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SINGLED OUT:

Exploratory study on
ethnic profiling in Ireland
and its impact on migrant
workers and their families



MRCI
MIGRANT RIGHTS
CENTRE IRELAND

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Siobhán O' Donoghue

Director

Migrant Rights Centre Ireland

March 201

FOREWORD

MRCI demonstrates through this study that it is, as ever, vigilant and acting on the current issues which discriminate against migrant workers, their families and other minorities in Ireland. I commend all involved especially the participants who made the study possible, for the service done for all of us in the struggle to develop a society where effective equality can be guaranteed.

The study is timely, relevant and requires action on foot of the recommendations made. It is timely as a new government, with a new Minister for Justice and a new Minister for Equality takes office that it is reminded of the realities of ethnic profiling and the damage it causes. As the study points out, as well as negative psychological impacts, ethnic profiling damages relations between migrants, minorities and the authorities, including the Gardai and other law enforcement agencies. It also exacerbates racism and xenophobia. As with other forms of racial discrimination its structural dimensions can often mean that people may or may not be aware that they are acting in a discriminatory way. We are reminded too that the intersectionality of racism and gender discrimination in migrant and minority, including Traveller women's experiences of ethnic profiling can make it even more damaging for them.

Ireland, alongside other EU member states, as the Irish Network Against Racism (national coordination for the European Network Against Racism) points out, cannot consider itself to be immune from ethnic profiling. This study also explores the additional difficulties for migrants caused by the North/South cross border context and recent developments regarding interpretation of the common travel area – ironically a tool of much value for departing Irish emigrants of the 50's as they headed for the UK to literally rebuild what had been destroyed in the 2nd World War. In addition the EU Midis Study undertaken by the Fundamental Rights Agency of the European Union provides evidence of discrimination against minorities throughout the EU including in Ireland.

The concluding observations of the UN Committee on the Elimination of Racial Discrimination on Ireland's 3rd and 4th Reports to the Committee published on March 11th 2011 further underlines both the timelessness and relevance of the study. The Committee expresses concern at the lack of legislation preventing racial profiling by the Gardai and other law enforcement personnel and notes that non Irish people are subjected to police stops and required to provide identity cards. It recommends that the state adopts legislation prohibiting any form of racial profiling.

In effect this study provides relevant comment and evidence to put alongside other work and the CERD conclusions. It also provides a road map for follow through and action for consideration by those newly appointed with the power to bring about change. I urge them to take that action as an indicator of their governments commitment to an Ireland of effective equality for all who are part of it.

Anastasia Crickley

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EXECUTIVE SUMMARY

Ethnic profiling is a type of racial discrimination carried out by people in positions of authority, such as police, who target people for reasons of safety, security or public protection but rely on stereotypes about ethnicity (which can include one's colour, nationality, religion etc.) rather than on reasonable suspicion. People may or may not be aware that they are acting based on prejudice.

The objective of this exploratory study is to provide a brief overview of ethnic profiling in Ireland and its impact on migrant workers. It demonstrates the ways in which migrant workers are ethnically profiled in relation to immigration and policing services, including at border crossings between the Republic and Northern Ireland, examines the impact on migrant workers and makes a number of recommendations.

International experience has shown that ethnic profiling is widespread and pervasive. Stop and search rates for visible minority ethnic groups range from being 2.3 times more likely to be stopped and searched than white people, to up to 26.6 times.¹

The research methods involved a combination of a desk-top literature review, a small scale observation exercise on cross-border buses and trains and in Dublin city centre, and focus groups and interviews with migrant workers, members of the majority population, NGOs and other relevant bodies. It primarily focuses on the Republic of Ireland, with consideration given to Northern Ireland in light of the relevance of the border to immigration checks and the potential for ethnic profiling.

A small scale observation exercise in the Republic of Ireland found indicators of ethnic profiling practices. Ethnic profiling in the street was observed when only Roma were "moved on" for begging, despite other people begging in the same area at the same time. There are ongoing immigration checks of buses and trains on the southern side of the Border between Newry and Dundalk/Drogheda and there is an obvious focus on people from visible ethnic minority backgrounds.

Focus group and interview findings catalogued incidences of ethnic profiling on buses, trains and in cars; at airports and ports; on the street or in other public places and in relation to Social Welfare. Despite evidence of ethnic

profiling, there are few steps being taken to tackle it and individual complaints mechanisms are inadequate.

International research has found that ethnic profiling has a serious impact on the people who are targeted, on their families, and also on wider society. It has been found to cause psychological damage; contribute to racism and xenophobia; to be ineffective; and to damage relationships between minority ethnic communities and police. These findings were often confirmed by migrant worker interviewees and focus group participants in this study and other negative impacts in terms of the impact on migrant women and on integration were noted.

Practices of ethnic profiling have been found to be discriminatory and incompatible with European or International human rights treaties, to which Ireland and the UK (including Northern Ireland) are signatory. For example, in July 2009, the United Nations Human Rights Committee declared that police identity checks that are motivated by "race" or ethnicity are contrary to the human right to non-discrimination.

The report makes a number of recommendations which can be summarised as:

- amending immigration legislation to remove powers given to police and immigration officers to demand documentation other than at external border checks
- honouring the Good Friday Agreement by providing equivalence of protection for human rights North and South of the border. This includes discontinuation of cross border checks and extending the Equal Status Acts to the full range of functions carried out by *An Garda Síochána*
- clear complaints channels for victims of ethnic profiling to include an explicit role for The Garda Ombudsman.
- empowering migrants and people from minority ethnic groups by providing information on their rights and entitlements, including how to complain about ethnic profiling as well as support for community development and advocacy work
- Introduction of a national racist monitoring and reporting system based on the pilot initiative of the Irish Network Against Racism and Dublin City Council

SECTION 1.0

BACKGROUND AND
INTRODUCTION

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Migrant workers experiencing discriminatory stops by An Garda Síochána or discriminatory treatment by staff in Social Welfare offices is a practice that MRCI has been aware of and in recent years we have seen this trend developing. There is a dearth of both data and literature on the topic of ethnic profiling in Ireland despite a significant amount of anecdotal evidence from communities that experience racism including the Traveller community.

This study aims to gather existing information on ethnic profiling as well as to add data from a limited number of observations, focus groups and interviews.

In carrying out this study we hope that it will provide a basis for responding to and deepening public awareness of this form of racial discrimination. We also hope that this initial work will be a catalyst for further exploration and research.

1.1 Definitions of Ethnic Profiling

Ethnic profiling² is a type of racial discrimination carried out by people in positions of authority, such as police, who target people for reasons of safety, security or public protection but rely on stereotypes about ethnicity (which can include one’s colour, nationality, religion etc.) rather than on reasonable suspicion. The European Network Against Racism (ENAR) has defined ethnic profiling as: “...the use by police, security, immigration or customs officials of generalisations based on race, ethnicity, religion or national origin - rather than individual behaviour or objective evidence - as the basis for suspicion in directing discretionary law enforcement actions. It is most often manifest in police officers’ decisions about whom to stop for identity checks, questioning, searches, and sometimes arrest. Ethnic profiling can also be used to “mine” (or undertake computerized searches of) databases for potential terrorist suspects or in targeting surveillance and anti-radicalisation policies.”³

“I was targeted because of my apparent ethnicity, as were others.”

Interviewee

It has also been noted that as with other systemic practices, racial profiling can be conscious or unconscious, intentional or unintentional.⁴ Although ethnic profiling has usually been associated with law enforcement, it is acknowledged that it is also associated with positions of authority generally and to actions taken for reasons of safety, security or public protection.⁵ This broader definition fits with the focus of this study which includes *de facto* “policing” of the social welfare system by staff based on the nationality of the member of the public.

Ethnic profiling is sometimes confused with criminal profiling. Criminal profiling is a valid, accepted and widely used means of identifying suspects through developing a profile which helps to narrow the search for the offender. Ethnicity can be included in such a profile but there is sometimes a risk that ethnicity alone becomes the focus of the suspect description and everyone perceived as sharing that ethnicity is targeted (for example Black or Asian).

1.2 International Experiences of Ethnic Profiling

Comprehensive research on ethnic profiling has been carried out in many countries. In the UK, the most recent analysis of stops from Government figures under the UK’s *Criminal Justice and Public Order Act 1994* found that Black people were 26.6 times more likely than white people to be stopped and searched. Asians were found to be 6.3 times more likely to be stopped than whites.⁶ Research from France indicates that Black people are over six times more likely to be stopped by police than white people.⁷ The French research, based on extensive observation work around Paris, revealed a strong relationship between the ethnicity of the person stopped, the style of clothing they were wearing, and their propensity to be stopped by police; namely those dressed in “youth culture clothing”.

In 2007, police and civil society organisations worked together on pilot sites in Bulgaria, Hungary, Spain and the United Kingdom to monitor the use of ID checks and searches in a project called “Strategies for Effective Police Stop and Search” (STEPSS).⁸ The data showed that police in every pilot

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site were carrying out ethnic profiling. However, people from minority ethnic backgrounds were no more likely to be found to be offending than the majority population and in some cases, they were significantly less likely to be found offending. This data was used to improve the effectiveness of police time and resources.

International research has found that ethnic profiling has a serious impact on the people who are targeted, on their families, and also on wider society. Although these impacts are based on international research, many of them were borne out by this study.

Recent figures published by the Home Office in the UK reveal that just 504 people out of 101,248 searches under counter-terror powers last year were held for any offence and *none* were arrested for terrorism-related offences.⁹ In other countries where ethnic profiling has been monitored, there are similar "hit" or arrest rates across ethnic groups and in several studies, members of minority ethnic groups are found to be statistically significantly less likely to have "sizable" evidence following a search. This refutes any suggestion that people from a minority ethnic background are more likely to engage in criminal activity. It also raises questions about effective use of police resources.¹⁰

There is a notable lack of data on the use of ethnic profiling in the Irish context including analysis of the prison population and arrest ratios.

1.3 Existing Evidence of Ethnic Profiling in Ireland

Given the evidence that ethnic profiling takes place in many other Western countries, it is extremely unlikely that Ireland is immune to this problem and indeed reports of ethnic profiling in Ireland, North and South, have emerged over the years:

- In 2004, An Garda Síochána Human Rights Audit¹¹ found that the Garda role in immigration had brought it into conflict with minority communities and undermined Garda efforts to develop good relations. It also found

some evidence of institutional racism against some groups, such as Travellers and Nigerians.

A Nigerian man interviewed for this study felt that he is often considered a liar because of negative stereotypes about Nigerians, and that this would affect any interaction he would have with Gardaí.

- The 2009 EU-MIDIS European Union Minorities and Discrimination Survey from the EU Fundamental Rights Agency (FRA) showed that Ireland had the second highest rate of police stops in the EU. 59% of Sub-Saharan Africans reported being stopped by police in the previous 12 month period with 93% of these stops occurred when respondents were driving cars or were riding motorbikes. The survey also notes that 41% of Sub-Saharan Africans in Ireland reported being victims of crime in the last 12 months; this was fifth highest in the EU.¹²
- The NGO Alliance Against Racism in their 2011 submission to the UN Committee on the Elimination of Racial Discrimination reported the existence of ethnic profiling based on the work of various anti racism organizations.
- In 2006, the National Consultative Committee on Racism and Interculturalism received reports of discriminatory behaviour by immigration officers, mainly in airport terminals.

"You are 100% sure he (Garda) will stop you. He won't stop every car but he will definitely stop you."

Muslim woman interviewed

- There has been some media coverage relating to ethnic profiling and racial discrimination and harassment at Irish airports. For example, it has been reported that Dublin City Council called for an independent inquiry into GNIB procedures at Dublin airport following growing concerns over the treatment of foreign visitors.¹³ It is reported that these concerns have also been raised by business related bodies such as Tourism Ireland and

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Enterprise Ireland. The same article describes how Nigerian priest Fr. John Achebe was arrested, strip-searched and placed in custody on suspicion of attempting to enter Ireland illegally (despite having all the relevant papers, including a visa) and was only released following the intervention of the Nigerian ambassador.

In Northern Ireland there have also been reports of ethnic profiling:

- It has been reported that a number of cases have come before the Northern Ireland High Court in relation to Operation Gull. For example, a Nigerian student, who had a valid student visa, was detained by immigration officers at Belfast International Airport.¹⁴ The court held that he was detained unlawfully and he was awarded £20,000 compensation.

"I was asked for identification and questioned by an Immigration Officer after a flight from London to Northern Ireland. He stopped questioning me when he asked what my profession was and I stated that I was a lawyer."

Northern Ireland focus group participant

- In the case of *Anon V The Border & Immigration Agency*, a Black man from Zimbabwe who was living and working lawfully in England attempted to visit Belfast for a weekend break with his wife and children but was refused entry. He brought a case which was settled out of court with an apology and admission that he was unlawfully and falsely imprisoned:
- *"It is still difficult to believe that what was supposed to be a relaxing break for my family turned out to be our worst nightmare. I was locked up with convicted criminals, having committed no crime, while my wife and young children were left abandoned at the airport of a strange country worrying about where I was and how I was being treated... I am a structural engineer, working and living in Northern England and wished only to enjoy a few days away with my family... I was wronged and my family suffered as a result of this treatment. It was therefore necessary to fight for justice both for my own peace of mind and to ensure that no other family experience similar treatment in the future."*¹⁵

- In a case relevant to the Social Welfare aspect of this study, seven Northern Ireland revenue workers were dismissed from their employment for tampering with computer records. This meant that a number of people from ethnic minority backgrounds living in various parts of the UK were paid less money than they were entitled to.¹⁶

1.4 Ethnic Profiling & Policy

There are a number of policies that come into play when considering ethnic profiling at the national, cross border and wider international level.

*"Members of minorities are more often than others stopped by the police, asked for identity papers, questioned and searched. They are victims of "ethnic profiling", a form of discrimination which is widespread in today's Europe. Such methods clash with agreed human rights standards. They tend also to be counterproductive as they discourage people from cooperating with Police efforts to detect real crimes... There should be an objective reason why a certain individual is stopped and searched, a reasonable and individualised suspicion of criminal activity. The colour of your skin, your dress or visible religious attributes are not objective reasons."*¹⁷

Council of Europe's Commissioner for Human Rights, Thomas Hammarberg

1.4.1 International and European Human Rights Law

Ireland is signatory to a number of International and European human rights treaties which prohibit ethnic profiling or are incompatible with the practice of ethnic profiling; these include the European Convention on Human Rights (ECHR)¹⁸, the UN International Covenant on Civil and Political Rights (ICCPR), the UN International Covenant on Economic Social and Cultural Rights (ICESCR), the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Durban Declaration and the Council of Europe's European Commission on Racism and Intolerance (ECRI), General Recommendation on combating racism and racial discrimination in policing.

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A number of significant cases in recent years have confirmed that ethnic profiling is unlawful:

- In July 2009, the United Nations Human Rights Committee became the first international tribunal to declare that police identity checks that are motivated by “race” or ethnicity are contrary to the human right of non-discrimination (*Rosalind Williams Lecraft v. Spain*)¹⁹. Ms Williams Lecraft, an African American who became a Spanish citizen in 1969, had been singled out in a Spanish railway station in 1992 by law enforcement officers who asked her for her identity card to verify her immigration status. Officers had been instructed by the Ministry of Interior to conduct ID checks on “persons of colour”, so the officer in question argued that he had a duty to check her as many persons who “looked like her” were “illegal immigrants”. Spanish courts agreed with the approach of relying on racial or physical characteristics – specifically Black skin, and the case was taken to the UN Human Rights Committee which found Spain in violation of Article 26 in conjunction with Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR) which relate to equality before the law, non-discrimination and effective remedy. The Human Rights Committee found that in the context of ID checks, persons should not be singled out on the basis of physical or ethnic features, nor should such features be used as an indicator of their immigration status. Ms Williams Lecraft was awarded compensation for racial discrimination.

“... the immigration officers radioed for reinforcement and in no time about four to six more Gardaí came and dragged me out of the train like a criminal. I was struggling with them and they dragged me through the platform to their waiting van and took me to their station. I was stunned and shocked for the treatment, I felt embarrassed. It was pure racial discrimination. I was locked up in the cell for a very long time without food or drink of water; I was not spoken to...”

Interviewee removed from a Belfast to Dublin train.

- The European Court of Human Rights ruled on ethnic profiling in the case of *Timishev v. Russia*.²⁰ The applicant was stopped from entering an administrative region because of his Chechen ethnicity, based on an

official policy of excluding Chechens from that area. The Court held that the applicant had been subjected to different treatment in relation to his right to liberty of movement solely due to his ethnic origin and that the difference in treatment was not justified and that this constituted racial discrimination within the meaning of Article 14 of the ECHR.

- In a landmark UK case: *R v Immigration Officer at Prague Airport*²¹ concerning UK immigration checks at Prague airport in the Czech Republic, the House of Lords determined that racial profiling involving the stereotyping of individuals constituted illegal direct discrimination. The European Roma Rights Centre produced evidence that, compared to other intending travellers, Roma were subjected to longer, more intensive interviews, were required to produce more documents and were 400 times more likely to be refused leave. These measures were aimed at preventing asylum seekers going to the UK. The court did not contest the higher likelihood of Roma claiming asylum but found that racial stereotyping is unacceptable, even if the stereotype has a basis.

1.4.2 Irish Immigration Legislation

Under current immigration legislation, immigration officers and Gardaí have power to demand identification from “non-nationals” under Section 12 of the *Immigration Act 2004*. The 2004 Act is due to be superseded by new legislation which has been redrafted a number of times in recent years (the *Immigration, Residence and Protection Bill*). Its provisions in relation to the risk of ethnic profiling were broadly similar to those under current legislation. Under the *Immigration Act 2004* British or Irish citizens moving within the Common Travel Area do not require a “valid travel document”. Guidance does not exist on how Garda or an immigration officer tell whether someone is or is not a British or Irish citizen. At time of writing, Section 12 of the *Immigration Act 2004* is being challenged in the case *E.D. V. DPP* in the High Court. The Irish Human Rights Commission is acting as *amicus curiae* in this case.

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1.4.3 Legislation in Northern Ireland

The *Race Relations (Amendment) Regulations (Northern Ireland) Order 2003* prohibits discrimination but does not apply to immigration authorities. An immigration officer acting on the instruction of a Minister may discriminate on grounds of nationality, or ethnic or national origin. Immigration is a function reserved to the UK Government and not devolved to the Northern Ireland Assembly.

Under Section 75(1) of the *Northern Ireland Act 1998* there is a statutory obligation for a public authority to promote equality of opportunity, “between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation”. Section 75 (2) states that, “...a public authority shall in carrying out its functions in relation to Northern Ireland, have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group”.

Immigration in the UK, including Northern Ireland, comes under the remit of the UK’s Home Office’s agency, the UK Border Agency (UKBA). Immigration Officers in the UK are not police. They do have a range of powers which are similar to those of police officers; however, they are not subject to same safeguards and oversight as police officers in relation to people arrested under criminal law. There is co-operation between the UKBA and the Police Service of Northern Ireland (PSNI) in relation to immigration operations. Due to the lack of immigration detention facilities in Northern Ireland, unlike the rest of the UK, people arrested under immigration legislation are detained in police stations. A significant immigration operation in Northern Ireland called “Operation Gull” focuses on identification checks at Northern Ireland ports and airports. The Northern Ireland Human Rights Commission conducted an investigation into immigration practices and human rights obligations and raised a number of concerns.²²

Two identity card schemes have been established in the UK, linked to a National Identity Register (NIR). The *Identity Cards Act 2006* and *UK Borders Act 2007* introduced the National Identity Register. The scheme

is often described as “compulsory identity cards for foreign nationals”²³ The Northern Ireland Human Rights Commission has expressed concern about this legislation and has called for the *UK Borders Act* to be withdrawn. In particular, the Commission is concerned about the increased risk for racial profiling as a result of the legislation.²⁴

Also of relevance to ethnic profiling is anti-terrorist legislation in the UK. The *Terrorism Act 2000* (Section 44) gave police throughout the UK the power to stop and search vehicles and members of the public in order to prevent terrorism, without the need for reasonable suspicion that a crime has occurred, (‘normal’ criminal legislation requires a reasonable suspicion on the part of a police officer). The legislation was introduced in Northern Ireland in temporary provisions in Part VII of the *Terrorism Act 2000* and the powers were introduced on a permanent basis in the *Justice and Security (Northern Ireland) Act 2007*. Human Rights Watch carried out research which found that under the UK legislation South Asians and Blacks are more likely to be stopped than whites.²⁵ The UN Human Rights Committee expressed concern “about the use of racial profiling in the exercise of stop and search powers and its adverse impact on race relations” and called for a review of the stop and search powers under section 44 of the *Terrorism Act 2000*.²⁶

1.4.4 Common Travel Area

“The problem is that migrant workers and other migrants sometimes do not realise they are crossing a border...They might be making a short journey and do not bring ID with them.”

Northern Ireland focus group participant

The Common Travel Area (CTA) between the UK and the Republic of Ireland was first recognised in the 1920s. It has been described by the British government as permitting British and Irish citizens “to move freely between the jurisdictions without the requirement to carry a passport”.²⁷ This does not then apply to people who are not British or Irish citizens. Furthermore, the British Government currently intends to introduce routine passport control at CTA

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ports on air and sea routes and *ad hoc* mobile immigration checks on road borders and has stated that this will be done on the basis of “intelligence and risk”. A UK Minister has stated that on the main Belfast-Dublin route, the UK Border Agency (UKBA) would: “target the odd bus, minibus or taxi, because our experience has shown that those are much more likely to be a threat.”²⁸ The British Government has indicated that British and Irish citizens would not be required to carry a passport or national identity card. On these proposals, the Northern Ireland Human Rights Commission has raised concerns about how exactly non-CTA citizens will be identified and is concerned that minority ethnic persons would have to constantly carry identity papers or face frequent questioning regarding their status and, potentially, detention.²⁹

1.4.5 Good Friday Agreement

The *Belfast or Good Friday Agreement* was signed by the Irish and UK Governments on 10th April 1998 following multi-party negotiations.³⁰ Aspects of the Agreement relevant to this study include the rights to both British and Irish citizenship; the return to normal security arrangements in a peaceful society; and commitments to protect human rights and promote equality, including an obligation of ensuring parity of rights north and south.

1.4.6 Social Welfare

Significant barriers exist for migrant workers seeking social welfare services in Ireland. These can include formal barriers in the form of specific governmental policies and administrative procedures but also at an individual level in relation to experiences in seeking and receiving a service. Ethnic profiling has been reported in the treatment of individuals using frontline services.

Monica joined the queue at her local social welfare office, she was the only Black woman. The security guard quickly approached her and asked if she lived there; she noticed that he did not approach anyone else in the queue. She wondered: “Maybe this area is not for Black people...I felt as if I was not wanted.”

Focus group participant

Attitudinal research with public service staff in Northern Ireland found that a minority of staff were prepared to express, on the basis of their nationality, that they would be “unwillingly to accept a migrant worker as a neighbour, close friend, colleague, or to a lesser extent, even as a service user.”³¹

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1.5 Complaints Mechanisms

Although a number of complaints mechanisms do exist it is clear that these mechanisms are inadequate and ineffectual for handling reports of ethnic profiling (or racial discrimination generally) by individuals.

“They (An Garda Síochána) get away with so much and they are never punished.”

Focus group participant

1.5.1 Republic of Ireland Complaints Mechanisms

- In relation to An Garda Síochána, complaints can be made directly to An Garda Síochána by contacting a Garda station where an internal investigation may be handled.
- Complaints against Gardaí in the delivery of a service can be lodged with the Equality Tribunal under the *Equal Status Acts 2000 to 2008* which prohibit discrimination in the provision of goods and services on a number of grounds. These include on the grounds of ‘race’, religion and membership of the Traveller community. However, “services” for the purposes of equality legislation have been narrowly defined i.e. filling in forms, giving directions, witnessing passport applications. Police functions such as the investigation and the prosecution of crime remain exempt. Therefore, it is very unlikely that a complaint of ethnic profiling would fall within the scope of the Equal Status Acts. The equality legislation applies to the area of social welfare; however this is also limited to “services” and would depend on how it is interpreted by the Tribunal.
- Complaints can be lodged with the Garda Síochána Ombudsman Commission which can investigate to establish whether there has been a breach of the *Garda Síochána (Discipline) Regulations 2007* or whether a criminal offence has been committed. GNIB also comes within the remit of the Garda Ombudsman. The *Garda Síochána (Discipline) Regulations 2007* do not mention discrimination and the Garda Ombudsman’s office

states that it has not received any complaints of ethnic profiling.³² Statistics provided by the Garda Ombudsman³³ show that 8,091 complaints were received from May 2007 to June 2010. Of these, 100 complaints relate to discrimination by Gardaí on the grounds of ‘race’ (95 complaints) or religion. Only 3% of these were decided in favour of the complainant and resulted in a sanction.

- The Irish Human Rights Commission (IHRC) can conduct enquiries but has only used this power three times to date. The IHRC can also act as *amicus curiae*³⁴ in legal proceedings and provide legal assistance in limited cases.³⁵
- The Department of Social Protection has its own complaints process.³⁶ Appeals about decisions in relation to social welfare can be directed to the Social Welfare Appeals Office. If the outcome from the Department’s complaints process or the Social Welfare appeals process is not acceptable, they can lodge a complaint with the Office of the Ombudsman who can investigate “maladministration” as defined in *The Ombudsman Act 1980*, this includes an action that was or might have been “improperly discriminatory”.

1.5.2 Northern Ireland Complaints Mechanisms

In Northern Ireland the situation is slightly different.

- Equality legislation, including the *Race Relations (Northern Ireland) Order 1997*³⁷, does apply to the PSNI, UKBA and public authorities, although there are some restrictions for example in relation to national security, but these are much more limited than in the Republic of Ireland.
- The Police Ombudsman in Northern Ireland can handle complaints against the PSNI but does not have authority to handle complaints against the UKBA, unlike its counterpart in England and Wales, the Independent Police Complaints Commission. There is also a Northern Ireland Policing Board which can investigate complaints against senior officers.

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- The Northern Ireland Human Rights Commission can handle enquiries and cases in relation to human rights abuses but only takes on cases that directly relate to human rights and that fall within its areas of strategic priority.³⁸
- In relation to social welfare, the Northern Ireland Ombudsman can deal with complaints from people who believe they have suffered injustice as a result of maladministration by government departments and public bodies in Northern Ireland, including unfairness, bias or prejudice.³⁹

1.6 Impact of Ethnic Profiling

Ethnic profiling has an impact both for those who experience it and wider society. This impact is negative and damages societal cohesion, fuels racism and undermines vital relationships between policing services and communities they seek to serve.

1.6.1 Integration and social cohesion

People who have experienced ethnic profiling report feeling anger and frustration.⁴⁰ Criminologists have confirmed that the psychological and social damage that can result from being always considered one of the “usual suspects” is often underestimated.⁴¹ An inquiry by the Ontario Human Rights Commission in Canada⁴² found that migrants to Canada who experienced ethnic profiling described a profound sense of not belonging and of being rejected by mainstream society and being told that they would always be considered an outsider.

“It makes me feel like I can never be part of this community, even though I want to.”

Interviewee

The Canadian inquiry also found that people often had a sense of powerlessness about incidents of profiling and that this feeling can impact on an individual’s ability to seek out and gain positions of power or authority in society. This means that people from minority ethnic communities are not well represented in key societal institutions, including the ones that have some

control over the issue of racial profiling itself. It also found that one of the most significant and potentially long-lasting impacts of racial profiling is its effect on children and youth.

“They have too much power. It’s so open to abuse... This is not going to get any easier. There will be second and third generation Irish citizens and it will be divisive; it will cause bigger problems down the road...”

Interviewee

1.6.2 Exacerbates Racism and Xenophobia

At a broader societal level the Canadian Inquiry mentioned above noted that effects of ethnic profiling included confirmation of wider society’s feelings of racism and fear. The European Network Against Racism (ENAR) has stated that ethnic profiling stigmatises entire groups of people as criminals, potential terrorists or illegal immigrants.⁴³ The negative impact on integration and social cohesion are obvious when entire groups of society are singled out for unequal treatment.

“I think that people who have been stopped have been stopped because they may be illegal.”

Interviewee on public transport (White, Irish woman)

1.6.3 Damages Relationships between Minority Ethnic Communities and Police

A further downside to ethnic profiling is the fact that it damages relationships between minority ethnic communities and police.

“I would have to think twice before going to them [An Garda Síochána], because of their attitude to Black people. I believe in every society, you will have extreme people and I think I was treated very badly.”

Interviewee

1.0 BACKGROUND AND INTRODUCTION

Low levels of trust in the police can in turn be viewed as an indicator of overall levels of trust in the State.⁴⁴ Impacts of poor relations with police can include:

- unwillingness to cooperate with police, decreasing their effectiveness in preventing and detecting crime;⁴⁵
- increased conflict with consequences for both the safety of the public and of police officers;⁴⁶
- mistrust of police leading to acquittals in jury trials;⁴⁷
- failure to report racist crime to the police, as evidenced by the EU-MIDIS study which found that between 57% and 74% of incidents of assault or threat were not reported to the police and between 75% and 90% of incidents of harassment were not reported to the police. This means that statistics on recorded incidents (or cases) only represent the 'tip of the iceberg' with respect to the true extent of the problem;⁴⁸ and
- at the most serious end of the scale, ethnic profiling has been directly linked to extreme civil unrest, for example the riots in France in 2005.⁴⁹

SECTION 2.0

ETHNIC
PROFILING
STUDY

2.0 ETHNIC PROFILING STUDY

The field work on which this study is based was conducted in August and September 2010. This section details the approach used, the findings from the observation exercise and descriptions of ethnic profiling as described by people who participated in interviews and focus group discussions. This section also details the impact of ethnic profiling as experienced by participants in this study.

2.1 Methodology

The methodology adopted in this study included:

- Desk-top literature review;
- An ethnic profiling observation exercise to record incidents of profiling followed by:
 - interviews with 25 people from visible minority ethnic backgrounds who were felt by researchers to be “at risk” of ethnic profiling due to their appearance;
 - five interviews with people perceived to be from the majority ethnic group (White Irish) on buses and trains;
- Focus Groups
 - one focus group with migrant workers;
 - two focus groups (one in Northern Ireland and one in the Republic of Ireland) with organisations working with migrant workers or in the area of equality and human rights;
- Interviews
 - one-to-one interviews with migrant workers, NGOs, An Garda Síochána and complaint handling bodies;⁵⁰
- Direct Observation Study

The researcher and four volunteers carried out observation work over four weekdays and a weekend in August/September 2010. The observation aimed to objectively identify whether ethnic profiling was taking place, where it takes place, and who is targeted. It was unobtrusive, therefore people did not know they were being observed and researchers did not intervene if they saw profiling taking place.⁵¹ It was not the intention for this exploratory study to compile comprehensive statistics on stops by Gardaí with a view to developing an “odds-ratio” as seen in other countries; that is for example “Black people are X times more likely to be stopped than white people”; but rather to have objective evidence of whether the practice is taking place by providing a snap-shot on particular days.

2.2 Results of the Observation Study

While the observation exercise was limited in terms of time and locations definite examples of ethnic profiling were observed. These are detailed in the following section.

This section summarises findings from the observation exercise,

The main sites and routes selected for the observation exercise were the Newry to Dublin bus and train route; O’Connell Street, Dublin and the adjacent Henry and Moore Streets.

To summarise, the following incidents were witnessed:

- Identification was checked on buses with any passengers from a visible minority ethnic background and identification was not checked on buses with no passengers from a visible minority ethnic background;
- Three Roma women were moved on for begging while other people who were begging were not moved;
- An Asian, possibly Muslim, taxi driver was stopped by Gardaí on O’Connell Street and drove off again after a short discussion;

2.0 ETHNIC PROFILING STUDY

- Two Asians (one male, one female) were taken off the Newry – Dublin train;
- Two Polish passengers (one male, one female) were asked where they were from even though they had identification and no-one else with identification was asked;
- One Black man was removed from the Newry – Dublin bus.

2.2.1 Newry to Dublin Train

Officers who appeared to be from the Garda National Immigration Bureau (GNIB) boarded one train during the two days of the Newry to Dublin train route observation. A man and woman travelling together, who appeared to be of Asian origin were taken off the train by GNIB in Dundalk and the train went on to Dublin. The woman was wearing a Salwar kameez⁵². Later that day, the researchers saw the same couple being returned to the station in Dundalk, escorted by a uniformed Garda in an unmarked van who provided tickets and watched until they had boarded the train. The couple approached the researchers in Newry looking for directions and during a brief conversation said they had been treated fine by Gardaí and understood the reasons for being stopped. The researchers reported that the couple did not seem familiar with Newry and speculated that they may have been returned to the first station over the border but had actually boarded the train in the morning from another station (for example Belfast). The researchers noted that the operation was completed very quickly for a busy train with numerous carriages and speculated that GNIB may have had some co-operation in identifying which carriages to target. There was no evidence to support this however.

2.2.2 Newry to Dublin Bus

The Newry to Dublin bus was “stopped” by GNIB twice during observation, once on a weekday and once at a weekend. GNIB did not appear to have to request the buses to stop. Checks took place at a temporary checkpoint at an unmarked van in a lay-by just over the border. Buses pulled in without Gardaí stopping them on the road; presumably this was done on sight of the van and

based on previous experience. Another possibility is that this arrangement is in place by agreement between GNIB and Bus Eireann. On the first stop, the GNIB officer asked for identification. Older women at the front of the bus, who appeared to be of white Irish ethnicity, were taking some time to produce their identification and so the GNIB officer said “*that’s OK*” and moved on without checking their documents. The only passengers who received more scrutiny were two Polish people who were asked where they were from, despite having identification and two white Irish females who had no identification. No-one was further questioned or removed from the bus.

2.2.3 O’Connell Street, Dublin

Four days of observation were carried out on the street in Dublin city centre; two days in the GPO area of O’Connell Street and two days in the Henry and Moore Street areas. Over this short period of time, researchers noted that members of An Garda Síochána appeared to be on duty, for example, outside the GPO, but were generally approached by members of the public, rather than vice versa. An exception to this was the practice of “moving on” people who were begging or appeared to be homeless on the street. During one day’s observation the researchers noted that despite numerous people begging on the street, only people who appeared to be Roma were moved. This occurred twice, once with one Roma woman and once with two Roma women together but with the same Garda in each case.

2.3 Results of Focus Group Discussions and Interviews

The results of this section are categorised by main aspects in which people reported experiences of profiling.

2.3.1 Stops on Buses and Trains

One focus group participant described an experience of travelling from Letterkenny to Dublin by bus for an appointment in MRCI. GNIB officers boarded the bus and singled him out. He had a valid visa but was not carrying

2.0 ETHNIC PROFILING STUDY

it as he did not think it would be necessary. He was taken off the bus to a Garda station and was released when a friend contacted the MRCI and explained what had happened. The MRCI rang the Garda station and he was released. He said he felt *"like a criminal"* when he was taken off the bus.

A participant in the Northern Ireland focus group reported: *"I was on a bus travelling to Dublin. The immigration officers came on to the bus and they asked for identification... I did not have my passport, so I showed them my business card which they accepted. Two other people from ethnic minorities were taken off the bus. I had the impression that they knew who was on the bus prior to coming on to it."*

Akoni* is from Nigeria and had been living in Ireland for seven years when he experienced ethnic profiling. He was living in Belfast with his family and travelled regularly across the border to the Republic of Ireland with work. He was travelling on the Belfast to Dublin train one day to do some shopping in Dublin when two Gardaí got on the train at Dundalk, approached Akoni and asked him for identification. He showed them a number of pieces of identification: a UK driving license, an electoral card with photograph, a staff ID card with photograph and bank and credit cards. However, the Gardaí insisted that if he could not show his passport, he would be removed from the train. He tried to explain that he was making a short trip to Dublin to do some shopping and would return on the 13:20 hrs train back to Belfast. Irish people who knew Akoni stepped in to vouch for him but were ignored. Akoni was shocked by what happened next:

"... the immigration officers radioed for reinforcement and in no time about four to six more Gardaí came and dragged me out of the train like a criminal. I was struggling with them and they dragged me through the platform to their waiting van and took me to their station. I was stunned and shocked for the treatment, I felt embarrassed. It was pure racial discrimination. I was locked up in the cell for a very long time without food or drink of water, I was not spoken to. Then about 6pm after all day in the Garda station, I was told that I should go, I had to find my way to the train station myself. I later found out my employer had contacted them. I had to wait for the 19:00 hrs train from Dublin to go back to Belfast."

Although this incident took place a few years ago, Akoni still feels traumatised by the whole experience. He also expresses distrust of Gardaí as a result:

"I would have to think twice before going to them, because of their attitude to Black people. I believe in every society, you will have extreme people and I think I was treated very badly."

**Not his real name.*

Another woman, an Irish citizen originally from Africa, described travelling on a bus from Monaghan to Dublin. GNIB stopped the bus for an immigration check and whilst everyone else produced random documents such as tickets and bank cards and were not stopped, she felt she was the only person who was targeted, even though she had a ticket with her photo on it. She says she was the only person who was visibly different. The Garda called all the other Gardaí

2.0 ETHNIC PROFILING STUDY

present over to her and the bus was delayed for 20 minutes. Eventually she was able to continue on her journey. She felt that this experience was “*very embarrassing and frustrating*” and that it was not fair to keep the bus waiting. It was felt by some interviewees that non-Irish citizens who were white had an “easier time” in relation to traffic checks where it was felt that the more “different” the driver and/or passengers of a car were, the more likely they were to be stopped.

Virginia*, a Black Irish citizen originally from the United States, has lived in Ireland for over 20 years. In 2008, she was travelling from Letterkenny to Dublin by bus for a meeting when GNIB stopped the bus for an immigration check. Everyone was asked for identification but most people did not have a passport, they were just asked where they lived and the GNIB officers moved on. She noticed that for people who did not “look Irish” this was not sufficient.

She told the officer “*I’m an Irish citizen, I don’t have to show you ID*”; and eventually they moved on when she showed her bank card. Some passengers who appeared to be of African and Asian descent were taken off the bus. She felt “*livid*” after the incident and was concerned by the confusion between policing and immigration and the feeling that perhaps it is a criminal offence they are investigating and they are looking for something in particular, even though you know you have done nothing wrong.

“It’s not clear what you’re dealing with. Are they looking for something in particular or is it just about immigration?”

She felt it could be a very intimidating experience although perhaps she felt more secure than some as she has Irish citizenship. She did not report the incident or lodge a complaint. This incident was the latest in a number of negative experiences Virginia has had with Gardaí since arriving in Ireland. At Dublin airport she was subjected to questioning by Immigration Officers with an “*unnecessarily nasty*” attitude. Also, prior to having citizenship, she used to have to report to her local Garda station every three months. Each time she went there was a different Garda and she would have to explain her situation each time; most of them were not familiar with immigration processes at that time. They were “*never pleasant*” to her, although sometimes she felt their attitude improved when they saw she had an American passport.

She said of Gardaí and Immigration Officers:

“They have too much power. It’s so open to abuse. I was targeted because of my apparent ethnicity, as were others. This is not going to get any easier. There will be second and third generation Irish citizens and it will be divisive; it will cause bigger problems down the road. . . They lack a clear understanding of the fact that nationality, ethnicity, and race are separate things, they are not interchangeable. I don’t understand why it’s so complicated.”

**Not her real name.*

2.0 ETHNIC PROFILING STUDY

2.3.2 Stops at Airports and Ports

Some interviewees from minority ethnic backgrounds reported that ethnic profiling became more obvious once they had an Irish passport. While everyone in the "EU" queue at immigration control in the airport goes through quickly and without incident, they feel they will always be stopped for additional questions. There were also reports of customs officials routinely stopping people only from non-European countries to x-ray their luggage and in some cases to search through their luggage. Both these experiences leave people feeling very conspicuous and that all the other passengers are looking at them like they have done something wrong. They said they felt "humiliated" or "embarrassed". It was felt by some interviewees that non-Irish citizens who were white had an "easier time" at immigration control than Irish people who were from a visible minority background.

A participant in the Northern Ireland focus group reported the following: *"I was asked for identification and questioned by an Immigration Officer after a flight from London to Northern Ireland. He stopped questioning me when he asked what my profession was and I stated that I was a lawyer."*

A Brazilian man described how on arrival at Dublin airport with a friend, the immigration officer held up their passports and shouted across to a colleague "two Brazilians". He felt they were subjected to more scrutiny than other non-EU travellers, such as Americans, and said of this experience: *"You are powerless. They can decide who they let in."*

In the migrant worker focus group, there were several reports of coming under additional scrutiny at the airport, despite having valid documents. They felt that they were asked silly questions but said it seemed that GNIB officers felt they "have to check you out". One participant said he felt as if: *"They are just trying to get rid of you."*

Four interviewees initially said they had never been stopped by Gardaí but during the interview disclosed that they were stopped (sometimes briefly) during immigration control, mainly at the airport and felt that they were questioned more than most other people but that this was "reasonable" or

"acceptable"; even where they had an EU passport. For example, a British citizen carrying a British passport, originally from Zimbabwe, was visiting Ireland as a tourist and was delayed at the airport while GNIB asked her questions, including the purpose of her visit to Ireland. The delay was brief and she said she thought this was "reasonable".

Some interviewees did not think delays at immigration were reasonable. For example, a man from the Cameroon who is a long-term resident in Ireland and described himself as a businessman, was detained at Dublin airport for three hours for questioning on his return from a business trip to the UK. He said he was very annoyed by the incident, especially as he had all his papers with him and he felt the GNIB officers were basing their actions on stereotypes often prevalent in wider Irish society: *"They asked me if I was Nigerian, they thought I was an asylum seeker"*. He said he was particularly embarrassed as he was travelling with a white colleague who was not stopped.

One man said he was not stopped but his friends were and he thought it was because he was more aware of the importance of dressing smartly. Another felt Gardaí would only stop people who looked "suspicious".

There was concern among participants in the Northern Ireland focus group that immigration officers were over-stepping their authority by requesting identification at ports and airports when people arrive from elsewhere in the UK. It was argued that the requirement to carry identification is a commercial requirement for airlines and not a statutory requirement, yet immigration officers were using it to carry out checks. In fact, participants stated that the *UK Borders Act 2007* makes it possible for a person to be stopped only if the police have a reasonable suspicion that the person has committed an offence.

2.3.3 Stops in the Street or in other Public Places

Interviewees reported being followed by security guards in shops and there was one reported case of a woman being taken from a shop and detained on suspicion of having committed an immigration offence. She had not and was later released.

2.0 ETHNIC PROFILING STUDY

Interviewees and participants in the migrant worker focus groups reported raids of premises where migrant workers were known to work or socialise, including Chinese restaurants, places of worship and social meeting places. There was concern that these raids were simply targeting and stigmatising entire communities, rather than being based on reasonable suspicion of immigration or other offences.

Syed* is a migrant worker from Mauritius who has become undocumented. He was walking home from work late on a Thursday evening as he had missed the last bus home. He was in what he considered to be a "rough area" where there are a lot of Gardaí on patrol, when he was stopped by a member of An Garda Síochána on the street. He felt that he was stopped because he looked different, (he made a gesture with his hands to point towards his face). The Garda asked him where he was going and then asked to see his GNIB card. He did not have his GNIB card so the Garda asked for a passport and drove him to his house to get it. As Syed had become undocumented, his passport did not have a current residency stamp; he was later issued with a letter that asked him to appear before the courts.

Syed said the Garda treated him fine however he was very upset and afraid after the incident and said he was nervous about walking around in public. He was also worried about the impact of the court case on his family as they relied on him financially.

Syed also spoke about the Mauritian community in general in Ireland and the reality that many are undocumented, some living on the streets, homeless and in very poor situations. He said that Mauritians feel they are being targeted by GNIB on the street and in other public places. For example, he said that an amusement arcade in the city centre is used by a lot of homeless Mauritians to keep out of the cold during the day. This arcade has been visited a number of times by plain clothes GNIB officers and the Mauritian community feel they are being singled out for inspection of GNIB cards. This is causing fear in the community.

**Not his real name.*

2.3.4 Experiences with Social Welfare

Ethnic profiling in the provision of social welfare services is discussed here in the context of security and anti-fraud activities. Racism in the design and

delivery of social protection services is a broader issue that also warrants more attention.

In the Republic of Ireland, one focus group participant reported having to claim welfare recently for the first time due to a reduction in working hours. He felt the process was deliberately made more difficult for him, having to return time and time again with additional documents.

A focus group participant in Northern Ireland felt that Polish people had experienced problems in accessing welfare a few years ago but that the situation had improved. However, there was concern that if someone has a non-EEA area passport, the level of documentation required to justify their welfare claim is much greater.

Monica* is an African woman who has lived and worked in Ireland for several years. She became unemployed for a period and went to apply for social welfare benefit for the first time. She lived in an affluent area in Dublin 4 and when she joined the queue at her local social welfare office, she was the only Black woman in the queue. The security guard quickly approached her and asked if she lived there; she noticed that he did not approach anyone else in the queue. She wondered:

"Maybe this area is not for Black people...I felt as if I was not wanted."

When she got to the top of the queue, the female staff member in the office was very rude and unhelpful and continued to be on each visit she made to the office. Monica felt that the staff member did not treat other people as badly. She also felt that the woman was being deliberately misleading in providing her with inaccurate or incorrect information and kept sending her "from A to B". She dreaded visiting the social welfare office and eventually became afraid of this staff member, who always seemed to be the one dealing with her: "... oh, and the look she would give me".

Monica was entitled to social welfare benefits and did receive them in the end, but she found visiting the social welfare office so unbearable that she moved house to a different area so that she could visit a different office.

**Not her real name.*

2.0 ETHNIC PROFILING STUDY

2.3.5 Psychological and Social Impact

A number of interviewees and focus group participants in this study discussed the psychological impact of ethnic profiling and frustration with the lack of avenues for redress. One woman had raised the issue of ethnic profiling numerous times - with a Garda Community Liaison Officer, the Garda Racial and Intercultural Office, the Office of the Minister for Integration and the Equality Authority but there have been no outcomes. In some cases, she says there is an absolute denial that it is happening.

Coming under additional scrutiny at the airport caused people to feel very conspicuous. They described feeling “*humiliated*” or “*embarrassed*”. Participants did not have much knowledge of complaints mechanisms that might be open to them and there was frustration with what happens: “*They get away with so much and they are never punished.*” Most focus group participants and interviewees said they had not complained and would not do so. Reasons included: “*You just have to swallow it.*”, “*The system is always right.*”, “*You’re powerless.*”, “*You’d be kicked out.*”

“I felt like a criminal.”

Focus group participant

An Irish citizen from a minority ethnic background, who was interviewed, talked about her experiences of ethnic profiling. At Dublin port, she was stopped by GNIB and asked “*where did you get that [Irish] passport?*” She was accompanied by her young daughter and was also asked “*Is this your daughter?*” She said the only people who were stopped were those who looked visibly different. The impact on her daughter was a matter of concern for her and also the realisation that her daughter may experience the same thing when she grows up.

Another woman expressed concern that other passengers who see someone from a minority ethnic background coming under so much scrutiny would assume the worst and that it would reinforce racist attitudes and stereotypes. She said it also reinforced her feeling of being an outsider, despite living in

Ireland for many years and being married to an Irishman. “*It makes me feel like I can never be part of this community, even though I want to.*” She also said she felt unprotected as a result.

Some people interviewed felt a strong affinity with Ireland and said they had had an overwhelmingly positive experience here. One woman said: “*I feel Ireland is my home, I love it.*” However, others felt that Irish society did not want them: “*They no longer need us because of the recession.*”

2.3.6 Impact on Racism and Xenophobia

On a number of occasions, people who participated in this study expressed the view that “other groups” might have an easier time than they did. For example, that white people have an easier time at immigration control, whether or not they are Irish citizens and that they are less likely to be stopped in traffic checks. Most of the interviews conducted with members of the public appeared open and accepting of migrants. All expressed the view that document checks were more focused on people who did not look Irish, although some felt that for people to be stopped they must have done something wrong (“they must be illegal”). One man expressed concern that the stops would reinforce stereotypes and create suspicion that migrants are “illegal”.

“I have not been stopped but I have observed cars and buses being stopped. It looks like non-white people who have been stopped. People are being stopped because of their colour. This is symptomatic of the wider way society tries to deal with this problem. If there is an issue with illegality then this should be investigated but it is a negative approach and it leads to a reaffirmation of stereotypes....”

(Male, aged 35-45).

2.3.7 Impact on Relationships between Minority Ethnic Communities and Police

Even where interviewees in this study were positive about Gardaí, a number said they would not go to Gardaí if they had a problem or wanted to report a

2.0 ETHNIC PROFILING STUDY

crime. In some cases interviewees were not happy with their treatment or were suspicious of Gardaí. One man said: *"Sometimes they don't seem friendly and don't speak to you in a polite way"*. Some thought that Gardaí could not be trusted or would not treat them fairly. For example one man felt that he is often considered a liar because of negative stereotypes about Nigerians, and that this would affect any interaction he would have with Gardaí. On the other hand, the majority of the migrant worker focus group participants said they would go to the Gardaí if they had a problem or wanted to report a crime. One participant mentioned that they had been made aware of the role of the Gardaí through their involvement in the MRCI and understood that when a crime has been committed, Gardaí should not be interested in immigration status.

Some interviewees working in NGOs felt that some members of An Garda Síochána, such as Ethnic Liaison Officers, the Garda Racial and Intercultural Office and some Gardaí working in the community worked very hard to develop good relations with minority ethnic groups. This was not seen as uniform throughout. Concern was expressed that some Gardaí were being seen to base their decisions on prejudice and stereotypes, for example in their treatment of Roma or Travellers.

A concern for participants in the Northern Ireland focus group was the blurring between immigration detention and criminal detention. There is no immigration detention facility in Northern Ireland; therefore the UKBA detains people in cells in PSNI stations. This means that the police cannot advise somebody why they are there, when they will be moved or what is happening to their case, as they are not aware of the details of their case. There are safeguards under the Police and Criminal Evidence Act (PACE) for criminal suspects but these do not apply to immigration detention. One participant commented: *"We have the bizarre situation that a person in criminal detention is better off than someone in immigration detention... The distinction between the two jurisdictions means nothing to the person in the cell."*

2.3.8 Gender dimension

Muslim women who participated in this study felt that in the aftermath of the 9/11 terrorist attacks, Muslims were already associated with being criminals and terrorists. One interviewee reported changing her dress in order to look less like a Muslim and draw less attention to herself. The women also said they could be sure that they would be followed by security guards in shops who they said will consistently follow them *"back and forth and back and forth."*

Muslim women also reported that at traffic stops, Gardaí will not check every car but: *"You are 100% sure he will stop you. He won't stop every car but he will definitely stop you."* They felt this was because of their dress and skin colour in some cases. One female interviewee described feeling unprotected following an incident of ethnic profiling. She also expressed concern about the Gardaí's ability to offer a service to migrant woman generally. For example, she knows women who have gone to their local Garda station to report a crime (including domestic violence) and have immediately been asked about their immigration status.

A number of migrant women expressed frustration with the letters they receive regularly from the Child Benefit section to confirm whether their children are living here and felt they were deliberately targeted because they are migrants and that white Irish people who were born here would not be subjected to this. One interviewee said that this was a blatant form of profiling and speculated that these were issued only to people whose names sounded different.

SECTION 3.0

CONCLUSIONS

3.0 CONCLUSIONS

Incidents of ethnic profiling have been catalogued in this small scale study and patterns of systemic profiling in relation immigration, policing and social welfare services have been identified. As an exploratory study, this report seeks to develop analysis and awareness of the experiences and impact of ethnic profiling on the island of Ireland but particularly within the Republic of Ireland context. There has been more focus on the topic in Northern Ireland, for example by the Northern Ireland Human Rights Commission.⁵³

International experience has shown that ethnic profiling is widespread and pervasive. Stop and search rates for visible minority ethnic groups range from being 2.3 times more likely to be stopped, to up to 26.6 times.⁵⁴ Sources, mainly anecdotal and one evidence-based⁵⁵, had previously reported ethnic profiling in Ireland. The findings from this small study reinforces the growing evidence base and points to the need for further comprehensive research and investigation.

Although internationally, ethnic profiling is more frequently linked to anti-terrorism operations, in Ireland it appears to be more focused on immigration control. The ineffectiveness and damaging consequences of ethnic profiling as an anti terrorism measure has been well documented. There is a growing concern that the practice of ethnic profiling for purposes of immigration control is equally counterproductive to maintaining societal cohesion and good governance. Racism and xenophobia is exacerbated and the psychological impact is deeply worrying.

The criminalisation and discriminatory targeting of sections of the community on the basis of their colour, ethnicity, nationality, religion has far reaching negative consequences for all of society. Relationships with police services are particularly relevant. Policing strategies here and elsewhere are increasingly recognising the importance of good community relations as essential to maintaining law and order. While many people in this study reported feeling positive towards Gardí/police it was equally evident that there was a reluctance to seek their protection or proactively engage with them. Particularly worrying is that people in situations of vulnerability such as victims

of racist crime and domestic violence are reluctant to seek the protection of the Gardí or police service.

The practice of ethnic profiling is a breach of several human rights treaties. Cases in other EU states have found practices of ethnic profiling to be discriminatory and incompatible with European or international human rights treaties, to which Ireland and the UK (including Northern Ireland) are signatory. For example, in July 2009, the United Nations Human Rights Committee declared that police identity checks that are motivated by "race" or ethnicity are contrary to the human right to non-discrimination (*Rosalind Williams Lecraft v. Spain*)⁵⁶. This is of particular interest in Ireland considering the powers under Section 12 of the *Immigration Act 2004* to demand identification from "non-nationals" and the practices at border controls. It is highly questionable whether these provisions comply with Ireland's obligations under European and International law.

SECTION 4.0

RECOMMENDATIONS

4.0 RECOMMENDATIONS

A Amend Immigration Legislation to Prevent Ethnic Profiling

- The power under Section 12 of the 2004 *Immigration Act* providing that Gardaí and immigration officers can demand identification from “non-nationals” or “foreign nationals” should be removed. Provision should be provided only to check identification on point of entry to the country from outside of the Common Travel Area. Arrest for immigration offences should be based on “reasonable suspicion” in the same way as other criminal offences.

B Strengthen complaints mechanisms

- The *Garda Síochána (Discipline) Regulations 2007* to be amended to include ethnic profiling and racial discrimination. The Garda Ombudsman also to be given an explicit function to investigate complaints of ethnic profiling. This function needs to be widely communicated.
- The Police Ombudsman in Northern Ireland to be given the authority to handle complaints against the UKBA as well as the PSNI.
- An Garda Síochána to demonstrate their commitment to tackling the problem of ethnic profiling by taking the following steps
 - a clear statement that ethnic profiling is unacceptable, with associated guidelines (for example, in the forthcoming Code of Ethics);
 - systematic data collection on ethnicity, nationality and religion in order to show trends in stop, arrest and prosecution rates, and publication of same; and
 - anti-racism training for all members of An Garda Síochána, including GNIB and Ethnic liaison officers.
- The Department of Social Protection to make a commitment to tackling the problem of ethnic profiling and racial discrimination in general. Anti-racism training for staff should be mandatory.

C Honor the Good Friday Agreement

- Following the *Good Friday Agreement*, border checkpoints were removed but are now gradually being re-introduced for the purposes of immigration control. Such measures undermine the spirit of the *Good Friday Agreement* and need to be stopped.
- The *Good Friday Agreement* provides for equivalence of protection of human rights north and south of the border. This requires that the Equal Status Acts be extended to ensure An Garda Síochána are covered in the same way that the PSNI in Northern Ireland are covered by equality legislation.
- Given the detrimental impact of ethnic profiling on minority ethnic communities and their relationships with Gardaí and with society as a whole it is recommended that An Garda Síochána and statutory bodies have due regard for good relations between groups and consider long-term social cohesion. It is recommended that consideration be given to legislation such as the “positive duties” obligation under Section 75 of the *Northern Ireland Act 1998*.

D Empower Migrants and Members of Minority Ethnic Groups

- Migrants and other members of minority ethnic groups require better information in relation to their rights and entitlements, such as how to complain about racial discrimination by An Garda Síochána or the Department of Social Protection. This should include allocation of resources for community development, advocacy and anti racism activities at a national and local level.

E Continue to Collate Evidence of Ethnic Profiling

- Complementary data collection systems for recording racist incidents should explicitly take account of ethnic profiling incidents. The pilot model

4.0 RECOMMENDATIONS

developed by the Irish Network Against Racism (formally ENAR Ire) and Dublin City Council should be mainstreamed across Ireland.

- Independent monitoring of immigration services at all border entry sites to be facilitated.
- This exercise was an exploratory study and it has established that there is a need to carry out a further study with a large scale observation exercise to understand the true extent of the problem of ethnic profiling in Ireland, where it occurs, who is targeted and its impact.

SECTION 5.0

REFERENCES

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