture was established at least in the first half of the 19th century.

If we examine the London County Court judgment in detail, it will be evident to us that the issue of the long-established history was probably the most difficult for the court to engage with. Once it accepted the existence of that long history, it was very hard to make any case against Traveller ethnicity in terms of the established principles of *Mandla v. Lee*, the British court case that set out what needs to be established in deciding whether a group has an ethnic identity. The judgment of the judge in that case was correct. His conclusions are included in my submission but I will speak to them very briefly. The judge concluded:

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.

Therefore, Travellers in Britain sufficiently met the two key criteria for constituting an ethnic group. The judge considered some of the other elements of ethnicity and found that they were broadly established. We can discuss these if the members want. The case was heard in 2000. In the intervening period, I have heard nothing that would weaken that case.

The most significant legal intervention has moved us in another direction. I refer to the recognition of the Scottish Travellers as an ethnic group. Given that Irish Travellers are an ethnic group in England, Wales and the North, and that Scottish Travellers are recognised as an ethnic group, it becomes even more difficult to argue that Travellers in the South of Ireland should not be or cannot be seen as an ethnic group. We can discuss this if the members want.

My final point is very important to the broader work of this committee. The issue of denying the ethnicity of Travellers has much wider implications for the reputation of Ireland as a country that respects human rights and equality across the world. I do a lot of work on these issues across Europe. I note that people are conscious of the denial of Traveller ethnicity at various international bodies, and this has consequences. It is important to realise that when the denial of ethnicity is carried out, it should be carried out very carefully and thoughtfully, and it should be done with an awareness of the historical and contemporary implications.

As I have stated many times, people need to realise that the Nazis denied traveller ethnicity, gypsy ethnicity, in Germany. This was one reason for the *Porajmos*, the genocide of gypsies and other travellers in the Nazi period.

There is no question but that the ongoing ethnicity denial by the State reflects badly on it. There is no question but that it does our reputation damage among the international community. We need to be very aware that in discussing a matter that, in a more immediate sense, is about the circumstances of Irish Travellers in Ireland.

**Chairman:** We might hear from Dr. Mac Laughlin, after which we will take questions.

**Dr. Jim Mac Laughlin:** I am thankful for the invitation to attend. I am a development theorist and political geographer. I find it a bit strange to be here because I am working on a book outlining the history of anarchism. Someone said to me that many of my research interests are not central to my discipline, geography. I always seem to be studying people at the edge. I have studied emigrants, Travellers and European gypsies, and I am now studying 19th-century anarchists.

My perspective is a little different from that of Dr. Robbie McVeigh in that I take a very theoretical approach to the problems of Travellers and European gypsies. Previous speakers spoke very much from an activist perspective, which is very important, but I have been aware of

the need to raise the discussion about racism against Travellers and put it into a longer historical and theoretical timeframe.

I have identified three stages in the evolution of anti-Traveller racism and the process of Traveller ethnogenesis. The first stage occurred around the second half of the 19th century, which I call the Darwinian half of the 19th century. Darwinian ideas such as the struggle for survival and the survival of the fittest, in addition to imperial expansion and nation building, were among some of the very powerful forces that were driving European and Irish history at the time. The Irish nation that was constructed in the second half of the 19th century was constructed in a very exclusive fashion, not just in an inclusive fashion. It was meant to include various interests, particularly the hegemonic ideas of the Catholic Church, as we all know now, and substantial farmers and businesspeople. In that period, Travellers were excluded. I regard 19th-century nationalism as a root cause of anti-Traveller racism historically. It is also a root cause of a process of ethnogenesis among the Traveller community. In the second half of the 19th century, the Travellers in this country had much closer relations with society, particularly rural society, than they have today. I also work on the emigration issue. Many of the people who emigrated from Ireland to cities such as Glasgow, Edinburgh and Liverpool and the other industrial cities of northern England were branded as Travellers because very often they were indistinguishable from them. The point I am trying to make is that in the 19th century the social distance between Travellers and members of rural communities in Ireland was much closer than it subsequently became and the process of nation building meant Travellers were looked upon as a blemish on the face of the Irish nation. They had to be excluded because they were considered to be a people a country did not want to advertise if it wanted to take its place in the league of nations in the 19th century.

The second half of the 19th century was a rich period in the development of Travellers' identity and history. However, that history was written out for a couple of reasons. We all know that history tends to be written by the victors, with victims tending to be excluded. During the period about which I am speaking Travellers, gypsies and nomadic people in general were not considered to have a history or identity. They did not have a history because history was understood in an evolutionary sense in that people had to be going somewhere, progressive and coming from a state of under-development and capable of development. Travellers appeared to be eternally poor and under-privileged and appeared to live in a mythical rather than an historical time.

The second important period in the evolution of Traveller identity was around the 1960s. It was a gradual period of awakening. During this period Travellers behaved much like rural people in that they left the land and moved to the cities, including Dublin, Limerick, Cork, Galway, Derry and Belfast. As stated by Dr. McVeigh, it is important that it is recognised that many of them also moved into the urban areas of England, Scotland and the southern states of North America. The 1960s and 1970s were a testing period in that it was the time when Irish society was desperately rushing towards modernity and in that rush it was anxious to distance itself from Travellers. This was followed by renewed denigration of Travellers in Irish political discourse. They were seen as the unwanted and, to use a phrase from the Welsh poet, Dylan Thomas, an unmeltable ethnic minority who refused doggedly to do under.

The period from the 1960s to the 1980s is important because during this time the resilience of Travellers came to the fore. They stuck it out in the hostile urban environments and managed to hold on to their own identity. Another reason this period is important is at the time Travellers still lacked a voice. As once stated, there are people who can speak and those who have to be

spoken for. The people who spoke for Travellers in the 1960s and 1970s tended to be priests, nuns and activists in the philanthropic area. They tended to take a condescending attitude towards Travellers and looked on them as wards of State. The struggle for ethnicity on behalf of Travellers is a struggle to move away from this attitude.

I come to the third stage which began in the 1990s. Members of this House have contributed to this stage, in particular individuals such as former Deputy Liz McManus and former President Mary Robinson. There is a growing awareness of the distinctive problems faced by Travellers and an attempt to make recompense for our neglect of them. From my point of view, what is crucially important about the period from the 1990s to the present day is that it gave birth to what the Italian cultural theorist Antonio Gramsci called “ethnic intelligentsia”. Travellers, particularly Traveller women, since the 1980s have been speaking clearly and articulately about themselves. The birth of this ethnic intelligentsia has been important in the articulation of a sense of Traveller separateness and identity.

I would like to speak about the current situation in a European context. It must be recognised that we are speaking about a minority who want recognition rather than a minority who are seeking to establish a separate state. We are not speaking about ethnic separatists. For example, they do not present a challenge to the territorial integrity of the State, rather they are an indigenous minority who have a long history and long residency in this country, despite the fact that they have been outcasts. They are seeking to remain in the country. As alluded to by Dr. McVeigh, the development of a Traveller sense of identity will need to be transnational and incorporate Travellers who are in Britain, Northern Ireland, North America and parts of western Europe.

Travellers view their ethnicity as a lodestar of cultural capital, a lifeline that will prevent them from going gently into the good night, to which I referred. They are fighting for their ethnic distinction and they are not alone in doing so. A recognition of Travellers’ ethnic distinctiveness and culture will need to incorporate all Travellers, not only impoverished Travellers. This must be viewed as something that will bring to the fore closet Travellers. Like I am sure others in this room, I know a number of Travellers who are hidden. With a future oriented sense of ethnic identity, these closet Travellers may come to the fore, which is to be welcomed. It will add to the cultural mix and the articulateness of Traveller identity. We should be encouraging a sense of multiculturalism in Ireland. A number of years ago I acted as Santa Claus for a Traveller group in Cork and I was struck by the number of Traveller children who wanted to be just like other children in that they wanted to become doctors, actors, nurses, teachers and so on. Travellers are not seeking to separate from Irish society, rather they are seeking to join it but to remain as Travellers.

**Chairman:** I thank Dr. Mac Laughlin for his fascinating presentation.

**Deputy Pádraig Mac Lochlainn:** I thank Dr. McVeigh and Dr. Mac Laughlin for coming to share their considerable expertise on the subject matter of the meeting.

I have been monitoring public discourse on this issue for some time. The delegates may be aware of the situation in County Donegal where, following confirmation that a Traveller family was to be housed in a settled part of the town of Ballyshannon, the response of a number of politicians was pretty much a call for an apartheid-type system in wanting Travellers to be kept apart from and not housed in areas in which settled people lived. What followed was the burning of the house by persons unknown. All right-thinking people across the State were appalled by the incident. However, there were a number of debates on local radio in the area before

the house was burned. One report I followed was on *The Journal* website which is part of the social media phenomenon of reporting news. I am sorry to report that 90% of the members of the public who rang radio stations or posted on *The Journal* website supported the politicians' comments. In other words, they supported apartheid against Travellers. Traveller representative groups tell me that the racism they face on the ground has never been worse. Evidently, they face resistance to the fact that there is a distinct, separate Traveller culture and complete ignorance of Traveller history and origins.

I am no expert student of Irish history and I am probably an amateur student like many people, but I know that everyone in the room of Irish origin comes from a nomadic background at some point in his or her history. We evolved from nomads into modernity over hundreds of years to become urbanised and have our little piece of land. I do not disagree with the thesis set out by Dr. Mac Laughlin. I read his book on the subject last Christmas and it is a really important contribution. It reminds the settled community that this is from where we have come. Travellers have stayed loyal to that way of life and part of it for much longer.

What are the delegates' ideas about how we start the process of education? We must twin the debates on ethnicity with a comprehensive education programme in the settled community. We have put programmes in place to support the Traveller community, although there have been huge cutbacks recently which need to stop. We must put the money back in place. How do we educate the settled community to understand this is from where they have come in order to build a bridge? How do we take the many fine writings of the delegates and get them out there?

Are there comparisons to be found? There is empathy among progressive people for Native American culture and Aborigines who were the nomadic peoples who had their way of life violently uprooted by greed and the idea of manifest destiny. Is there a comparison to be found in that context in terms of resistance to any other way of life among dominant communities? Obviously, it is not directly comparable, but are there lessons to be taken?

**Dr. Jim Mac Laughlin:** I spent approximately 25 years working in the universities sector. I have given that up as universities have become instrumental. I found undergraduate and postgraduate students very receptive when I put on courses on racism and spoke about racism against Travellers and European Gypsies. There was a great take-up of such courses and I am very hopeful about these kinds of programme. I was asked about education packs for schools. There is a greater degree of receptivity to discussion on these issues among younger people than among the older population. That emerged in the way younger people reacted against a well established Irish comedian who did not go down too well when he made terrible remarks about Travellers.

On Deputy Pádraig Mac Lochlainn's point, I would not focus too much on the extent to which we were all nomadic. My point is that Irish nationalism has historically been about land and the struggle for the independence of the island. It has been about farming and agriculture. Travellers who did not have a stake in the land were excluded from this. As they did not have a stake in the land, they were considered not to have a right to be citizens of the nation.

The affinity of Travellers with North American Indians and other nomadic peoples can be worked on. However, it might present more problems than solutions. We do not want to racialise Travellers. Basque separatists have been trying to do this and have gone to the extent of suggesting their blood type is quite different from that of any other European people. They have tried to say they are Europe's original people. I would be careful about that. However, I note the links between the nomadism of Travellers and that of North American Indians.

**Dr. Robbie McVeigh:** Ethnicity is central to the recognition of Traveller identity. Ethnicity carries with it a recognition of the dignity of a culture, which is missing if one simply regards Travellers as a sort of *sui generis* population which cannot be explained in terms of any other analysis except that they travel. Currently, directly or indirectly and by implication, Travellers are a separate group in terms of equality legislation. Ethnicity is vital to that process. There is no question in the North. As I said in the opening statement, Northern Ireland did not become a paradise for Travellers because they were recognised as an ethnic group. The recognition meant that whenever anti-Traveller racism happened, it was understood and addressed appropriately by the criminal justice system, politicians and others. Recognition provides a paradigm through which to understand statements such as those the committee is discussing.

My position on nomadism is slightly different from Dr. Mac Laughlin's. There is a fixation on the origin of Travellers and people always want to know what it is. The origin question is central to every discussion on Traveller ethnicity. It is a valid question, as is the question of from where settled people come. What one sees in Ireland is the emergence of two ethnic groups. At one point, everybody in Ireland was nomadic. The really interesting question is at what point most of us became urbanised and settled. One sees there a dialectic between two ethnicities, rather than a fixation on the origin of Travellers and whether they are really indigenous and survivors of pre-Celtic Ireland. There are valid questions to be asked about this, but it is equally important to ask, if we are settled people, from where our identity came. An important point on nomadism in the context of the committee's broader discussion is that Travellers are economically commercial nomads, which is different from hunter-gatherer societies and pastoral nomadism. The latter societies could exist without a relationship with any other community. Traveller society is commercially nomadic and based on exchange with other people. At its best, there has always been a positive synergism between the services Travellers provide and what non-Traveller, settled people have wanted. The type of nomadism Travellers have is a little different. We can have a further discussion on this, but for now we should be aware of it as the context for addressing Traveller nomadism.

A discussion of Traveller culture and history emerged in the court case. People need to be aware of it if they do not know anything about Traveller history. As I said before, the long shared history of Travellers was a core issue for the court, but it was accepted that if Traveller culture existed as an autonomous, independent, defined ethnicity before the Famine, that was enough to tick that box. Cultural tradition on its own was not really contested in that court case. People accepted that the cultural differences that are manifestly there with Traveller culture in comparison with settled culture are real, different and recognised.

With regard to common geographical origin, they are all Irish. With regard to a common language, Gammon or Cant is spoken by Travellers. With regard to a common religion, most Travellers are Catholic but the way they practise their Catholicism tends to be very different from the way settled Catholic people do it. We have had a separate parish for Travellers in Dublin, which is an indication of how different that religious practice has been with a particular focus on pilgrimage and so on. While there is a common religion between settled and Traveller Irish people, the way this religion has been practised is very different. With regard to being a minority, this is so self-evident that it did not really bear any discussion. There is no question that Travellers are a minority in terms of wider Irish society. All of those criteria were ticked in that court case and are part of that project of educating the wider settled population about why Travellers are different and the history they carry with them.

**Chairman:** Did Deputy McGrath want to come in?

**Deputy Finian McGrath:** I welcome Dr. McVeigh and Dr. Mac Laughlin to the meeting and commend them on the work they have done on Travellers' issues and rights and inclusion. Dr. Mac Laughlin spoke about an ethnic intelligentsia among Irish Travellers and how Travellers have clearly shown themselves capable of raising political consciousness about Travellers' issues. We have met some of those Travellers here in this committee and we have all been blown away by their commitment, vision and confidence in themselves. I would love to see more of that coming from the Traveller community. Does Dr. Mac Laughlin have any ideas about how we can create more leaders because I want to get away from the charitable aspect seen in the 1970s and 1980s when the local priest or schoolteacher spoke for the Travellers? I have seen that on the ground. There are tremendous, educated Travellers within the Traveller community who are visionaries. My committee colleagues and I have witnessed it here at first hand.

Dr. Mac Laughlin also raised the issue of the internalisation of feelings of social inferiority among some sections of Traveller society, which has been mentioned by Travellers' groups who have appeared before the committee. This feeling of social inferiority seems to be a major problem in the Ireland of 2013 because of negativity and racism. We are seeing issues around drugs and mental health emerging. Is this due to the internalisation of a feeling of social inferiority among Travellers?

I have a few questions for Dr. McVeigh about broader anti-racism measures and how the fact that legislation exists in Northern Ireland and England does not mean there is a warm house. It is like a protection barrier when there is a crisis. How does one create a warm house? I have heard similar comments made about northern Nationalists during the past 30 years in the North. They always felt it was a cold house for them. Given the conflict in the North and the Good Friday Agreement, there could be some linkage and we could do something to develop it.

In respect of Dr. McVeigh's point about the Nazis, genocide and criminalisation, he said the denial of ethnicity is not an abstract academic debate but a practice grounded in genocide. The number of Gypsies wiped off the face of the earth by the Nazis during the Second World War is often blacked out of history. We regularly hear about the Jews. Is there a figure Dr. McVeigh is aware of?

With regard to education, if we are talking about inclusion and protecting the rights of Travellers, it must not start at second level because I know many second level schools do brilliant work on Travellers but they are working with 14, 15 and 16 year olds. Many of them have been lost so my point is that the focus should be on preschool and primary schools. There are good primary schools that do much work on Travellers' history and culture and bring it into the broader curriculum, but it is not done as a national plan, which could be very important.

Looking across the table at us as public representatives, is there anything else we can do to support the inclusion of Travellers in the Ireland of 2013?

**Chairman:** I counted seven questions relating to leadership being drawn out or recognised, social inferiority, anti-racism measures, the "warm house" issue, the Nazis and the numbers there, education, particularly preschool and what we can do.

**Dr. Jim Mac Laughlin:** In respect of the first question, there were two reasons I got involved in this type of research because it was not my area in the early 1990s when I first got involved in it. Deputy Mac Lochlainn spoke about the house in south Donegal. One of the reasons I got involved was because in a very scenic town in the south-west of Ireland-----

**Chairman:** Dr. Mac Laughlin should be cautious and not identify any individuals.

**Dr. Jim Mac Laughlin:** I know Dr. McVeigh produced a very fine paper where he spoke about how the term “community” seems to be a warm one in Ireland. Historically, we saw communities as including everyone. Of course, the way community has been constructed in Ireland has been quite exclusive. What I am suggesting is that the prettier, more gentrified and more commercially minded Irish towns became, the less welcoming they were to Irish Travellers. My inspiration for starting out in this was a woman called Anne Doherty from Cork who was one of the founding mothers of the Traveller Awareness Group. I always had a policy of never talking to Travellers unless there was another Traveller present. Anne and a friend of hers, Chrissie O’Sullivan, were among the first members of this ethnic intelligentsia about which I am talking. What does one do to increase the size of that ethnic intelligentsia? One makes more places available, as was done in the US in the 1970s and 1980s, through a programme of positive discrimination to make more places available at third level and diploma level for Traveller women but particularly for Traveller men. We need to see more Traveller men involved in this organic intelligentsia.

The second point was-----

**Chairman:** Social inferiority.

**Dr. Jim Mac Laughlin:** Social inferiority is clearly a major issue, not only among Travellers but also among European Gypsies. I would argue that one of the strategies they use to transcend the terrible conditions they find themselves in, not so much in the inner city but in these terrible places where they live on the urban edges of contemporary Ireland, is to go on the road again. We must challenge at every opportunity portrayals of Travellers that are highly negative. We must get back to the old simple thing of accentuating the positive. I will not go into the song. Otherwise, this negativity that surrounds Travellers will be exaggerated. Many people benefit from that. It must be admitted as well that the way Irish political culture has evolved over the past 30 years has meant that there are votes in anti-Traveller racism. It has been good politics historically to support those who are vehemently opposed to having Travellers in their constituency. It is a very easy way to play to the political crowd.

**Chairman:** I thank Dr. Mac Laughlin. Does Dr. McVeigh wish to add anything?

**Dr. Robbie McVeigh:** In terms of leadership, the most important point is that it does not come cheap. The activists and leadership about which Deputy McGrath is speaking were part of a generation that emerged from Pavee Point and the Irish Traveller Movement, ITM. Those young people were graduates of properly funded public programmes that were supported by the State and the European Union. If one wants to do that as a project, one must do it with a similar issue in the North. It was modelled on the Pavee programmes but it does not happen without public funding for those projects.

In so far as I am an expert on Travellers, most of what I learned was from Traveller leaders and activists. It was that very first generation of people I met, Nan Joyce and Michael McDonagh in particular, to whom I owe a huge debt of gratitude. Michael McDonagh went with me to visit the Travellers in the States and I would not have got access to that community to report back to people here on the reality of Traveller ethnicity in the States if he had not been with me. That leadership has always been there but needs to be recognised for the wonderful national resource it is.

On the second point about the so-called warm house, I included this in the opening address but it bears repeating. When the task force report came out in 1995, this country was a beacon for progressive measures on Travellers for a State and a Government, and for properly funded NGOs that took the situation of Travellers seriously and addressed what it would mean to have a proper partnership to bring Travellers into a more equal relationship. The truly shocking thing is that we have moved backwards from being a beacon for the whole of Europe. People were looking to the model, not just to the NGOs, the Irish Traveller Movement, ITM, and Pavee Point, and what the State was doing around the task force and the genuine political work that was done around that. The really sad and depressing thing is that we have moved backwards from being a beacon for people to being at the bottom of the pile in terms of bad practice. It is hard to say that but it needs to be said. This country has done it before and we need to go back and establish the principles that led to that high-water mark of the task force on Travellers.

The third point was about the Holocaust. There is much discussion and debate on the UNESCO figure of 350,000. Some Gypsy activists have put it as high as 1 million. There is something depressing about arguing over the figures, but the UNESCO figure is 350,000 people, so it is a real genocide. There is no question about that. Related to that on the warm house point, we have a Holocaust memorial day but one will very rarely find any discussion of the situation of Irish Travellers in that context, and that is where one begins to think about the more positive things that can be done. It is very important that when we remember the Holocaust, we remember there were Travellers - not just ethnic Roma or Gypsies but also indigenous Travellers across Europe - who were part of that genocide. When we do educational work, particularly with young people, that is a glorious opportunity to connect it to the reality of Traveller lives.

The Donegal case was mentioned. Time and again over the past 30 years doing the work I have done, one hears remarks made about Travellers that are explicitly genocidal. One of the first things I did in Belfast was to challenge the notion that it was right for a councillor to say Travellers should be sent to the city incinerator. I do not think that remark would be made now but those remarks were retained in the North at that time. South of the Border we have had people saying Traveller men should be castrated, that Travellers should be sent to the Aran Islands or tagged. These are measures which have genocidal implications and which were used in the genocide of Traveller groups, and that is why the point about the abstruse academic debate is so important. This is about genocidal practice, not about what a couple of nutty politicians say.

That brings me to the politicians. While it is true that many people have made interventions mobilising anti-Traveller racism, in the work I have done across political parties, particularly in the South, people have provided leadership on this issue as well, and that needs to be recognised. From every party in the South at different times, people have gone out on a limb to do the right thing, even though there were no votes in it. We need to recognise that as well as challenging people who make outrageous, negative statements about Travellers. There is a point about accentuating the positive in that as well. At the core of this, in terms of what the political project is, we return to the point about ethnicity. Ethnicity is a practical and symbolic intervention which begins to turn around the process, so we needed to do that and move on. That creates the context in which politicians of good will from all parties can do the right thing.

**Senator Katherine Zappone:** I thank Dr. McVeigh and Dr. Mac Laughlin for coming in and providing us with the evidence. It is great to be in the presence of such great academic warriors and men who clearly practice solidarity and understand the meaning of that. My first question comes from the phrase Dr. McVeigh uses regarding making the case for “ethnicity

denial". That is very clever. This committee is working on a report and I am wondering if Dr. McVeigh could recommend any people who could come before the committee who could make that case for ethnicity denial.

Through his stories Dr. Mac Laughlin clearly explained how racism has never been worse. Given that fact, if the core to the political project is the recognition of ethnicity, perhaps both the witnesses could say a few words providing the evidence about how a recognition of ethnicity could lead towards a significant reduction in racism. That would be important for us to hear. That is largely what they are offering us, but I ask them to say it clearly.

The task force report was published in 1995, which is around the time I had just started working professionally in public policy circles, so I remember it very well and the importance of it. Why did we lose the lead we had then and what needs to change for us to recover that? Where are the resistance points that can help us in the work we do?

**Chairman:** There were three questions. One on denial of ethnicity, one on racism and ethnicity and what difference that would make, and one on the task force report, what happened and what can be done.

**Dr. Robbie McVeigh:** The obvious person to speak on ethnicity denial is a member of this committee, Senator Ivana Bacik, who is an expert in this area. Ethnicity denial means what it says on the tin. It is about saying not every group is an ethnic group. At one level, every time there is a court case about whether a group is an ethnic group, somebody on one side of the court is practising ethnicity denial, and that is fair enough as part of the court case. Travellers have done that at least twice in a court context and the courts have accepted that Travellers constitute an ethnic group. In that context it is quite perverse for a Government to continue arbitrarily, without much recourse to evidence that I can see that is in the public domain, to assert that a group is not an ethnic group when all the evidence in the public domain supports the notion that it is an ethnic group. It looks perverse in that context and does us damage in terms of international goodwill because people are aware of that going on and do not understand the practice. It would be useful to explore it with an international lawyer and we had some discussion around this at the Dublin conference earlier in the year.

At the very core of that point is a process I mentioned from the UN Human Rights Committee regarding the mission to Rwanda. This is a really significant case which was reported last year. Rwandans, post genocide, said they did not want to recognise ethnicity in the state because the recognition of ethnicity in some way was part of the process of genocide. They had a legitimate reason for making the case but the UN stated that even in that context it is inappropriate to do this. Plenty of other international mechanisms have considered the issue of how ethnicity works but that for me was the definitive case. Even where there is a clear, legitimate and understandable case for making the case for ethnicity denial, it cannot be done. If that is the case, to bring it back here to this context, the notion that one would do it perversely in the face of court judgments recommending it should be done, it starts to look embarrassing and is embarrassing in terms of any practising international lawyer who looks at the non-case that has been made. I apologise for dwelling at length on this.

The question as to why it has got worse is a very important and interesting political one. I am not sure it has completely - some things have got better and other things have got worse. One of the factors has obviously been that ironically, Ireland has become a much more multicultural country in the period since 1995. So to some extent the good will that was there in terms of specific focus on Travellers was spread much more widely in terms of the opening up of the

country to a much more genuinely grounded notion of a multicultural Ireland. However, in the process the centrality of Travellers to understanding ethnicity and racism in general in Ireland has been lost. Obviously in a broader sense that is a good thing. It is great that we have this new multicultural Ireland, which provides a new paradigm in which to further integrate Traveller equality. However, it is one where the political profile, if one likes, moved down the agenda.

That links to the question about the task force. Part of it would be to go back - the committee is having that discussion with the Traveller activists and leadership - and look at the dynamics of creating a context in which everybody from different parties bought into the notion that something progressive had to be done. I believe we have moved beyond that. It would be interesting to return to the years before 1995 and ask what was different then. A core part certainly is that anti-Traveller racism was the only game in town in terms of ethnicity and racism, and that clearly is very different. So we have to reimagine a different notion of a multicultural Ireland which includes Travellers but includes all these other groups as well.

**Chairman:** Dr. McVeigh spoke earlier about positive discrimination in education, for instance, as one of the areas where leadership could be developed. We are concerned here with ethnic group or subgroup. How can we identify who is and who is not part of the group? I will be a little facetious to emphasise the point. While we are not concerned with passports, how can we say that one is and one is not? Where is the line drawn, as there is blurring here?

**Dr. Robbie McVeigh:** That would be a process for the court. In the Kiely case I mentioned, the defence in trying to claim there was no discrimination first claimed that Travellers were not protected under the Race Relations Act, which is why the case was heard, involving my evidence. That was its first defence. It then moved on to claim that these people were not Travellers at all. All of us would recognise them as Travellers - they were Travellers. If that had ever come before the court, I think there is no question they would have been recognised. Certainly once the defence lost the point that Travellers were not protected, it then went on to claim these people were not really Travellers. That is a matter for every court to decide. It is not just true of Travellers. Somebody might present as Jewish, Irish or whatever to a court and claim to have been discriminated against on that basis and the court would then consider the substance of whether he or she belonged to that group - it would be a matter for the court. Here it is about the principle of whether Irish Travellers as a group qualify for protection under the legislation.

I do not know how much time the Chairman wants to spend on it. It is interesting to hear what Travellers would say. The Traveller witnesses would be much more interesting and embedded in terms of their sense of how they know somebody is a Traveller or not a Traveller. In the days when bars displayed "No Travellers" signs, the barperson was able to make that distinction and other people are well able to make that distinction also. There is a complex process where it is not based on skin colour but the sense of ethnic difference and identifying somebody ethnically is quite a subtle one although it is also very real. One knows from accent, from a particular way someone presents oneself, where somebody comes from and from their names. Put all those things in a bundle and at that point the court would be able to decide whether a person was a Traveller, but we all do it all the time anyway. It is not an exact science, but it is a normal part of establishing ethnic boundaries that happens all the time. It is not particular to Travellers - it is there with Irish people too.

**Chairman:** I believe one of the witnesses used the term "sleeping Travellers".

**Dr. Jim Mac Laughlin:** Closet Travellers.

**Chairman:** I ask them to develop that idea.

**Dr. Robbie McVeigh:** It is not just about Travellers but about ethnicity, if one likes. I can give two classic examples. During the Second World War, many people did not want to be ethnically identified as Jewish. The Nazis and other races had a process to put people through in order to decide whether they belonged to an ethnic group. It was one that had terrible consequences for people. However, I can think of the example of Julian Amery who was not really Jewish, but in solidarity with Jewish people identified as Jewish and ended up in a concentration camp as a consequence. It is a complex process, but it is essential to the process of ethnicity being established. It is not just to do with Travellers or non-Travellers.

**Dr. Jim Mac Laughlin:** There is the issue of ethnically defined people having a right to self-determination and political rights. I will take a wider theoretical perspective on that. Historically those ethnically-defined people who were seen to have a right to self-determination and political autonomy had to be substantial, white, capable of self-supporting, and economically powerful enough to move into that 19th century world of large nations and even larger empires. What we in Ireland and throughout western Europe are now talking about is that the nations that got to be built were not really nations at all but were multi-nations. They had entrapped within them minorities. We can think of the Nationalist minority in Northern Ireland, and also Scottish and Welsh nationalists. We can think of Basques and Tyrolese. We are talking about ethnic minorities. These are small groups of peoples and we are talking about a quite small minority in this country.

The term “closet Traveller” goes back to what I mentioned earlier about us having such negative images of who Travellers are, just as historically, Irish people were painted in the 19th century. The historian L. P. Curtis wrote about the way we were either apes or angels. Among this, albeit small, Traveller population there are very many highly articulate and cultured people. Encouraging the process of ethnogenesis would certainly be a way to speed up the conveyor belt to bring those people further to the fore.

Looking at the wider dimension, I can think of very few cases throughout western Europe, Latin America and other parts of the world where the granting of the recognition of ethnic identity did not greatly enhance the self-confidence and the sense of value these people have. We could be greatly surprised at what might emerge in the future from Irish Travellers in that regard.

**Senator Ivana Bacik:** I apologise for my late arrival. I was attending another meeting. I welcome Dr. McVeigh and Dr. Mac Laughlin whom I know by reputation. I am delighted to see them both here and I thank them for coming before the committee. I read their papers in advance of the meeting and they make a very strong case for recognition of Traveller ethnicity and this is very much to be welcomed from my point of view.

Several points sprung out at me from the papers and if they have already been addressed I apologise. The onus of proof being on those who take the ethnicity denial position is a strong argument to make because it is not an evidence-based position. There tends to be an assumption that the entire onus of proof is on those making the case for recognition so this is a useful argument and point which has been teased out, particularly in Dr. McVeigh’s paper. The anomaly whereby Travellers lose recognition when crossing the Border from Northern Ireland is also a strong point with regard to the duty of equity of recognition of rights on both sides of the Border, which sometimes we overlook but which was very much in common currency at the time of the original Good Friday Agreement. We should bear this in mind.

I welcome my old friend and long-term activist Rosaleen McDonagh, who is in the Gallery.

**Dr. Robbie McVeigh:** The broad point about self-identification is interesting. Many UN mechanisms are completely based on self-identification so if one tells a committee one is a member of a group, *ipso facto* one is a member of that group. We are already asking for a much higher standard of proof than many UN mechanisms but there is no harm in this. It is right and proper that if groups are to be protected from race discrimination then it should not be an arbitrary process. The English courts took it seriously because they do not want anybody to just be able to turn up and state he or she is a member of an ethnic minority and therefore has suffered discrimination. The Race Relations Act in Britain was transforming legislation and was defined precisely to protect ethnic groups and not other groups who may be discriminated against in different ways. This is why it is important that we bring a rigorous evidence test to the question. As I stated at the start, but it bears emphasis, if I were paid to be devil's advocate it would be hard for me to construct a case against Traveller ethnicity. There is too much evidence with court cases and everything else. The only position the State can have is to continue to deny it without providing evidence to support this position. It is an intolerable position.

**Chairman:** Will Dr. McVeigh remind the committee what the State needs to do to recognise ethnicity? What steps must be taken legally?

**Dr. Robbie McVeigh:** It has a number of dimensions. With regard to the CERD process the State has been asked to change its position and it would be important to state we accept Travellers are a minority and proceed on this basis. The reason for the specific naming of Travellers in the North in the Race Relations (Northern Ireland) Order 1997 was precisely because people did not want to wait for 20 or 30 years for clarity on the issue. There is every case for having specific legislation which would name Travellers in precisely the way they are named in the North. People are broadly happy with this description. It clearly protects Travellers, but does not open up the category of Travellers to other groups which people do not want to see included. It is the obvious model for domestic legislation. People have also looked for a court case. There is no question the North was right to specifically name Travellers because if this had not happened the ambiguity which exists in the South could have continued for years.

**Senator Ivana Bacik:** It is a very important practical point. I remember examining it before. It picks up on something in Dr. Mac Laughlin's paper on different phases of anti-Traveller racism. He points out that in the 1980s and 1990s legislation was introduced to tackle anti-Traveller racism. It strikes me this legislation named Travellers as a specific group and anti-Traveller discrimination is one of the nine grounds whereas ethnicity is a separate ground. At the time it was progressive legislation and Dr. Mac Laughlin marked this when tracking the development of the State's treatment of Travellers. It was also a fudge because ethnicity is one of the nine grounds of discrimination and would have encompassed anti-Traveller discrimination. As a practical point we must examine this. If the State were to recognise ethnicity of Travellers would we need this separate ground in the equal status and employment equality legislation?

**Senator Katherine Zappone:** How would the Senator name this separate ground?

**Senator Ivana Bacik:** At present there are nine grounds; ethnicity is one and Traveller status is a separate ground. I am interested in the views of the witnesses on this. Should it be retained as a separate ground? It is the jurisprudence we have developed.

**Senator Katherine Zappone:** The question is whether Traveller status should be retained as a separate ground.

**Senator Ivana Bacik:** Exactly. If we recognise ethnicity as a discriminatory ground it would encompass anti-Traveller discrimination, but at the time the State fudged it to avoid recognising Traveller ethnicity.

**Dr. Robbie McVeigh:** Going back further to the incitement of hatred legislation, it was included to ensure Travellers were not left out and there is no doubt the inclusion was progressive. My reading of it is that if the Government were to change the position and make it clear to CERD it was reporting to it with Travellers included as an ethnic group, the issue would fall because anyone who contested it in an ordinary court case would have to refer back to what the Government stated on ethnicity. If legislators want to be very safe, as they did in the North, they would use a clause similar to that in the Race Relations (Northern Ireland) Order 1997, which includes a definition of Travellers which Travellers are happy with and, by and large, everyone else including those concerned about the extension of protection to other groups also accept. It is a tight definition which works.

**Chairman:** I wish to make what is perhaps a controversial point. During our last meeting and today we have found out about a long shared history and a rich cultural tradition, common language and literature. We heard examples of these on the previous occasion and as Deputy Finian McGrath stated, we were all quite impressed with it. Speaking for myself, and perhaps some colleagues, I was ignorant of this. One of the witnesses stated if he had gone to the United States without having been accompanied by a Traveller he would not have gained access to the community there. There is a sense that settled people are excluded from this tradition and history. It might be useful for us to explore this further. What is in the common parlance is Travellers as troublesome people who steal things and get drunk. I was taken by a point in Dr. Mac Laughlin's submission with regard to demoralisation and despondency particularly among young male Travellers. I was also struck by the point on commercial nomadism being taken away and being left with a certain amount of deprivation. On the other side some Traveller traders are extremely well off. There are a number of contradictions and issues in the general mindset of people which need to be teased out and addressed. These perhaps lead to the fears which lead to the racism alluded to by Deputy Mac Lochlainn earlier. Will the witnesses comment on these points?

**Dr. Jim Mac Laughlin:** Many points have been raised. In the 1990s when I was working on this issue, journalists brought to my attention very forcefully that it is important to recognise that Travellers, just like any group, are not uniformly poor and do not all suffer from despondency. There is social stratification within the Traveller population. There are processes of exploitation of Travellers within the Traveller population and it is very important to recognise this and that we do not take a 19th century view that these are the innocent people in Irish society. This certainly is not the case. What was the other point?

**Chairman:** There is a general perception in some areas that "Travellers equal trouble" and that if a Traveller family moves next door, they will be the neighbours from hell. That is obviously not the case in many instances but it is the perception out there. It is a perception in many areas and it can lead to the kind of reaction to which Deputy Mac Lochlainn and others alluded. I know it is a controversial issue but we must speak about it because all of this links together. With regard to ignorance of the long history and cultural tradition, I would love to know more about those topics as they strike me as being rich and interesting, and some members of the committee may want to learn more about that at a later stage, as it seems fascinating.

**Dr. Jim Mac Laughlin:** I have two very brief points on that. Our ignorance is our own fault but I am arguing that in the context of the way the 19th century nation got to exclude not just

Travellers but the sons and daughters of the poor and the slum dwellers. A Nationalist discourse took a conscious decision to construct a nation in a particular way.

Another point worth making is that we are talking about ethnicity as if it has no link to place or economy. It is very clear that Travellers today, unlike those in the 19th century or even the 1940s or 1950s, have fewer economic roles in contemporary Ireland. That is unlike the past that we saw in rural Ireland, and my mother, who grew up in a rural environment, had clear memories of Traveller women coming into her house. My father remembered Traveller men coming through the area and working on the land, etc. We could see similar practices in places like Hungary, Romania and the Czech Republic, where gypsies have a clear function in society. Since the 1990s and particularly now, Travellers are suffering from an economic depression that is pulling their community asunder. We must recognise the economics of ethnicity.

**Chairman:** What is the answer if the traditional roles are gone?

**Dr. Robbie McVeigh:** There are two key points, with the first being commercial nomadism. The two most economically successful groups of Travellers I have seen are Rathkeale traders and Travellers in the United States. They are doing very well economically, although that does not mean other issues are not ongoing. The most striking thing about those in the United States was that the houses looked like something from Dallas. It is a simple way to describe them. The older Travellers we met thought it outrageous. Much money is being spent building massive houses but because these people are nomadic and on the road all the time, they are in the houses for about a month per year. There are internal dynamics in the community in that regard. Whatever stereotype people use about Travellers in the United States, it is not that they are poor, as they are very affluent. Commercial nomadism works for them and many of the Rathkeale families as well. The notion that it is over is not true and with other support, it might be developed.

At the same time, the Chairman is correct in suggesting that there are some categories of Travellers who will not be nomadic in the classical sense ever again. That does not stop them being Travellers and although nomadism is part of being a Traveller, it is not a definitive element. If anything Travellers without nomadism need much more support in integrating into the broader vision of multicultural Ireland which we spoke of earlier. It is fair to recognise that some Travellers are involved in anti-social activity at some points but so are some settled Irish people. I have heard arguments from Travellers in the North that there were no Travellers in the H-blocks on either side when the Troubles were ongoing. I do not think any Traveller can be held responsible for the economic crisis we are experiencing. Whereas individuals may sometimes behave negatively, that is true of all ethnic groups. Where people behave in such a way, the normal course of formal and informal legal sanctions take their place. It is no different for Travellers than for any other group.

I wanted to make a point earlier which is a nice way to begin to sum up. When asked about what we can do, there is a town some of us know very well in the North where the Tidy Towns competition is fetishised. It has always occurred to me that there is something striking in the absence of Travellers from the process. If somebody suggested there should be a halting site in the town, the first response would be that the town would never win the competition again. Politicians and others must start to rethink what this means, as a tidy town should have a proper provision for Travellers integrated into the community. At least for one year the competition might exclude towns without a proper provision for Travellers. At one level the town would be tidier if it did not have a halting site but we must rethink how we see Travellers and their place in society. It is an obvious way to do it.

## RECOGNITION OF TRAVELLER ETHNICITY: DISCUSSION

**Dr. Jim Mac Laughlin:** Architects may have opinions on the best and worst buildings. One of the reasons we see a persistent and virulent anti-Traveller opinion in Ireland is that we are becoming more tidy and commercial; we are not living in a society but rather an economy.

**Chairman:** I thank the witnesses for their attendance and their very valuable contributions to the committee. I thank them for their time and expertise. If they feel other issues may be helpful they can drop the clerk a line, and we would be delighted if they did so. I thank the members for their attendance.

The joint committee adjourned at 3.30 p.m. until 9.30 a.m. on Wednesday, 3 July 2013.