



***Reality vs. Rhetoric: Housing
Rights of the Irish Traveller
Community.***

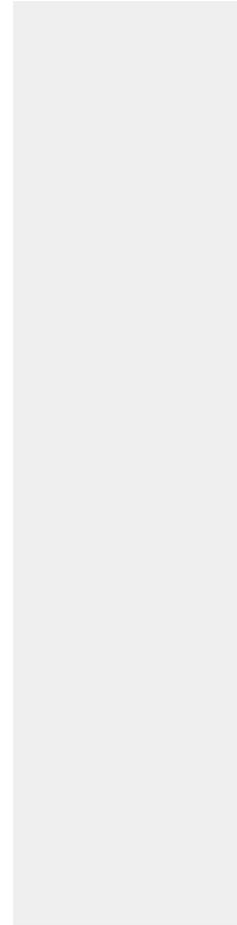
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**A TRADITION OF
INDEPENDENT
THINKING**



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Presentation structure:

- Introduction: Who are the Irish Traveller Community?
- Traveller Accommodation Rights in Ireland: legislation and procedure.
- Theory vs. Practise: On-going discrepancies.
- International Coverage of Traveller Specific Housing Complaints.
- Conclusion.

Who are the Irish Traveller Community?

- Historical and deep-rooted discrimination.
- Accommodation needs currently unmet within Irish Housing frameworks.
- 29,573 Travellers recorded as resident in Ireland under the recent census.
- A report of the Health Research Board (1987) revealed that Traveller men live, on average, 10 years less than settled men, while Traveller women live on average 12 years less than their settled peers.

Traveller Accommodation Rights in Ireland: legislation and procedure.

- Over the last two decades, the Government of Ireland has steadily introduced housing legislation that obliges local authorities to provide halting sites and other accommodation for Travellers.
- Effect of austerity cuts undertaken during the financial crisis have seen the budget for Traveller Accommodation reduced from €40million in 2008 to €4 million in 2015, a cut of 90%.
- Approx. one third having to live without access to the basic facilities of sanitation, water and electricity.

Accommodation as a key concern:

- Accommodation is commonly recognised as being central to Traveller tradition, encompassing the traditions of:

'those [Travellers] who are constantly on the move, those who move out from a fixed base for a part of the year, and those who are sedentary for many years and then move on.'

- *When we talk about the Travelling community it's not just a question of whether they want housing or whether they would prefer serviced halting sites. It's that they want their culture recognised, they want their dignity respected, they want to be full citizens of this country.*

President Mary Robinson

Historically, Traveller accommodation has been a contentious and controversial area of public policy in Ireland

Kenna notes that such controversies have created a situation where there are many issues, noting that these are:

[A]pparent gaps, weaknesses and strengths of government policy: the overall approach adopted by the government in relation to Traveller accommodation; the position of Travellers in Irish society and more recently, the gap between the policy agreed upon at a national level and implementation at a local level.

- P. Kenna *Housing Law, Rights and Policy*, Clarus Press, 2011.

Historical Policy Developments:

- **Housing (Traveller Accommodation) Act 1998**
- **Section 13 of the Housing Act 1988**, as amended by **s.29 of the Housing (Traveller Accommodation) Act 1998**, imposes a statutory duty on Local Authorities to provide a serviced halting site.
- Provision 'for the annual patterns of movement by travellers' s. 10(3)(c). The local housing authorities were obligated to 'take any reasonable steps as are necessary' s. 16(1) to implement the accommodation programmes.

- The Local Authority must:
 - *S. 6: make an assessment of need for Traveller accommodation and adopt a TAP (Traveller Accommodation Plan), within a specified time, that meets the accommodation needs of Travellers in their area*
 - *s. 7 Establish a Local Traveller Accommodation Consultative Committee (LTACC) made up of Travellers, Traveller representatives, and County Councilors and Council officials. s. 21. The LTACC provides advice to the Local Authority on Traveller accommodation issues.*
 - *Section 29 inserts a new section 13 into the Housing Act giving the Local Authority the **power to provide, improve, manage and control sites for caravans for Travellers**, and also to provide services on such sites. However, this is **phrased as a power rather than a duty**.*

Domestic Case law:

- Facilities at halting sites should be of the same standard as facilities in public housing *Mongan v South Dublin County Council* [1995].
- *O'Donnell v South Dublin County Council* [2007] *MacMenamin J* statutory obligation on the local authority to provide a halting site, stating that this was a mandatory obligation upon the local authority to provide halting sites.
- *Ward v Donegal County Council* [2000] held that where a Local Authority fails to adopt a plan, in the case of emergency, the county manager has the power to meet that emergency and carry out such works as are required which are urgent and necessary in his opinion in order to provide a reasonable standard of accommodation.

Issues with the Current Act:

- Lack of recognition of key elements of Traveller Community values i.e. re family and family cluster settlements
- Fails to accommodate the nomadic tendencies of many members of the Community
- Lack of sanctions
- Restrictive budgetary cuts and critical underspend by some Local Authorities of up to 35%.
- Not fit for purpose/Political pressures.



International Standards/ Right to Housing:

- Article 25 Universal Declaration of Human Rights (UDHR).
- Article 11, International Covenant on Economic, Social and Cultural Rights (ICESCR).
- Art 31, Art 16, European Social Charter. Ireland has signed up to Art 16.
- Article 8(1) of the ECHR?
- Article 3 ECHR?
- *Connors v. the United Kingdom.*
- *Winterstein and Others v. France.*

Traveller Accommodation: On-going issues & divergences between the law in theory and the law in practise.

The effects of austerity policies:

- The national allocation available for Traveller specific Capital projects in **2008 was €40m** In 2012 this was reduced to €5.67m and in **2013 this figure was further reduced to €4m.**
- Traveller families living on unsafe, un-serviced, unauthorised sites has increased by almost **50 per cent in two years.**
- Number of Traveller families on **unauthorised sites increased from 361 in 2013 to 445 in 2014 and 534 last year.**
- Numbers sharing housing, or “doubling up”, as families move caravans beside other family caravans or houses because they can find nowhere else to live, increased from 663 in 2013 to 727 in 2014 and **862 last year.**

In 2015, 8,099 Traveller families were accommodated across the State.

- Less than a quarter (22 per cent) were living in Traveller-specific accommodation (halting sites or groups housing);
- Almost half (45 per cent) were accommodated in non-Traveller-specific housing (i.e. standard social rented, voluntary and co-operative housing, etc);
- A third (33 per cent) were in other accommodation types (i.e. private rented, unauthorised sites, etc).

“deeply concerned about the structural discrimination against Traveller and Roma children, including as regards their access to education, health and an adequate standard of living. It is particularly concerned about ... [s]ignificant numbers of Traveller households in mobile or temporary accommodation with no access to adequate water and sanitation facilities, or safe and appropriate play areas.”

UN Committee on the Rights of the Child Concluding Observations on the combined third and fourth reports of Ireland, March 1, 2016, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/039/97/PDF/G1603997.pdf?OpenElement> at para 69.

Sanctions against Local Authorities? Practise vs Reality.

- There is no explicit right to culturally appropriate accommodation in the TAP but it is inferred from the above stipulations, i.e. the Local Authority must endeavor to supply culturally appropriate housing if it is requested.
- There are also no sanctions, when Local Authorities do not deliver on the TAPs and the National Traveller Accommodation Consultative Committee appointed by the Minister to monitor progress also has no authority to ensure Local Authorities are meeting their targets in their Traveller Accommodation Plans

“One of the main barriers to improvement of the situation as regards accommodation is reported to be the unwillingness of local authorities to provide accommodation and resistance and hostility among local communities to planned developments, often resulting in injunctions and court cases. In this respect, it has been commented that the fact that no sanctions are provided for in the Housing (Traveller Accommodation) Act against authorities who do not take measures to provide accommodation for Travellers may weaken its effectiveness.”

European Commission against Racism and Intolerance, Second Report on Ireland, 23 April 2002 (Strasbourg: Council of Europe, 2002), p. 22, para. 72

International Consideration of Traveller Specific Housing Complaints in Ireland:

- [*European Roma Rights Centre v. Ireland Complaint No. 100/2013*](#) confirmed that such actions are in breach of recognised international standards and found that Ireland was in breach of its responsibilities under the European Social Charter.
- This decision cites three grounds for finding such a breach of Article 16– that there is “insufficient provision of accommodation for Travellers”, that “many Traveller sites are in an inadequate condition”, and that there are “inadequate safeguards for Travellers threatened with eviction.”
- Specific to the right of housing, the Committee found the Irish State to be directly in breach of its duties under Article 16. Art 16 which guarantees the protection of the family as the fundamental unit in society; this provision extends to provide a right to family housing.

“Today’s ruling by the European Social Charter is an important benchmark and demands urgent action by the government. The legal complaint was made in 2013, and approaches to both the provision of Traveller accommodation and to evictions of Travellers that gave rise to the complaint continue to operate... It will be important that the recommendations reflect the rights of Travellers not only to accommodation that is adequate, safe and contributes to social inclusion, but also to accommodation that respects Travellers’ cultural identity and their nomadic way of life.”

- Emily Logan, Chief Commissioner for Human Rights,
IHREC.

Conclusion:

- The standard of housing consistently falls short of the standards prescribed by the relevant domestic legislation and housing rights provisions.
- Reflects a general lack of engagement from Local Authorities to meet the responsibilities placed upon them under the *Traveller Accommodation Act 1998*.
- Such rights breaches have been repeatedly recognised at an international level, yet to date the budget provided for Local Authorities within the Country as a whole is currently 10% of what it was 5 years ago.
- This direct impact of austerity has left many Local Authorities simply unable to meet their duties under the Act. This divergence between the law in theory and the law in practise has resulted in an untenable situation for many members of the Travelling Community.

Concluding Observations?

- Nature of housing law/housing rights. “No money, No accommodation?”
- Progressive realisation of rights?
- Impact of the ERRC/ITM Collective Complaint? Legally binding or merely an advocacy tool?
- Marginalised group, public backlash about proposed new halting site developments.
- Increased budget impending?
- The nature of provision of services for ethnic minorities?

Ireland has failed in its duty to afford Travellers accommodation rights in the following areas:

- failed to provide sufficient accommodation for Travellers, in particular Traveller-specific accommodation – namely permanent halting sites, group housing and transient halting sites;
- failed to develop a strong and enforceable legislative framework to ensure that the Traveller accommodation programmes are implemented, including failing to amend planning and zoning laws to ensure that land can be easily acquired and utilised for Traveller accommodation; and
- failed to ensure that Traveller halting sites are habitable and environmentally safe and that there is sufficient and affordable access to basic services such as water, sanitation, electricity and waste disposal.



Thank-you for listening