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Ireland and its Vulnerable “Others”: The Reception of Asylum Seekers in Ireland

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Abstract

In Ireland, the system of Direct Provision, where asylum seekers are dispersed around the country and housed in accommodation centres on a full-board basis, has been in existence since 2000. This article examines this policy and how it has evolved since its introduction. Using a rights-based approach, it describes the problems encountered by asylum seekers living in these centres, outlines the criticisms made by organisations, both Irish and international, and analyses how the State authorities respond to such criticisms. It argues that the government has been more preoccupied with reducing the perceived “pull factor” than with respecting its international human rights obligations.

Keywords : Ireland, asylum seekers, direct provision, reception centres, dispersal, children, human rights

Résumé

En Irlande, le régime d'accueil des demandeurs d'asile, qui consiste à les héberger en dehors de la capitale dans des structures spécifiques en pension complète, est entré en vigueur en 2000. En utilisant une approche basée sur les droits fondamentaux, cet article décrit cette politique de prise en charge des demandeurs d'asile et son évolution depuis son introduction. Il détaille les problèmes que soulève ce régime et les critiques émises par des organisations nationales et internationales, et analyse la réponse des autorités de l'État à ces critiques. Il soutient que le gouvernement se préoccupe davantage de réduire l'attractivité de l'Irlande comme pays d'accueil que de ses obligations internationales en matière de droits humains.

Mots clés: Irlande, demandeurs d'asile, centres d'accueil, conditions d'accueil, enfants, droits humains

This article examines Ireland's policy regarding the reception of asylum seekers, describes the living conditions of people in the direct provision system and assesses to what extent it is adapted to their needs, drawing in particular on numerous primary sources and media reports spanning the decade and a half of the existence of direct provision. Asylum seekers are in a very vulnerable position, having to wait, sometimes for years, before knowing if they are to be granted

refugee status and consequently, permission to stay in Ireland, or if they are to be deported back to the countries they left for political, economic or other reasons. During this time, as a result of the direct provision system, they are marginalised, and their children grow up in difficult circumstances. This article carries out a rights-based analysis of the problems directly related to the system of direct provision. It also outlines criticism of government policy emanating from both national and international organisations and shows how governments over the years have reacted to calls for the reform or abolition of the system. Much academic literature exists on the topic of asylum in Ireland. There will be a particular focus here on work which deals with the human rights of asylum seekers in direct provision and with government policy on this issue.

■ The introduction of Direct Provision

Until 2000, all asylum seekers arriving in Ireland were dealt with by the Health Boards of the region where they arrived. People seeking asylum had the same entitlements as any other destitute person requiring assistance, in relation to emergency accommodation and access to Supplementary Welfare Allowance. At the time, 90% of people seeking asylum were to be found in Dublin, where most of the services necessary to apply for asylum were located¹. This is where applications were made, where interviews to assess a person's case were held, where the various support groups or NGOs dealing with asylum seekers were based and where networks of asylum seekers from the same country took form. For these reasons, most asylum seekers wished to stay in the capital².

The number of people seeking asylum annually rose steadily from 31 applications in 1991 to 7,724 in 1999. This resulted in a high demand on accommodation in Dublin. In October 1999, the Eastern Health Board, then responsible for the Dublin Area, reported a crisis situation with approximately 1,000 new asylum seekers arriving every month and looking for accommodation, hundreds of whom were being turned away because of a lack of places. The government therefore decided to disperse asylum seekers around the country and to implement a policy of direct provision. This was initiated on a pilot basis in November 1999, and extended nationwide in April 2000, to coincide with the introduction of a similar policy in the UK³.

1. Source: Interview by the author with Frank Edwards, Department of Justice, Equality and Law Reform, 14 March 2003. Mr Edwards was working for the Directorate for Asylum Support Services (DASS) in 1999-2000, when these events were unfolding. The DASS was subsequently replaced by the Reception and Integration Agency (RIA) in 2001.

2. *Ibid.*

3. The Immigration and Asylum Act 1999 introduced dispersal and a voucher system for asylum seekers in the UK, which began nationwide in April 2000. For more information on the situation in the UK, see R. Sales,

For people awaiting a decision on their asylum application, the system provided for their accommodation for 10–14 days in reception centres in Dublin. They were then dispersed to direct provision centres throughout the country, where accommodation was provided on a full-board basis. These centres were either purpose-built buildings or, more commonly, privately-owned hotels, hostels, guesthouses, former convents or nursing homes, and even a former holiday camp and a mobile home site. Accommodation was obtained across the different Health Board areas to ensure a more equal distribution of asylum seekers throughout the country. In almost all of these accommodation centres, three meals a day were provided to residents⁴, together with a weekly allowance of €19.10 per adult and €9.50 per child. This allowance, described officially as a “payment to cover personal requisites”, was calculated as a percentage of the full Supplementary Welfare Allowance as it existed in 2000, because accommodation and meals were provided. It was decided that asylum seekers would not have access to the labour market while their asylum claims were being examined⁵.

A decade and a half after the introduction of direct provision, the system remains largely the same as when it was introduced. The State assumes responsibility for providing accommodation for asylum seekers until such time as they are granted refugee status (or some other form of protection⁶) and move into the community, or, if their case is refused, until they leave the State voluntarily or are deported.

“The deserving and the undeserving? Refugees, asylum seekers and welfare in Britain”, *Critical Social Policy*, vol. 22, n° 3, 2002, p. 456–478. The Irish Prime Minister Bertie Ahern admitted at the time that events in the UK influenced government policy: “The importance of solving the problem increased when other countries, notably the United Kingdom, decided to replace direct financial aid with a voucher system. We know from experience that every time another country tightens up, the numbers coming in on boats, cattle trucks and the backs of lorries, increase dramatically”. Quoted in Geraldine Kennedy, “Ahern says immigrant centres are under review”, *Irish Times*, 15 March 2000.

4. A small number of self-catering facilities exist: there were nine in 2005, but today there are only two, representing a very small percentage of accommodation for asylum seekers. The number of places in self-catering centres dropped from 690 in 2007, to 412 in 2009, to 149 in 2011, to 88 in 2013. Information obtained from the Reception and Integration Agency’s annual reports, available at [http://www.ria.ie/en/RIA/Pages/Annual_Reports] (last accessed 25 February 2016).
5. EU Directive 2003/9/EC (the “Reception Directive”) granted access to the labour market for asylum seekers six months after they had lodged their application. Ireland and Denmark were the only member states to choose not to opt in to this Directive. Today, Ireland and Lithuania are the only EU member states to have a blanket ban on working. For more details, see Migration Watch, “Asylum seekers and the right to work in the European Economic Area”, 10 October 2013. Available at [<http://www.migrationwatch.co.uk/briefing-paper/4.24>] (last accessed 30 January 2016).
6. Applicants who do not qualify for refugee status under the terms of the 1951 Geneva Convention, but who do run a real risk of suffering serious harm if returned to their country, are eligible for subsidiary protection, while applicants who qualify neither for refugee status nor for subsidiary protection may, at the discretion of the Minister for Justice, be granted leave to remain for humanitarian or other compelling reasons. See “The Asylum System”, on the website of the Irish Naturalisation and Immigration service (INIS), [<http://www.inis.gov.ie/en/INIS/Pages/asylum-status-eligibility>] (last accessed 2 July 2016).

When direct provision was introduced in 2000, it was stated by the Minister of Justice of the time, John O'Donoghue, that with the efforts being made to shorten application processing times, most asylum seekers would stay "on a short-term basis and not more than six months" in these accommodation centres⁷. However, statistics show that in practice, the majority of direct provision residents remain within the system for several years⁸. Today, approximately one third of residents have been living in accommodation centres for over five years⁹. Many of the problems that have arisen in relation to the direct provision system have been exacerbated by these lengthy stays.

■ The problems of direct provision

Over the years, numerous reports, published by organisations working in the areas of immigration, human rights and children's rights, or by NGOs and community groups working on the ground with asylum seekers, have criticised the direct provision system¹⁰. There have been calls to abolish or significantly reform this system, and successive governments have been accused of failing to respect certain human rights obligations as outlined in international treaties of which Ireland is a signatory¹¹. These include UN treaties such as the International Cove-

7. Statement by Minister for Justice, Equality and Law Reform, John O'Donoghue, 28 March 2001, on the Department's website [<http://www.justice.ie>] (accessed 22 April 2003, since removed).

8. According to RIA's annual reports, the majority of people have been in direct provision for over 2 years: 54% (2009), 67% (2010), 73% (2011), 70% (2012), 69% (2013) 64.5% (2014). See [<http://www.ria.gov.ie/en/RIA/Pages/Statistics>] (last accessed 25 February 2016).

9. The number of people who have been in direct provision accommodation for over 5 years has been very high in recent years: 38% (2013), 37.7% (2014), 31.9% (Sept. 2015). *Ibid*.

10. Among them, in chronological order: Comhlámh, *Refugee Lives: the failure of direct provision as a social response to the needs of asylum seekers in Ireland* (2001); A. Collins/Nasc, *The needs of asylum seekers in Cork* (2002); Free Legal Advice Centre (FLAC), *Direct Discrimination? An analysis of the scheme of Direct Provision in Ireland* (2003); M. Mandahar *et al.*, *Food, nutrition and poverty among asylum seekers in North-West Ireland* (2005); Waterford Area Partnership, *The Needs of Asylum seeking Men Living in Viking House Direct Provision Centre, Waterford* (2006); NASC, *Hidden Cork: The perspectives of Asylum Seekers on Direct Provision and the Asylum Legal System* (2008); Children's Rights Alliance & Integrating Ireland, *Children and Families living in Direct Provision* (2009); FLAC, *One size doesn't fit all: a legal analysis of the Direct Provision and dispersal system in Ireland 10 years on* (2009); H-O. Pieper *et al.*, *The Impact of Direct Provision Accommodation for Asylum Seekers on Organisation and Delivery of Local Health and Social Care Services* (2009); AkiDwA, *Am only saying it now: Experiences of Women seeking Asylum in Ireland* (2010); S. K. Arnold, Irish Refugee Council, *State-sanctioned Child Poverty and Exclusion* (2012); E. Quinn, Jesuit Centre for Faith and Justice, "Lives on Hold: Living Long-Term in Direct Provision Accommodation", *Working Notes*, n° 71 (April 2013).

11. See for example research by legal academic Liam Thornton, "Upon the Limits of Rights Regimes: Reception Conditions of Asylum Seekers in Ireland", *Refuge: Canadian Periodical on Refugee Studies*, vol. 24, n° 2, 2007, p. 86-100; "The Rights of Others: Asylum Seekers and Direct Provision in Ireland", *Irish Community Development Law Journal*, vol. 3, n° 2, 2014, p. 22-42; "Direct Provision and the Rights of the Child in Ireland", *Irish Journal of Family Law*, vol. 17, n° 3, 2014, p. 68-76. See also Claire Breen, "The Policy of Direct Provision in Ireland: A Violation of Asylum Seekers' Right to an Adequate Standard of Housing", *International Journal of Refugee Law*, vol. 20, n° 4, 2008, p. 611-636.

nant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (UNCRC), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as well as the European Convention on Human Rights (ECHR).

Accommodation conditions

There are problems related to the living conditions in direct provision centres, where overcrowding and lack of privacy are common. Single people often have to share a bedroom with several others. Single women and mothers of small children sometimes have to share bedrooms, while married couples are entitled to a family room, which they generally have to share with their children¹². Teenage children of different sexes have to share rooms with their parents, and bathrooms are shared in most centres. In centres with no recreational facilities, children are confined to their shared bedrooms. Many centres do not have a study space for school children to do their homework¹³. In some centres, parents consider the communal areas to be unsafe for their children, where some residents watch adult videos and smoke¹⁴.

The experience of communal living in close quarters leads to tensions among residents, particularly the requirement to share bedrooms with strangers, who may not even speak the same language¹⁵. This was highlighted as a problem as early as 2001¹⁶, but it continues to cause difficulties. In 2010, an article in the *Irish Times* gave the example of a pregnant woman and her five-year-old daughter who had to share a small bedroom with another mother and her one and a half-year old baby. The woman in question miscarried and lost twins, and attributed this to her stressful living conditions¹⁷. While this cannot be proven, a report from the Irish Refugee Council highlights the high number of miscarriages among women in direct provision¹⁸.

12. This has led in some cases to inappropriate precocious sexual behavior in children, as reported in Ronit Lentin (2016), “Asylum seekers, Ireland, and the return of the repressed”, *Irish Studies Review*, vol. 24, n° 1, p. 26.

13. These problems are recurring, as detailed in the different reports cited in footnote 10, and which date from 2001 to 2013. See in particular Helen Uchechukwu Ogbu (2012), *Parenting in Direct Provision: Parents’ Perspectives Regarding Stresses and Supports*, UNESCO Child & Family Research Centre, School of Political Science, NUI Galway. Available at: [http://www.childandfamilyresearch.ie/files/parenting_in_dp_report_nov_2012.pdf] (last accessed 1 July 2016).

14. B. Fanning and A. Veale, “Child Poverty as Public Policy: Direct Provision and Asylum Seeker Children”, *Child Care in Practice*, vol. 10, n° 3, 2004, p. 247.

15. Ronit Lentin, “Asylum seekers, Ireland, and the return of the repressed”, art. cit., p. 26-27.

16. Bryan Fanning *et al.*, *Beyond the Pale: Asylum-seeking children and Social Exclusion in Ireland*, Dublin, Irish Refugee Council/Combat Poverty Agency, 2001, p. 39.

17. Jamie Smyth, “‘Grave concern’ after latest death in asylum hostel”, *Irish Times*, 18 June 2010.

18. Samantha K. Arnold, *State-sanctioned Child Poverty and Exclusion*, 2012, p. 16. Available at [<http://www>.

The Department of Justice, Equality and Law Reform, in its 2005 Annual Report, identified a “need to ensure a proper mix of accommodation (e.g. family, single male, single female)¹⁹”. Indeed, according to information supplied by the Reception and Integration Agency (RIA) for catered accommodation, there are currently two centres for family use only, one centre which houses single individuals of both sexes, eight for single males and 24 for a combination of single individuals of either or both sexes as well as families²⁰. The fact that there is no dedicated facility which caters for single women, who in some cases may be young, alone and vulnerable, raises serious concerns. A number of these women may have suffered traumatic experiences of either a violent or sexual nature which caused them to flee from their home country. As the 2008 UNHCR *Handbook for the Protection of Refugee Women* states, all women living in direct provision should be accommodated in a safe environment with appropriate protection procedures in place. One of the actions suggested in this handbook to address sexual and gender-based violence includes “lobbying national and local government authorities to persuade them to fund places in women’s refuges for asylum-seeking women fleeing domestic violence as common practice and to offer all asylum-seeking women single sex accommodation if preferred²¹”. Currently this option is not available to women in direct provision. Furthermore, they generally cannot access mainstream women’s refuges as they are not entitled to social welfare assistance, which is usually a prerequisite to obtaining a place in a refuge²².

Financial situation

Although the weekly Supplementary Welfare Allowance has almost doubled between 2000 and 2016 (going from €96.50 to €186), the money paid to asylum seekers, which was initially calculated as a percentage of this allowance, has remained unchanged since 2000. The Irish Refugee Council and other groups such as Combat Poverty and the Free Legal Aid Centres have consistently called for an increase of the Direct Provision Allowance to €65 a week for adults and €38 a

irishrefugeecouncil.ie/wp-content/uploads/2012/09/State-sanctioned-child-poverty-and-exclusion.pdf (last accessed 15 February 2016).

19. Department of Justice, Equality and Law Reform, *Annual Report 2005*, p. 41. Available at [<http://www.justice.ie/en/JELR/AnnRpt05-en.pdf>Files/AnnRpt05-en.pdf] (last accessed 16 February 2016).

20. *Reception and Integration Agency Annual Report 2014*, p. 21. Available at [<http://www.ria.gov.ie/en/RIA/Pages/AR2014>] (last accessed 16 February 2016).

21. UNHCR *Handbook for the Protection of Refugee Women*, 2008, p. 212. Available at [<http://www.refworld.org/docid/47cfc2962.html>] (last accessed 10 February 2016).

22. FLAC, *One size doesn't fit all: a legal analysis of the Direct Provision and dispersal system in Ireland 10 years on*, 2009, p. 20.

week for children²³. However, successive governments have refused to increase the payment.

Asylum seekers are entitled to a medical card. In the past, they could also apply for other social welfare allowances like the One-Parent family allowance, child benefit, disability allowance, old-age pension, exceptional needs payments, and back to school allowances. However, with the introduction in May 2004 of the Habitual Residence Condition (HRC)²⁴, those who sought social welfare benefits (other than the €19.10 Direct Provision Allowance) needed to prove that they were habitually resident in Ireland for two years. In the vast majority of cases, people living in direct provision were found not to meet the qualifying criteria. Following a successful appeal against the policy of not counting the time spent in direct provision²⁵, a last-minute amendment made to the Social Welfare and Pensions Bill 2009 was put through the Dáil without debate, changing the law to explicitly exclude all asylum seekers from ever being able to satisfy the HRC. Ombudsman Emily O'Reilly was highly critical of the manner in which the law was changed, saying that “a very far-reaching decision on how we as a society should provide for asylum seekers was taken without any real notice, without explanation and without discussion by the elected representatives of the people²⁶”.

In 1997, in its National Anti-Poverty Strategy, the government adopted the following definition of poverty which underpins all of its anti-poverty and social inclusion policies:

People are living in poverty if their income and resources (material, cultural and social) are so inadequate as to preclude them from having a standard of living which is regarded as acceptable by Irish society generally. As a result of inadequate income and resources, people may be excluded and marginalised from participating in activities which are considered the norm for other people in society²⁷.

23. Irish Refugee Council, *op. cit.*, p. 8; Combat Poverty, *Making a Decisive Impact on Poverty Through Social Partnership: Submission on a new National Partnership Agreement*, November 2005, p. 15; FLAC (2009), *op. cit.*, p. 139.

24. The Habitual Residence Condition (HRC) was initially introduced by the government in the context of EU enlargement, when the government feared an influx of “welfare tourists” from the 10 accession countries. A decision was taken to limit access to all means-tested allowances and Child Benefit to anyone, irrespective of nationality, who could not demonstrate two years’ habitual residence in Ireland or in the Common Travel Area.

25. FLAC, *One size doesn't fit all...*, *op. cit.*, p. 59.

26. Emily O'Reilly, “Asylum Seekers in Our Republic: Why have we gone wrong?”, *Studies*, Summer 2013, vol. 102, n° 406, Summer 2013. Available at [<http://www.studiesirishreview.ie/lead-articles/67-asylum-seekers-in-our-republic-why-have-we-gone-wrong>] (last accessed 1 June 2016). Emily O'Reilly has since been appointed European Ombudsman.

27. Department of Social, Community and Family Affairs, *Sharing the Progress: National Anti-Poverty Strategy*, Dublin, Government Publications, 1997, p. 3.

According to this definition, it can clearly be seen that those in direct provision are living in poverty. Child Benefit, which was once a universal payment, is no longer available to the parents of asylum-seeking children, one of the most vulnerable groups of children in Irish society. It is worth noting that these children are not included when compiling statistics for the EU survey on Income and Living Conditions on child poverty, as they are not considered to be living in a “household²⁸”. The Combat Poverty Agency declared that these children, along with homeless children, Traveller children and children living in institutional care, are at a “high risk of poverty²⁹”. The allowance families receive means that any extra costs such as clothes, school supplies, sports equipment or school trips simply cannot be met, setting these children apart from their classmates.

In 2001, one year after the introduction of direct provision, a study commissioned by the Combat Poverty Agency revealed that a certain number of children and pregnant women living in direct provision centres suffered from malnutrition due to the fact that the food served in the centres was not adapted to their eating habits. They had three meals a day served at fixed times, the quality of which was considered poor or mediocre. Some mothers said they had problems breastfeeding their babies as their milk supply was low because of their diet. Access to the kitchens was prohibited at all times, even to prepare babies’ bottles or a snack for the children. Buying food to make up for this was often difficult, given the very low allowance they received. Some families prepared bottles and meals in their bedrooms on gas stoves, which was against the regulations for fire safety reasons³⁰.

This report received significant media coverage and some of the problems were dealt with, in particular those concerning infants. Centres are now obliged to provide those who have young children with powdered milk, sterilisers, kettles, microwaves and fridges. However problems persist, in spite of the establishment by RIA of guidelines on the quality and variety of food as well as on other aspects of the centres. A study published in 2014 found that food in direct provision centres is often “inedible”, “of poor quality” and, in certain cases, “culturally inappropriate”. It is considered “unsuitable for babies, toddlers and children”. As a result, the report says, many parents spend a significant part of their meagre weekly allowance on food to try to ensure the nutritional well-being of their children³¹. The Children’s Rights Alliance have strongly criticised the direct provision system where children

28. FLAC, *One size doesn’t fit all...*, *op. cit.*, p. 64.

29. Combat Poverty Agency, *Child Poverty in Ireland* (no date), [<http://www.combatpoverty.ie/povertyinireland/child-poverty.htm>] (last accessed 15 February 2016).

30. Bryan Fanning *et al.*, *Beyond the Pale: Asylum-seeking children and Social Exclusion in Ireland*, Dublin, Irish Refugee Council/Combat Poverty Agency, 2001.

31. Barry Keelin, *What’s Food Got To Do With It? Food Experiences of Asylum Seekers in Direct Provision*, Cork, Nasc, 2014, p. 7.

suffer from food poverty, described as “the inability to have an adequate and nutritious diet due to issues of affordability or accessibility³²”.

Children’s rights

The UN Convention on the Rights of the Child (UNCRC), signed by Ireland in 1990, states that the best interests of children, and this includes asylum seeking children, must be a primary consideration in making decisions that may affect them³³. Article 4 declares that States Parties must help families protect children’s rights and create an environment where they can grow and reach their potential. However, the very nature of the direct provision system is not conducive to the development of children and their families. They are living for long periods in a communal setting, where parental autonomy is constantly undermined. All intimate aspects of life are controlled: when to eat, what to eat and who to share a room with. Children never see their parents preparing meals or going out to work, and they see them reporting to accommodation staff on many aspects of their lives. As Fanning and Veale point out, the Convention also stipulates that states should not impose lesser welfare entitlements upon any one group of children, which is the case since the withdrawal of child benefit payments to asylum seekers³⁴.

The Ombudsman for Children’s Office was established in 2004 to promote the rights of children as outlined in the UNCRC, as well as to investigate complaints about how the State is providing services for children. Children in direct provision were excluded from the Ombudsman’s remit, despite requests from that office to have them included. The UN Committee on the Rights of the Child, in its periodic report on Ireland published in March 2016, has voiced concerns about this situation and recommended that the Ombudsman’s remit be extended to safeguarding the needs of asylum-seeking children and investigating complaints in this area³⁵.

Institutionalisation

Article 12.1 of the International Covenant on Economic, Social and Cultural Rights declares: “The States Parties to the present Covenant recognise the right

32. Blog post by Saoirse Brady of the Children’s Rights Alliance, “The Impact of Direct Provision on Children and Young People”, 10 April 2014. Available at [<http://humanrights.ie/economic-rights/directprovision14-the-impact-of-direct-provision-on-children-and-young-people/>] (last accessed 2 February 2016).

33. UN Convention on the Rights of the Child, Article 3.1.

34. Fanning and Veale (2004), *op. cit.*, p. 248-249.

35. Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Ireland*, 1 March 2016, § 20. Available at [http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIRL%2fCO%2f3-4&Lang=en] (accessed 4 March 2016).

of everyone to the enjoyment of the highest attainable standard of physical and mental health³⁶.” However, direct provision has been shown to be detrimental to the mental health of many residents. Research by the Royal College of Surgeons published in 2009 concluded that long-term stays spent in direct provision centres lead to institutionalisation, that not being allowed to work can lead to mental health problems and issues of self-esteem³⁷. In one study in Waterford, many of the men interviewed were on anti-depressants and sleeping tablets³⁸; another study in Cork and Kerry found that 48% of people surveyed had poor mental health³⁹. Even the HSE itself recognised, in its *National Intercultural Health Strategy 2007-2012*, the negative impact that direct provision could have on residents, particularly if their stay is a long one⁴⁰. A consultant psychiatrist in a Cork hospital who has worked with asylum seekers said that obliging them to stay in the direct provision system and not allowing them to work “is part of a whole process of invalidation of them as people, of powerlessness, giving rise in many cases to a depression more insidious than the initial trauma⁴¹”.

It has been suggested that the right to work should be granted to people who have been in the asylum system for a certain length of time. Since the introduction of the 2003 EU Reception Directive, this is now the case in all but two EU member states, one of which is Ireland⁴². Since the introduction of direct provision, successive governments have argued that allowing asylum seekers to work would create a “pull factor” and so increase the number of arrivals in the country⁴³.

36. International Covenant on Economic, Social and Cultural Rights (ICESR), Article 12.1. Available at: [<http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>] (last accessed 24 February 2016).

37. Magzoub Toar *et al.*, “Comparison of self-reported health and healthcare utilization between asylum seekers and refugees: an observational study”, *BNM Public Health*, 2009, 9:214.

38. Waterford Area Partnership, *The Needs of Asylum seeking Men Living in Viking House Direct Provision Centre, Waterford*, 2006, p. 59.

39. Clíodhna Foley-Nolan *et al.*, *A better world healthwise – a health needs assessment of immigrants in Cork and Kerry*. Cork, Southern Health Board, 2002, p. 34.

40. Health Service Executive, *National Intercultural Health Strategy 2007-2012*, Dublin, HSE, 2008, p. 42.

41. Dr Pat Bracken, Bantry Hospital, who has worked previously with asylum seekers in the UK and with torture victims in Uganda, quoted in Kitty Holland, “Stuck in Ireland’s hidden villages”, *Irish Times*, 9 April 2005.

42. Ireland and Lithuania are the only member states not to apply the 2003 EU Directive on the Minimum Standards for the Reception of Asylum Seekers (Council Directive 2003/9/EC of 27 January, 2003). See footnote 5.

43. John O’Donoghue, Minister of Justice, in a speech to the Irish Business and Employers Confederation on 30 September 1999 declared: “Let us be clear about it. Our current economic boom is making us a target. [...] Giving a right to work would simply create another pull factor which would put further pressure on the asylum processing system and continue to delay recognition for genuine refugees in need of protection”. Quoted in Steve Loyal and Ciarán Staunton, “The Dynamics of Political Economy in Ireland: The case of asylum seekers and the right to work”, *Irish Journal of Sociology*, vol.10, n° 2, 2001, p. 43. Minister for Justice Alan Shatter, in response to a parliamentary question on this issue on 27 March 2013, said that “(e)xtending the right to work to asylum seekers would almost certainly have a profoundly negative impact on application numbers.” *Dáil Éireann Debates*, vol. 798, n° 1, p. 250. More recently, Nuala Butler, Senior Counsel, representing Minister for

Problems with service providers

All but seven of the 35 accommodation centres are run, on a for-profit basis, by private companies, many of whom specialise in the property, catering and hotel businesses. These private contractors received over €44 million in State-funding in 2014⁴⁴. The staff of these companies have no obligation to undergo specialised training in order to be able to deal with a very diverse population or to understand the rights of asylum seekers in Irish and international human rights law. The managers of some of these centres have admitted when interviewed that they have often found themselves in difficult situations of conflict, tension or psychological distress, and that they are untrained for the work they do⁴⁵. While staff in other such institutions have to be vetted by the Gardai, it took the Department of Justice over ten years to introduce similar procedures for employees of centres for asylum seekers⁴⁶. In 2007 and again in 2013, inspection reports obtained by the *Irish Times* through the Freedom of Information Act showed lapses across some centres in ensuring that all staff managers got training in child protection issues⁴⁷. Local Community Welfare Officers (CWO) who have asylum centres in their area can be available to spend one half-day a week there, but cannot, in that short spell of time, respond effectively to all the needs of the residents. This means that the managers of the centres often find themselves trying to do the work of a CWO, but without the necessary training.

Numerous reports since 2001 have highlighted the problems encountered by residents in these centres and have shown evidence of overcrowding, poor fire safety practices, as well as problems with cleanliness and hygiene. A system of inspections was introduced in 2005, but it proved inefficient and under-resourced. Centre managers were notified in advance of visits from RIA officials; inspections never took place at weekends, a time when tensions could be high and problems more apparent as all residents are present all day; centres were supposed to have

Justice Frances Fitzgerald in a case before the Court of Appeal, said there was a “clear policy rationale behind the Section 9 prohibition on asylum seekers working which the courts must respect. There was a “big pull factor” evidenced by a three-fold rise in asylum applications when a right to work was permitted and, if this appeal succeeded, every asylum seeker who wished to work could apply to the Minister”. Quoted in Mary Carolan, “Man says almost all ‘autonomy’ lost in direct provision system”, *Irish Times*, 10 February 2016.

44. Department of Justice, *RIA Annual Report 2014*, June 2015, p. 31. Available at [http://www.ria.gov.ie/en/RIA/Pages/Annual_Reports] (last accessed 15 February 2016). These companies received over €53m in 2012, €66m in 2010 and over €71m in 2008.

45. Interviews carried out by the author for the purposes of a PhD thesis. “Immigration et Intégration 1992-2008: vers une politique d’intégration?”, Université Paris 3-Sorbonne La Nouvelle, 2011.

46. Pamela Duncan, “Group criticizes delay in Garda vetting process for staff working in asylum seeker centres”, *Irish Times*, 1 November 2010.

47. Ruadhan Mac Cormaic, “Health and safety risks exposed in asylum centres”, *Irish Times*, 31 October 2007. Carl O’Brien, “Inspectors find asylum seekers kept in dismal conditions”, *Irish Times*, 8 October 2013.

two or three visits a year, whereas they often only had one⁴⁸. Following a highly critical report by the Free Legal Aid Centre in 2009, the RIA made improvements so that most establishments now have the required three inspections per year, which are unannounced. A complaints process was set up for residents; however, this is run by the RIA itself and not by an independent body⁴⁹. While the RIA maintains that the complaints procedure is completely independent from the asylum process, the fact that both are the responsibility of the same government department means residents believe that by speaking out, they may be labelled troublemakers, thus jeopardising their chances of being granted asylum⁵⁰. Some of those who have made formal complaints or who have spoken to the media about their problems have been moved to other centres, far away from the contacts and supports they have built up⁵¹.

■ Opposition to direct provision

A number of organisations have been campaigning on behalf of asylum seekers in the hope of effecting change in government policy. Many groups have, in the past, called for an end to the direct provision system and continue to do so today⁵². They have backed up their demands with data and research and have consistently recommended the system be abolished for the reasons already cited. The system, critics say, dehumanises people and denies them the dignity to which they are entitled, and it is administered as a business rather than a means by which the government is fulfilling its human rights commitments⁵³.

Criticism of direct provision has also come from religious orders working on the ground with asylum seekers and refugees such as the Vincentians, the

48. FLAC, *One size doesn't fit all...*, *op. cit.*

49. On the problems related to the complaints procedure, see Integrating Ireland, "Submission on the Review of the Direct Provision Reception and Accommodation Centre, Rules and Procedures", December 2007, p. 17. Available at [<http://www.integrationcentre.ie/getattachment/c503918e-784c-4fba-baef-a3e208520974/Review-of-the-Direct-Provision-Reception-and-Accom.aspx>] (last accessed 20 February 2016).

50. "Statement by the United Nations Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, at the end of her visit to Ireland (19-23 November 2012)". Available at [<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12823&LangID=E>] (accessed 12 February 2016).

51. Doras Luimni, "Direct Provision Briefing", May 2001, p. 2. Available at [dorasluimni.org/wp-content/uploads/2014/05/Briefing_Direct-Provision_issues.pdf] (accessed 29 January 2016). See also É. Ní Shé, T. Lodge and M. Adshead, *Getting To Know You - A Local Study of the Needs of Migrants, Refugees and Asylum Seekers in County Clare*. Limerick, University of Limerick, 2007, p. 52. Available at [<http://www.hse.ie/eng/services/publications/SocialInclusion/localstudy.pdf>] (last accessed 2 March 2016).

52. The most prominent grouping is the NGO Forum on Direct Provision, a network of organisations including Akidwa, Barnardos, BeLonG To LGBT Youth Services, Crosscare Migrant Project, Cultúr, Doras Luimní, FLAC, Galway Refugee Support Group, Irish Catholic Bishops' Conference Refugee and Migrant Project, the Integration Centre, the Irish Refugee Council, the Jesuit Refugee Service, Mayo Intercultural Action, Spirasi and Tralee International Resource Centre.

53. FLAC, *One size doesn't fit all...*, *op. cit.*

Spiritans or the Jesuits⁵⁴. Cori (the Conference of Religious in Ireland)⁵⁵ and the Church hierarchy, through the Bishops’ Conference⁵⁶, have also been quite vocal in their opposition.

Certain decisions from the courts have exposed the problems related to direct provision. In a damning indictment of the Irish system, the High Court of Northern Ireland in August 2013 quashed an order by the UK authorities to return a Sudanese asylum seeker and her three children to the Republic of Ireland, where they had initially sought asylum, stating that such a return would be contrary to the best interests of the family. The court declared that given the conditions associated with the reception of asylum seekers in the Republic, removing the family would amount to a failure to promote the welfare both of the children and their mother. In his ruling, Justice Stephens paints a bleak picture of the situation of asylum seekers living in Ireland’s direct provision accommodation centres, where children have no place to call their home, in which they could “interact with each other as a normal family” and “develop a sense of belonging and separate identity”. He also refers to “problems with enforced isolation and poverty”, as well as “ample evidence of physical and mental health issues” due to the long periods spent in direct provision accommodation centres⁵⁷.

In the same year, this time in the Republic, three families of asylum seekers were granted leave by the High Court to challenge the direct provision system of housing and allowances, on the basis that it violates rights to private and family life, and amounts to “inhuman and degrading treatment” under the Irish Constitution and the European Convention on Human Rights. While the Court did not find in their favour, the judge, in his ruling, did find certain aspects of life in direct provision to be unlawful and disproportionate. He did accept that in general, life in direct provision impaired the right to private and family life as guaranteed by Article 8 of the European Convention on Human Rights, although he ruled that the claimant had not succeeded in proving his own particular case⁵⁸. He also stated that direct provision was not an ideal environment for a child to grow up in⁵⁹.

54. “Languishing in limbo”, Jesuits in Ireland website, September 19, 2014. Available at [<http://www.jesuit.ie/news/languishing-limbo/>] (last accessed 31 January 2016).

55. See “CORI Justice Commission calls for greater priority to be given to racial justice”, Press statement, 11 September 2005. Available at [http://www.socialjustice.ie/sites/default/files/file/m_c_newsrelease_090905.pdf] (last accessed 31 January 2016). See also “IMU/CORI Universal Periodic Review Submission – Ireland 2016”. Available at [<http://www.imu.ie/imucori-upr-submission-ireland-2016/>] (accessed 31 January 2016).

56. See for example Patsy McGarry, “Direct provision a denial of family life, say bishops”, *Irish Times*, 2 October 2014.

57. In the *Matter of an Application for Judicial Review by ALJ and A, B and C [2013] NIQB 88*, Para [102]. For the full text of the Court’s decision, see [[http://www.courtsni.gov.uk/en-GB/Judicial Decisions/PublishedByYear/Documents/2013/5B2013%5D NIQB 88/j_j_STE8712Final.htm](http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2013/5B2013%5D%20NIQB%2088/j_j_STE8712Final.htm)] (last accessed 20 February 2016).

58. In such a case, the burden of proof lies with the plaintiff, in this instance the asylum seeker.

59. For a detailed analysis of the court’s decision, see L. Thornton, “C.A. & T.A: The Direct Provision Case”. Available at [<http://humanrights.ie/economic-rights/direct-provision-in-the-irish-high-court-the-decision/>] (last accessed 2 March 2016).

The reception policy for asylum seekers in Ireland has also been criticised by international bodies over the years. In 2008, Mr Hammarberg, the Council of Europe's Human Rights Commissioner, expressed concern at "the low degree of personal autonomy asylum seekers may retain throughout the process, knowing that it can take three to five years to have an asylum application determined"⁶⁰. His successor, Nils Muiznieks, wrote to the Irish government four years later to say that the facilities, which were established to accommodate applicants for up to six months, were unsuitable for long-term stays and had "negative consequences on their mental health, family ties and integration prospects"⁶¹. The United Nations Committee on the Elimination of Racial Discrimination (CERD) had expressed similar concerns in 2011 and recommended that the State should take "all necessary measures to improve the living conditions of asylum seekers by providing them with adequate food, medical care and other social amenities, including also a review of the direct provision system"⁶². The European Commission against Racism and Intolerance (ECRI), another Council of Europe body, recommended in 2013 that the authorities "conduct an in-depth systematic review of the policy of direct provision, in particular with a view to allowing asylum seekers greater control of their everyday life" and "consider creating an alternative system that would promote independence, ensure adequate living conditions and address the cultural, economic, health, legal and social needs of people seeking protection"⁶³. More recently, in 2015, the Committee on Economic, Social and Cultural Rights (CESCR) expressed its concern at "the poor living conditions and the lengthy stay of asylum seekers in direct provision centres", as well as at "the restrictions asylum seekers face in accessing employment, social security benefits, health-care services and education"⁶⁴. Each of these international committees, responsible for monitoring the application of different human rights treaties, finds Ireland is not respecting its obligations as a State Party, and although the years go by, the problems raised each time remain unaddressed.

60. Council of Europe, *Report by the Commissioner for Human Rights, Mr. Thomas Hammarberg, on his visit to Ireland, 26-30 November 2007*, Strasbourg, Council of Europe, 2008, §108.

61. "Letter from the Council of Europe Commissioner for Human Rights, Nils Muiznieks, to the Minister for Justice, Equality and Defence of Ireland, Mr Alan Shatter, CommDH (2012)35 / 6 December 2012". Available at [<https://wcd.coe.int/ViewDoc.jsp?id=2011899>] (last accessed 30 January 2016).

62. UNCERD, *Concluding observations of the Committee on the Elimination of Racial Discrimination*, 2011, §20. Available at [http://www2.ohchr.org/English/bodies/cerd/docs/co/Ireland_AUV.pdf] (last accessed 30 January 2016).

63. Recommendations 116 and 117 of *ECRI Report on Ireland (fourth monitoring cycle)*, 2013. Available at [<http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ireland/IRL-CbC-IV-2013-001-ENG.pdf>] (last accessed 30 January 2016).

64. Committee on Economic, Social and Cultural Rights, *Concluding observations on the third periodic report of Ireland (E/C.12/IRL/CO/3)*, 8 July 2015, §14.

■ Government response

Some politicians have been critical of direct provision when in opposition, but once in government, they review their position. Alan Shatter, Minister for Justice in the 2011-2016 Fine Gael/Labour coalition government until he resigned in 2014, considered, when in opposition, that the system was inhumane and unnecessary, and on one occasion compared the centres to prisoner of war camps⁶⁵. In the same way, the Labour Party continuously criticised the system while in opposition⁶⁶, but then, with its Fine Gael coalition partners, rejected calls for the abolition of direct provision once in power⁶⁷.

In the last fifteen years, successive governments have consistently concerned themselves more with reducing the “pull factors” which they have suggested attracts these people to Ireland, than with their international obligations. Any improvement in the system, they argue, will make Ireland more attractive as a destination and lead to a large increase of asylum applications. An illustration of this attitude is the response, in 2009, of the Principal Officer of the Reception and Integration Agency to criticisms of direct provision:

(a direct provision centre) provides basic shelter and board but does not represent suitable long-term accommodation for the families who live there, (this) is an arguable point. [...] Direct Provision [...] was the only system that could have fulfilled Ireland’s humanitarian and international obligations and, at the same time, not have created an economic pull factor for economic migrants using the asylum system to enter the State⁶⁸.

The approach of the authorities, since the introduction of dispersal and direct provision in 2000, has been to presume that asylum seekers are bogus until proven otherwise. It has been argued down through the years that the country is

65. Joint Committee on Justice, Defence and Women’s Rights, debate on “Asylum Policy and Practice and Gender Issues”, 7 July 2010. Available at [oireachtasdebates.oireachtas.ie/Debates/Authoring/DebatesWebPack.nsf/committees/JUJ2010070700003?opendocument] (last accessed 28 January 2016).

66. See for example Joe Costello TD, “Govt must review policy of direct provision for asylum seekers”, 2 May 2010, available at [<http://www.labour.ie/press/2010/05/02/govt-must-review-policy-of-direct-provision-for-as/>] (accessed 25 June 2014, since removed). See also *Making food poverty history Labour’s Blueprint for Eliminating Food Poverty* (2007), p. 8, available at [<http://www.labour.ie/download/pdf/document.pdf>] (last accessed 3 March 2016).

67. For example, Labour TDs while in government voted against a motion calling for the abolition of the direct provision system. See *Dáil Debates*, vol. 852, n° 1, 30 September 2014, p. 86-107, and vol. 852, n° 2, 1 October 2014, p. 120-146.

68. Response to draft Strategy Statement for an Integrated Strategy for the Co-ordination of services to Immigrant Communities in County Clare 2009-2012. (Extracts from letter from Mr. Noel Dowling, Principal Officer, Reception and Integration Agency, to Mr. Tony Quilty, Social Inclusion Specialist, HSE West, 19th March 2009), in É. Ní Shé, T. Lodge and M. Adshead (2007), *op. cit.*, p. 100.

dealing for the most part with fraudulent asylum applications from people who come for economic reasons rather than political ones and want to take advantage of the Irish State and its “generous” welfare system. But even those who are clearly in need of protection are treated as suspect and are obliged to spend long and indeterminate periods in these accommodation centres and even then, cannot be sure their case will be heard sympathetically. Ireland currently has the lowest rates in the EU for granting refugee status to asylum seekers: while the EU average is 40 percent at first instance, Ireland’s acceptance rate is only 18 percent⁶⁹. Their access to certain supports has been gradually reduced over the years in what is described by human rights specialist Liam Thornton as a policy which, over the years, has withdrawn “the protection of the welfare state from those who are viewed as not having a definitive right to be within the country⁷⁰”. Withdrawing this protection and confining them to direct provision centres has resulted in many Irish people adopting what Lentin describes as an “out of sight, out of mind” view of asylum seekers⁷¹.

The Working Group on the Protection Process and Direct Provision

In spite of the numerous reports from Irish and international organisations outlining the serious problems related to direct provision, the Fine Gael/Labour government in office from 2011 to 2016 said for many years that the system as it stood was the most cost-effective means of maintaining reception conditions for asylum seekers, and that it had no intention of abolishing it. However, in October 2014, it announced it was committed to legislating to introduce a single application procedure to reduce delays in the asylum process⁷², and was therefore establishing a working group to examine how the protection process and the direct provision system could be improved. The group, chaired by a High Court judge, included representatives from the UNHCR, NGOs and the asylum-seeking community, academics, and officials from the relevant government departments and offices⁷³. The group was asked to propose improvements to the existing system which would show “greater respect for the dignity of persons in the system” and

69. Eurostat asylum statistics for 2013, as quoted in Jim Cusack, “Céad Míle Fáilte – but not if you’re fleeing for your life”, *Irish Independent*, 29 June 2014.

70. Liam Thornton, “The Rights of Others: Asylum Seekers and Direct Provision in Ireland”, *Irish Community Development Law Journal*, vol. 3, n° 2, 2014, p. 22-42.

71. Ronit Lentin, “Asylum seekers, Ireland, and the return of the repressed”, art. cit., p. 25.

72. Rather than applying for asylum, and then, if refused, applying for subsidiary protection, and then humanitarian leave to remain, applicants’ cases would be examined once to consider which status, if any, could be granted to them. This would ensure speedier processing of claims.

73. For more information, see [http://www.justice.ie/en/JELR/Pages/Membership_of_the_Working_Group] (accessed 4 March 2016).

“(improve) their quality of life”, ensuring nevertheless that what they proposed cost less or approximately the same as the current system⁷⁴.

Following several months of consultations, where the group met with and received written submissions from different groups and individuals, the final report was presented to government in June 2015⁷⁵. Among the proposals made was that people who have been in the asylum system for over five years should be given leave to remain, and that people awaiting deportation for over five years have their orders revoked. Regarding living conditions in direct provision centres, it was recommended that all families in centres be given access to cooking facilities and private living space. Inspections should no longer be carried out by the RIA itself, but by a wholly independent inspectorate, which would also be responsible for ensuring that all centres provide a similar quality of accommodation. The group proposed changes to the complaints procedure and an extension of the remit of the Ombudsman for Children to cover asylum-seeking children. An increase in the weekly allowance from €19.10 to €38.74 for adults and from €9.60 to €29.80 for children was strongly recommended. Regarding access to the labour market, the group said it was “very conscious of the sensitivities around this issue in view of the long-standing Government policy on this matter”. The report stated that

many of the human costs associated with the ban on access to employment are similar to the negative impacts of living long term in Direct Provision. These include: boredom, isolation and social exclusion; obsolescence of skills and creation of dependency; and negative impacts on physical, emotional and mental health⁷⁶.

For this reason, it recommended that after nine months in the protection system, asylum seekers should be granted the right to work. Many other proposals are included in the report, all of which have been costed in order to comply with the budgeting restrictions which were part of the terms of reference.

While most of these proposals had been made previously by other groups, this time the recommendations were being made by a group of people officially appointed to advise the government, which gave cause for hope to people campaigning for the rights of asylum seekers. However, this optimism was short-lived, as the government published its International Protection Bill several months later and proceeded to push it through parliament in record time by guillotining all

74. For terms of reference, see [http://www.justice.ie/en/JELR/Pages/Terms_of_Reference] (accessed 4 March 2016).

75. *Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers: Final Report*, June 2015. Available at [http://www.justice.ie/en/JELR/Pages/Working_Group_on_Improvements_to_the_Protection_Process] (accessed 3 March 2016).

76. *Ibid.*, p. 22.

debate, despite protests about some aspects of the bill which, according to human rights groups, eroded certain rights of asylum seekers⁷⁷. Protesters included members of the Working Group, one of whom said:

The Minister claims that this Bill implements the key recommendations of the Working Group, this is simply not true. With the exception of the single procedure, the Minister has cherry-picked a handful of the more conservative recommendations and ignored any positive recommendations, such as the right to work, early identification of vulnerable applicants, and the application of the Best Interests of Child principle for all asylum-seeking children. In addition, the Bill erodes rights to family reunification and brings in harsher detention measures. The single procedure is necessary to improve the protection system, but not at this cost⁷⁸.

Nine months after the publication of the Working Group's report, very few of the recommendations have been implemented. Regarding the weekly allowance, the government has made no change to the amount received by adults, but announced an increase in the children's allowance from €9.60 to €16.60 (instead of the recommended €29.80), just days before appearing before the UN Committee on the Rights of the Child in Geneva, where it was expected to face severe criticisms for not having implemented previous recommendations related to child poverty in direct provision⁷⁹.

Conclusion

Since 2000, there has been continuity in the approach to the treatment of asylum seekers, regardless of which parties have been in power. Ireland's international obligations regarding protection seekers in the direct provision system are fulfilled on a minimum basis by providing asylum seekers with accommodation and food, and their children with schooling. However, international human rights instruments define these rights in a broader manner, dealing with questions of respect for privacy and family life, dignity and self-reliance, health and well-being. It is in this regard that the Irish system has come in for significant criticism.

In recent years, several prominent figures have started to draw parallels between the treatment of asylum seekers and that of the vulnerable people who

77. Nasc *et al.*, "JOINT STATEMENT: NGOs call for the International Protection Bill to be withdrawn and reconsidered", Press Release, 4 December 2015. Available at [<http://www.nascireland.org/latest-news/joint-statement-ngos-call-for-the-international-protection-bill-to-be-withdrawn-and-reconsidered/>] (accessed 6 December 2015).

78. Fiona Finn, CEO of Nasc, *ibid.*

79. Marie O'Halloran, "State faces UN sanction over direct provision payment for children", *Irish Times*, 18 December 2015.

suffered at the hands of the state and its institutions in the past. The scandals of the industrial schools, the Magdalen laundries and more recently, the Mother and Baby Homes rightly provoked outrage among the public. Where, they asked, was the outrage at what was going on today? Retired Supreme Court Judge Catherine McGuinness warned that a future government may have to issue an apology for the manner in which asylum seekers, children in particular, are being treated⁸⁰. The Special Rapporteur on Child Protection, Geoffrey Shannon, at an event to mark 2014 World Refugee Day, said that Irish people would look back in ten years' time and ask themselves how they had allowed the direct provision system to exist⁸¹: "We do outrage very well, but why are we not outraged about an issue that currently needs fixing in our system⁸²?"

Direct provision, described by Fanning as "a scheme designed as a 'punitive' measure aimed at discouraging asylum seekers from coming to Ireland⁸³", has been in place for a decade and a half. Little has changed in that time, despite numerous calls for improvement or for the abolition of the system. The human rights of the residents of direct provision centres continue to be breached as criticisms from at home and abroad remain largely ignored.

Titley describes the system of direct provision as "a politicised system of deterrence and control", and establishes a parallel between "the wasted lives of the 'immoral' and 'deviant' subjects of the past" and "the 'bogus' and 'undeserving' of the present⁸⁴". Presenting asylum seekers as bogus applicants who will never be recognised as refugees, Tyler argues, enables a government to circumvent the rights of the refugee as prescribed by international law⁸⁵. "It is within this frame that the radical redefinition of asylum-seekers as outside of the sphere of rights, that is, as less than human, has come to make 'sense'⁸⁶." Today's 'others' remain marginalised in direct provision centres, outside the sphere of rights, in much the same way as the 'deviant others' of the past were kept behind the walls of the industrial schools, Magdalen laundries and Mother and Baby homes.

80. Judith Crosbie, "Next apology will be to asylum seeker children, warns former judge", *Irish Times*, 23 April 2013.

81. Quoted in Lorraine O'Hanlon, "Direct provision is 'storing up trouble for the future'", *Galway Independent*, 25 June 2014.

82. Quoted in Michelle Hennessy, "Ireland treats children seeking asylum as 'second-class citizens'", *The Journal*, 20 June 2014. Available at [<http://www.thejournal.ie/geoffrey-shannon-1529115-jun2014/>] (accessed 29 January 2016).

83. Bryan Fanning, *Racism and Social Change in the Republic of Ireland*, Manchester, Manchester University Press, 2002, p.103.

84. Gavan Titley, "Asylum seekers in Ireland languish in the Magdalen laundries of our time", *The Guardian*, 3 October 2012.

85. Imogen Tyler, "'Welcome to Britain' The Cultural Politics of Asylum", *European Journal of Cultural Studies*, vol. 9, n° 2, 2006, p. 189.

86. *Ibid.*, p. 190-191.

As Ombudsman Emily O'Reilly succinctly puts it, “ultimately, it comes back to priorities and to ethics and values. We have known for a decade and more that our treatment of asylum seekers is unacceptable and we have failed, mostly, to do anything about it. With some honourable exceptions, that failure is a collective failure of a republic which needs to re-engage with what ought to be its core values⁸⁷”.

87. Emily O'Reilly, “Asylum Seekers in Our Republic...”, art. cit.