



The Association of Mixed Race Irish

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# The Public Consultation on the Review of Equality Acts

Submission by the Association of Mixed Race Irish (AMRI) to  
The Department of Children, Equality, Disability, Integration and  
Youth

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### A. Introduction

- 1.0 The Association of Mixed Race Irish (AMRI) welcomes the opportunity to make this written submission to the Department of Children, Equality, Disability, Integration and Youth as part of the public consultation on the Review of the Equality Acts. AMRI would be happy to meet with the Department to discuss the points raised in this written submission.
- 2.0 AMRI advocates on behalf of mixed race people who spent time in Irish institutions as children. Our key purpose is to seek recognition and justice for racial abuse experienced in these institutions. However we also look to the future and we are increasingly partnering with others to combat racism more generally. As part of this aim we have recently set up the Irish Racial Justice Forum within AMRI to focus on human rights law designed to protect our members/community and people of African Descent.

### B. Recommendations

#### 3.0 **Recommendation 1: Explicit incorporation of public body service providers within the definition of 'services' within the legislation.**

There is a lack of clarity as to whether section 5 of the Equal Status Act 2000, includes public services within the definition of 'services'. Here, The Committee on the Elimination of All Forms of Racial Discrimination (CERD) recommended '[e]xplicitly including the functions of public authorities within the definition of the "services" in section 5 of the Equal Status Acts.<sup>1</sup> There is evidence that services provided by public bodies do come under the remit of the Equal Status Acts.<sup>2</sup> As the Free Legal Advice Centres note, although, '[t]he definition of "services" in section 2 of the Equal Status Acts is broad enough to include the services provided by public bodies', 'it is unclear to what extent the Equal Status Acts apply to public authorities... performing public services..<sup>3</sup>

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<sup>1</sup> CERD, Concluding observations on the combined fifth to ninth reports of Ireland (CERD/C/IRL/CO/5-9, 23 January 2020), para 12(c).

<sup>2</sup> Free Legal Advice Centres, 'FLAC welcomes settlement of Circuit Court Discrimination Case taken by a woman of Romani heritage against An Garda Síochána' (FLAC website, 14 October 2021), available at <[www.flac.ie/news/2021/10/14/flac-welcomes-settlement-of-circuit-court-discrimi/](http://www.flac.ie/news/2021/10/14/flac-welcomes-settlement-of-circuit-court-discrimi/)>

<sup>3</sup> Ibid.



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AMRI reiterates the recommendation of CERD and others that the Equal Status Acts be amended to expressly include the functions of public bodies within the definition of 'services', for example AMRI are particularly keen to see bodies such as, *inter alia*, TUSLA and the Police services be clearly stated and covered by the Equality Acts. Additionally, AMRI recommends that all public bodies take more positive action to eliminate discrimination within their organisations and externally, in their interactions with service users.

### **4.0 Recommendation 2: Expanding the list and scope of the nine grounds of discrimination under the Equality Status Acts**

Article 1(1) of the UN Convention on the Elimination of All forms of Racial Discrimination (ICERD) defines racial discrimination as:

[A]ny distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

The latest Concluding Observations from CERD recommended that Ireland bring, 'the definition of racial discrimination provided for in these Acts in line with article 1 of the Convention'. At present, the discrimination on the grounds of race under the Equality Acts includes 'race, colours, nationality or ethnic or national origins'. Here, AMRI recommends that the definition of race be included to include discrimination on the grounds of 'descent'. While 'descent' appears on the surface not to add much to existing grounds on race, it has been interpreted by CERD to include caste. In other words, including 'descent' in the Acts would bring protection against caste-based discrimination into Irish equality law for the first time, which would bring Ireland in line with other jurisdictions, such as the UK. This is important as Ireland has a growing community of people from other jurisdictions and cultures working and positively contributing to Irish prosperity who need to be protected from all forms of discrimination.

AMRI restates the recommendation of CERD that Ireland bring the Equality Acts in line with the definition of racial discrimination in Article 1 of ICERD.

### **5.0 Recommendation 3: Explicitly including intersectional discrimination within the grounds of discrimination in the Equality Acts.**

The latest Concluding Observations from CERD recommended that Ireland, provide for 'explicit prohibition of multiple or intersectional discrimination'. Here, AMRI notes that intersectional discrimination is a recognised form of discrimination in law. Yet, this ground of discrimination is omitted as an explicit form of discrimination under the Equality Acts.



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In particular, as CERD has noted, women and men are affected differently by discrimination. Women from minority communities face a number of barriers to seeking redress for human rights violations that are not experienced by men from their communities. Here, CERD has recommended that States collect:

Data which have been categorized by race or ethnic origin, and which are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

AMRI recommends that intersectional discrimination be included within the Equality Acts as a grounds of discrimination explicitly prohibited under the legislation. Moreover, the remedies available under the legislation should be publicised widely in a range of languages to disseminate this information among vulnerable minority communities.

It is imperative that this intersectional data is collected and made available by public bodies such as the prison services, criminal justice system, TUSLA, Police services and other state bodies (also see recommendation 7 below).

### **6.0 Recommendation 4: Expanding Civil Legal Aid to include complaints to the Workplace Relations Commission and providing adequate translation/ interpretation services for non-English speaking complainants.**

At present, legal representation before the Workplace Relations Commission (WRC) is excluded from the remit of Civil Legal Aid. This situation has grave consequences for persons without the financial means to access legal advice and representation in complaints before the WRC. Moreover, it disproportionately affects persons from lower socio-economic backgrounds, many of whom are from minority racial and ethnic backgrounds.

In order to ensure that vulnerable non-English speaking communities have equal access to remedies under the Equality Acts, it is imperative that information on the legislation and the remedies available is disseminated within these communities. In addition, adequate translation and interpretation services be provided to support non-English speakers in accessing their rights under the legislation.

AMRI recommends that Civil Legal Aid be expanded to provide for legal representation in complaints to the WRC. In addition, AMRI recommends that the redress possibilities of the Workplace Relations Commission be publicised widely in a range of languages.



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### **7.0 Recommendation 5: Collection of data on race service users by public bodies.**

Accurate data on the number of racial and ethnic minorities accessing public services in Ireland is lacking. The latest Concluding Observations from CERD recommended:

[T]hat the State party collect and provide updated statistics on the ethnic composition of its population based on self-identification. It should also provide statistics, disaggregated by sex, on the socioeconomic situation and representation in education, employment, health, housing, and public and political life of all minority groups, in order to provide it with an empirical basis to evaluate the equal enjoyment of rights under the Convention.<sup>4</sup>

Moreover, collecting such data and disseminating it publicly will help to address and respond to societal inequality in Ireland, for example AMRI is particularly concerned that in 2015 it was reported that “African families are about seven times more likely to face child protection proceedings than are Irish people, and this figure is likely to be greater if the “Mixed” category includes one African parent ”<sup>5</sup>. It is important that data such as this is made publicly and regularly available.

AMRI recommends that all public bodies collect and publicise data on the racial, national and ethnic backgrounds of service users. This will ensure more visibility, accountability and progress relating to actions affecting ethnic minority communities.

### **8.0 Recommendation 6: All public bodies should take more steps to eliminate discrimination**

It is clear that racist sentiment is evident in some public body service providers in the State, notwithstanding that many of the staff in these public bodies have completed human rights and inter-cultural awareness training. In order to prevent discrimination in the provision of services by public bodies, it is imperative that public bodies take more positive action to eliminate discrimination within their organisations. Public bodies should incorporate the ethos of equality into their organisations, in line with their obligations under the public sector equality and human rights duty. Here, human rights/ intercultural awareness training must be implemented in the workplace and be integrated into organization culture for real change to happen.

AMRI recommends that all public bodies take more steps to eliminate discrimination in their organisations to give effect to the ethos and of the Equality Acts.

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<sup>4</sup> Committee on CERD, Concluding observations on the combined fifth to ninth reports of Ireland (CERD/C/IRL/CO/5-9, 23 January 2020), para 6.

<sup>5</sup> Final Report, Child Care Law Reporting Project by Dr Carol Coulter November 2015, page 13



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### C. Conclusion

- 9.0 AMRI urges the Department of Children, Equality, Disabilities, Integration and Youth to cease this opportunity to make fundamental changes to the Equality Acts in line with International Human Rights Law. Racial discrimination should be defined in line with ICERD. More broadly, as part of this process **the State should aim to incorporate ICERD into its domestic legal order.**
- 10.0 As outlined above, it is crucial to have more transparency to deal with racial discrimination that exists in the public sector, by providing more disaggregated data. This data will enable improvements to be made in public service provision and ensure remedial action is taken promptly. Public services covered by the Acts should be listed clearly to remove any ambiguity.
- 11.0 AMRI looks forward to the results of this consultation and hopes the Government will act on proposals made by the public, which is important at this time.