

A Joint Submission
to the
Committee on the Rights of the Child
93rd Pre-Sessional Working Group (26th September - 30th September 2022)

For inclusion in the
Input to the State Report of Ireland
Submitted on 15th August 2022

By



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1. **INTRODUCTION**

2. The Irish Ambassador to the UN in Geneva formally submitted the combined Fifth and Sixth State Report to the UN Committee on the Rights of the Child, hereafter referred to as the State Report, in February 2022. This joint submission constitutes an input to that State Report as part of the examination of Ireland under the Convention on the Rights of the Child. This joint submission is compiled by a coalition of faith-based and civil society organisations: Christian Brothers European Province Advocacy Office (<http://www.edmundrice.eu/>), Sisters of Our Lady of Apostles - Irish Province (<https://www.olaireland.ie/>), International Presentation Association (<https://globalpres.org/>), Cork Migrant Centre (<https://corkmigrantcentre.ie/>), Presentation Brothers Ireland (www.presentationbrothers.org), and the Society of African Missions – Irish Province (www.sma.ie). In compiling this joint submission, the authors have received support and input from local grassroots groups and from both national and international civil society organisations. The concerns and recommendations outlined in this joint submission relate to five areas of concern:

- Human trafficking
- Domestic violence
- Children living in the Direct Provision system
- Right to education
- Racism in the school setting

3. We look forward to the Committee’s observations and recommendations to Ireland on the implementation of the Convention on the Rights of the Child, and we hope that this joint submission can benefit the work of the Committee.

4. **LIST OF AUTHORS**

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5. **METHODOLOGY**

6. As noted above, five areas of concern have been examined in this input to the State Report of Ireland; they relate to human trafficking, domestic violence, Direct Provision, access to education, and racism. The concerns and recommendations outlined below have been prepared based on research compiled by civil society groups and from reports commissioned by the Irish Government and others nationally and internationally. There has also been an examination of best practice in neighbouring countries as a guide to better practice in Ireland. In preparing this submission, the authors consulted with practitioners and professionals working with, and for, children whose rights may be compromised or undermined.

7. **SUMMARY OF CONCERNS**

Human Trafficking of Children in Ireland

8. Ireland has been recognized as a country of origin, transit and destination in the trafficking of persons; such an environment poses a grave risk to children in Ireland. Indeed, the State acknowledged child trafficking as an emerging issue in paragraph 23 of Ireland's consolidated third and fourth reports to the Committee on the Rights of the Child.¹ The US State Department's 2022 *Trafficking in Persons Report* states that: 'The Government of Ireland does not fully meet the minimum standards for the elimination of trafficking.'² In 2018, Ireland's ranking on the US Government's *Trafficking in Persons Report* fell from Tier One to Tier Two, and fell further to Tier Two "Watch List" in 2020 where it remained in 2021. After four years of decline, Ireland's ranking rose to Tier Two in 2022.³ While Ireland's improved ranking is welcome, it is clear that more must be done to meet the standards required to eliminate human trafficking and protect children and others. Given this, it is concerning that human trafficking is only mentioned once in the State Report; in paragraph 176 in response to LOIPR 20(c) regarding the illicit transfer of children. The concerns regarding human trafficking outlined below relate to LOIPR 3(a), 4(a), 6(a), 6(b), 18(a) and 18(e), and the State's response in paragraphs 27, 31-34, 59-64, 141-143, 152-153 of the State Report. These concerns relate to articles 3, 4, 19, 35, 36 and 39 of the Convention on the Rights of the Child. While the SRP guidelines recommend that articles 35 and 36 of the UNCRC, which prohibit trafficking and exploitation of children, be addressed under the Special Protection Measures section, there are no questions under that section which address human trafficking. Instead LOIPR 18(a) and 18(e), under Section D. Violence against Children, are directly relevant to the issue of child trafficking.

Children's experience of Domestic Violence

9. Domestic violence continues to take its toll on families: in 2021 there was a staggering 5,735 disclosures of abuse against children living in situations of domestic violence.⁴ Indeed, this reality is acknowledged in the current programme for government, which states 'there is an epidemic of domestic, sexual and gender based violence.'⁵ The recent publication of the *Third National Strategy on Domestic, Sexual and Gender Based Violence*, which has been structured around the four pillars of the Istanbul Convention, is welcome.⁶ Significantly, the Domestic Violence Act of 2018 takes specific account of the needs of child victims of domestic violence.⁷ Children who live in homes where there is domestic violence have least control over the decisions that will affect them and their family. *Women's Aid 2021 Annual Impact Report* indicated that by far the most common abuse experienced by children is that of emotional abuse: 5,056 reports of emotional abuse out of a total of 5,735 reported incidences of domestic abuse suffered by children.⁸ Women's Aid also reported that of the 178 women who used their services for the first time in 2021 only 7 had no children.⁹ The concerns regarding domestic violence against children outlined below relate to LOIPR 6(a-b), 11, 13, 18, and 20(a), and the Government's responses in paragraphs 59-62, 100-102, 109-114, 141-145, 152, 156-160, and 172 in the State Report. These concerns relate to articles 2, 3, 4, 9, 12, 18, 19, 20 and 39 of the Convention on the Rights of the Child.

Children Living in the Direct Provision System

10. There are a number of concerns about the impact of the present system of Direct Provision on the rights of the children in the International Protection System. The system of Direct Provision began as an emergency measure in 2000. It was designed as a way of accommodating people

seeking international protection for a six-month period while their applications for asylum were being processed. However, for various reasons the period of residence in Direct Provision Centres became extended, lasting years, in many cases. It was this unintended protraction of stay that led to the emergence of the problems and issues outlined below. These have been the subject of protests by residents living in Direct Provision themselves and by NGOs and human rights organisations for many years. Finally, in 2021, and in the face of growing disquiet about the system, the Irish Government published its *White Paper on Ending Direct Provision*, the provisions of which are yet to be implemented. The concerns outlined below relate to LOIPR 27(a) and 29(b), and the Government's response in paragraphs 271 and 302-307 of the State Report. These concerns relate to articles 3, 5, 15, 16, 18, 22, 27, and 28 of the Convention on the Rights of the Child.

Right to Education

11. In the context of exploring a child's right to education, there arises a number of concerns that need to be addressed. When young people leave mainstream education early they will have to face a myriad of issues and needs. These needs are clearly acknowledged: 'the current system cannot cater to the catalogue of diverse needs of young people today and because of this, early school leaving is a prevalent and pressing issue for many communities.'¹⁰ Leaving school early can be disruptive to personal development and can be detrimental to later well-being. The time at which a child leaves the system has a future bearing on the child. The earlier a child exits mainstream education the more problematic this can be for their future. 62 percent of early school leavers attribute their decision to leave school to school based issues.¹¹ This then begs the question: is the education system failing those most in need? For this small but significant cohort who can be considered among those furthest behind in the Irish Education System, we are failing in our commitment under the Sustainable Development Goals to reach the furthest behind first. The concerns below relate to LOIPR 2, and 27(a) and the State's response in paragraphs 22, 23, and 269-274 in the State Report. The concerns outlined below relate to articles 28 and 29 of the Convention on the Rights of the Child.

Racism in the School Setting

12. The impact of racism in the school setting is a serious concern of relevance to the rights of children of ethnic minorities. The education system and our schools have a deeply transformative role in shaping the values and social practices in our society. Schools perform a unique role in the socialization of young people as they constitute a safe space for learning to live with respect and diversity. The current Intercultural Education Strategy ended in 2015 and a new strategy needs to be developed in order to provide guidance to schools in the context of new societal understandings of racism and specific actions in the second National Action Plan. Regrettably, the second strategy never received the system-supports such as strengthened school leadership, teacher training, dedicated resources for English as an Additional Language (EAL) or system-wide research.¹² According to staff of the Cork Migrant Centre,¹³ the global media attention received by the murder of George Floyd brought the problem of racism to greater public consciousness in Ireland. This has freed young people to give voice to their experiences of racism in school. It has allowed them to claim their ethnic identity in a way that has not heretofore been acknowledged. The concerns detailed below relate to LOIPR 2, 4(a), 10(a), 10(b), and 10(c), and the State's responses in paragraphs 23, 34, 86-88 and 91-99 in the State Report. The concerns outlined below relate to articles 2, 29 and 30 of the Convention on the Rights of the Child.

CONCERNS AND RECOMMENDATIONS

13. **GENERAL MEASURES OF IMPLEMENTATION (Art. 4, 42, 44(6))**

HUMAN TRAFFICKING

14. **CONCERN: Ireland has not ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography**

15. In response to LOIPR 3(a) regarding the incorporation of the UNCRC into national legislation, paragraph 27 of the State Report indicates that, while the Convention has not been incorporated into domestic legislation, nonetheless the substance of the rights contained in the Convention are protected by legislation. Notwithstanding this assertion, the failure to ratify the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography, despite signing it in 2000, is a concern. Given that it has been 22 years since it was signed, it is very concerning that the State is still ill-equipped to ratify the protocol. This fails to meet the aims of the Convention, especially articles 4 and 35, and undermines progress on SDGs 5.2 and 16.2.

16. **CONCERN: Failure to resource and effectively coordinate anti-trafficking efforts**

17. As long ago as 2013, the State acknowledged child trafficking as an emerging issue in paragraph 23 of Ireland's consolidated third and fourth reports to the Committee on the Rights of the Child.¹⁴ Yet, the 2022 State Report (paragraphs 31-34) fails to mention policy and coordination measures taken to combat human trafficking in response to LOIPR 4(a) regarding the development, implementation and resourcing of national policies affecting children in line with the UNCRC.

18. In order to protect children from human trafficking, it is essential that Government's broader anti-trafficking efforts are both effective and UNCRC-proofed. However, despite the adoption of the 2016 Second National Action Plan (NAP) to Prevent and Combat Trafficking in Ireland, the State has failed to effectively coordinate and resource anti-Trafficking efforts. Until autumn 2019, responsibility for coordinating anti-trafficking efforts lay with the Department of Justice and Equality's Anti-Human Trafficking Unit (AHTU), established in 2008. In 2019, a Transformation Programme initiated within the Department of Justice introduced new structures including a "policy function" and "transparency function", both of which absorbed work previously undertaken by the AHTU.¹⁵ Since then the criminal justice policy unit has functioned as the national coordinating body,¹⁶ however, this restructuring raises concerns that diffused responsibility may reduce coherence and effectiveness. Indeed, according to the 2022 *Trafficking in Persons* report, 'It was uncertain whether the government followed its 2016 NAP; the plan had no end date, timeframe, budget allocation, or indication of agencies responsible for its implementation.'¹⁷ Furthermore, Government did not adopt an updated national anti-trafficking action plan despite its stated intention to do so.¹⁸ The Department of Justice also hosts a national anti-trafficking forum comprised interagency and civil society stakeholders in order to coordinate anti-trafficking efforts, however NGOs were critical of the forum: the 2022 *Trafficking in Persons* report notes that 'the forum did not meet in 2021, and some NGOs expressed frustration at the government's inconsistent responses to their recommendations.'¹⁹

Such piecemeal engagement with anti-trafficking NGOs is an impediment to coordinated and effective anti-trafficking efforts.

19. These issues undermine Ireland's efforts to take effective action against human trafficking in Ireland, thus allowing conditions to subsist whereby children may be trafficking for sexual and other exploitation. As such, Ireland fails to meet its obligations to the Convention on the Rights of the Child, especially articles 4 and 35, as well as its obligations to the Palermo Protocol to Prevent, Suppress and Punish Trafficking. These failings also undermine Ireland's progress in achieving SDGs 5.2, 8.7 and 16.2.
20. **CONCERN: Failure to accurately identify and record child victims of human trafficking**
21. In relation to data collection, LOIPR 6(a) and 6(b) request information about measures taken to collect data about children who are victims of violence and sexual exploitation and abuse, and to use such data to inform policy. However, in its response in paragraphs 59-64, the State Report fails to mention changes in the recorded procedures regarding to child victims of human trafficking. As of 2020, the State has failed to formally identify children who have been trafficked for sexual exploitation as victims of trafficking, thus negating the State's responsibilities towards those children as victims of trafficking.
22. No children were identified as victims of trafficking in 2021 or 2020, compared with 9 in 2019 and 5 in 2018.²⁰ The 2021 *Trafficking in Persons Report* states: 'This may have been due to the [Office of the Director of Public Prosecution's] 2018 decision to reclassify child trafficking victims as victims of sexual exploitation, which consequently excluded children from trafficking statistics.'²¹ In response to a parliamentary question about human trafficking tabled on 12 October 2021, the Minister for Justice noted that there were 157 offences before the Court in 2020 in relation to the sexual exploitation of a child.²² The children who were victims to those incidences of sexual exploitation have not been reported by Government as victims of human trafficking in the 2021 *Trafficking in Persons* report: it is highly concerning that the true number of children suspected of having been trafficked diverges so significantly from the statistics reported by Government. The failure to properly identify child victims of trafficking not only compromises the State's ability to provide accurate data to inform policy, but also raises serious concerns about the treatment of child victims of trafficking. Such reclassification denies children their right to be recognized as victims of trafficking which means that their experience is denied and undervalued. This reclassification undermines self-identification as well as formal identification, and compromises the child's access to services to which they are entitled and negates the State's obligation to provide those supports.
23. The failure to effectively and accurately identify and record child victims of trafficking in the human trafficking statistics is in breach of the Convention on the Rights of the Child, especially articles 4 and 35, as well as the Palermo Protocol to Prevent, Suppress and Punish Trafficking, and also undermines Ireland's progress in SDGs 5.2, 8.7 and 16.2.

DOMESTIC VIOLENCE

24. **CONCERN: There is a continuing concern that there is no clear disaggregated data set that would include children affected by Domestic Violence.**

25. In paragraphs 59, 61 and 62 of the State Report in response to the LOIPR 6(a) and 6(b), the State explains that the type and amount of data collected falls short of their obligations in the collation of quality disaggregated data that relates to those who are affected by Domestic Violence and this includes children as victims/survivors.
26. The Third National Strategy on Domestic, Sexual and Gender Based Violence (DSGBV) readily admits that the ‘lack of joined up Government approaches also lead to an uneven implementation of policy, lack of comprehensive state-wide service delivery and services and supports, and a deficiency of data.’²³ The strategy falls short in the need to ‘commit to developing a more accurate understanding of the true level and scale of need of children experiencing domestic violence and abuse’ in Ireland.²⁴ The Third National Strategy, in contrast to the Second Domestic Violence Strategy, explicitly seeks to clearly identify children and young people as both witnesses and victims/survivors.²⁵ Yet, while one of the published objectives of the of Third National Strategy on DSGBV is the Policy Coordination Pillar (2.4) to ‘Develop enhanced coordination of data collection strategies,’ there is no mention of the collection of data with specific reference to children and still no mention of disaggregated data.²⁶ This strategy has within its scope the ability to address these concerns within the, as yet unpublished, implementation plans.
27. In February of 2022 the Minister for Justice, Helen McEntee TD, announced that ‘there is a new agency under consideration that will deliver excellent services to victims,’²⁷ and that this agency would have a responsibility for leading on consistent and ongoing research to inform DSGBV policy development, working with others, such as the CSO, who have research and data projects underway. This is a welcome development, however the lack of disaggregated data that relates to the victims of domestic violence hinders the targeting and resourcing of appropriate supports where they are needed most: ‘Comprehensive data on the number of women suffering violence at the hands of men is urgently needed if the Government wants to end gender-based violence.’²⁸ This gap in data was raised in the OHCHR’s 2016 *Compilation Report* for the UPR.²⁹ More specifically, there is very little data on the number of children as victims impacted by domestic violence: most available statistics come from mandated reporting by managers of refuges. Not every child who experiences domestic violence is therefore recorded, as the shortage of necessary refuge spaces for all victims means that the domestic abuse suffered by many children remains unseen and therefore unrecorded.³⁰ The OHCHR also indicated that the development, implementation and monitoring of a “gold standard” for data collection should be undertaken in consultation with civil society organisations and sufficiently resourced.³¹ In the United Kingdom the Office of National Statistics (ONS) is charged with the collection and collation of data from a variety of sources, which informs policy and resourcing decisions. While not all incidences of domestic violence are recorded, data collection processes make use of all pertinent available sources of data, including by location.³²
28. Ireland’s continuing lack of data collection relative to children as victims/survivors of domestic violence is in breach of article 4 of the Convention on the Rights of the Child, as well articles 2 and 19, and furthermore undermines Ireland’s progress on SDGs 5.2.1 and 5.2.2.

29. **RECOMMENDATIONS**

Human Trafficking

1. Ireland should ratify the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography without delay.

2. The State should update and adopt a Third National Action Plan to Prevent and Combat Trafficking in Ireland, with a clear timeline for implementation, responsible ministries, and a budget and resources for implementation.
3. The Department of Justice should reinstate a dedicated anti-human trafficking unit with responsibility for those functions previously transferred to the policy and transparency functions in 2019, in order to effectively coordinate anti-trafficking efforts nationally.
4. The State should take steps to ensure that child victims of trafficking are identified and recorded correctly as victims of human trafficking and included in the national human trafficking statistics.

Domestic Violence

5. Ireland should emulate the UK’s gold standard of data collection and analysis by including data collection from An Garda Síochána, the Courts, Tusla (Child and Family Agency), HSE (Health Service Executive), and other relevant agencies, and implemented in consultation with civil society organisations, ensuring that data relevant to children as victims of domestic violence is included.
6. The State should commission state-funded research to get a more accurate picture of the scale and prevalence of children experiencing domestic violence and abuse within Ireland. As a starting point, the government should look to compile existing data from existing collection points such as Garda statistics, social work figures and the records of the service providers.

30. **GENERAL PRINCIPLES (Art. 2, 3, 6, 12)**

DOMESTIC VIOLENCE

31. **CONCERN: The views and wishes of children and young people are not given appropriate consideration.**
32. In paragraphs 109-114 of the State Report, responding to LOIPR 13(a) and (b), the State recognizes the importance of the child’s view and voice in any decision that directly affects him or her, whilst also accepting that there remains work to be done to assure all children will be adequately listened to and heard. Unfortunately, at present the State is falling short in this regard, and the views and wishes of children are not being given appropriate consideration in practice.
33. The Second National Strategy on Domestic, Sexual and Gender Based Violence (DSGBV) made limited reference to children, with children primarily identified as witnesses. In contrast, the Third Strategy seeks to identify children as both witnesses and victims/survivors.³³ This focus on children and young people as victims and survivors reflects the focus of both the UN Convention on the Rights of the Child and the Istanbul Convention, on the need to protect girls and boys. When approaching support services for assistance and refuge, children have a right to be heard in decisions that affect them. The Youth Advisory Group strongly expressed the view that young people’s views should be sought as a matter of course on any issues that affect them, so that better decisions can be made.³⁴ Barnardo’s submission to the Third National Strategy on DSGBV outlines a specific concern that children, as victims of domestic violence

in their own right, are not sufficiently protected, nor is there acknowledgement of the pain and difficulty that vulnerable children experience in relation to domestic violence and abuse: ‘When domestic violence and abuse occurs in adult relationships, this is a lived experience for children in the family.’³⁵ Sudden changes can result in homelessness, changing schools, leaving sporting commitments, leaving friends, isolation, fear, confusion and continuing uncertainty. Post-separation, children are often forced (by court decisions) to spend time in the custody of the parent whom they perceive to be the instigator of domestic violence in the home that they may have had to leave in an effort to reach a place of safety. Children have disclosed that they have been forced to go on access visits with an abusive father contrary to their wishes and further that the mother-child bond has been deliberately damaged by the abuser.³⁶ Barnardo’s state that ‘the voice of the child report outlined in the recent Domestic Violence Act allows a child to give their view to the court and to have an expert appointed to them to hear their wishes. Unfortunately, the appointment of experts does not appear to have been implemented in a lot of cases since the commencement of Act in 2019.’³⁷ The welcome publication of Zero Tolerance: Third National Strategy on DSGBV refers to “key actions” that include ‘preparing guidelines on children’s rights and DSGBV in court settings, to include training on children’s rights and child-friendly communication; progressing and implementing the Family Court Bill’.³⁸ This is rather vague, and does not explicitly specify what rights a child will have or whether a child’s view will be taken into account. The Strategy does however indicate that ‘implementation plans which will accompany this Strategy will set out in detail the concrete actions to be delivered to achieve each of these objectives, along with clear responsibilities and timelines for action.’³⁹ The success of any such implementation plans will depend on their timely publication as well as an appropriate level of funding.

34. By failing to assure each child victim of domestic violence the opportunity to have their views heard in a timely manner such as to affect decisions that specifically concern them, Ireland presently fails to fulfil its obligations under article 12, as well as article 9.1, of the Convention on the Rights of the Child. This also undermines Ireland’s progress in achieving SDG 5.2.

RACISM IN THE SCHOOL SETTING

35. **CONCERN: Schools are not addressing the issue of racism**

36. The measures to tackle discrimination outlined in paragraphs 92-99 of the State Report in response to LOIPR 10(c) is most welcome. Likewise, the State’s commitment to presenting a National Action Plan Against Racism before the end of 2021, as outlined in paragraph 91 of the State Report in reply to LIOPRs 10(b) is also welcome. The outcomes of these efforts hinge on adequate resourcing and an effective implementation, oversight and monitoring plan. However, it is concerning that there is little specific reference to schools and that schools are not satisfactorily addressing racism. There is growing evidence that ethnic minority young people are suffering substantial distress, anxiety and alienation in our schools because of racism.
37. Staff at Cork Migrant Centre report that students contact them on a weekly and often daily basis to report racist incidents at school. The reports come from a wide range of schools in Cork city and County and include the following incidences:

- Young black children being referred to as a gang by teachers when they hang out together in school;
- Students making monkey noises as children walk by and being called the ‘N’ word;

- A young person being told to go pick cotton by classmates – when reported, the child’s parents apologized but not the child;
 - “Go back to your country” being shouted by other children in schools at children of colour, many of whom were born in Ireland and have not lived anywhere else;
 - Some young people have been made to feel like their opinions are less valuable compared to their white Irish counterparts.
38. According to the staff of the Cork Migrant Centre, students rarely report these incidents to the teachers as they feel unsupported, that nothing will be done, or that the incident will be dismissed lightly. Schools, as institutions, require an institutional response to deal with racism. The school curriculum is largely skewed towards deficit narratives of ethnic minorities while marginalizing their contributions to knowledge and this in itself, inadvertently, reinforces negative stereotypes and ultimately racism. Decolonizing the curriculum is a key aspect of eradicating racism in the schools. In June 2020, Cork Migrant Centre Youth Initiative Against Racism (CMC YIAR) in collaboration with Tusla’s CYPSC, (Children and Young People’s Service Protection Committee), held a webinar with the aim of providing ethnic minority young people with a platform to express their emotions and begin a conversation in Ireland around racism.⁴⁰ A huge part of the lived experiences of racial discrimination narrated during the webinar happened in schools. The experiences shared came as a surprise to most of those attending the webinar, reflecting the general ignorance and denial of the problem of racism in our schools.
39. There is a lack of anti-racism training for teachers at either Primary or Secondary level, and currently there is no consistent framework for human rights or cultural awareness training (including Traveller specific training programmes) in national or local public organisations. Cork Migrant Centre staff have been asked to deliver workshops on racism in several Third Level Teacher Training Institutes. The CMC YIAR team is finalising a pilot anti-racist toolkit for primary school students which will be hosted on their website. The team is also developing toolkits for secondary schools and the workplace, with the wider aim of disrupting the “norm”, while actively working to transform the school experience for ethnic minority youth. There are many such efforts on a voluntary and limited basis, but this is not equivalent to the mainstreaming of accredited training.
40. There may not be widespread overt racism in schools but there would appear to be a much wider culture of “soft” or systemic racism, a lack of sensitivity or ignorance to race issues that young students of colour find upsetting and alienating. For this reason, and because of the evident distress and anxiety among ethnic minority youth, the State’s failure to identify racism as a problem in schools and to propose solutions is very concerning. These concerns represent a breach of article 2 of the Convention on the Rights of the Child, as well as articles 29 and 30, and furthermore undermines Ireland’s progress in achieving SDG 16.
41. **CONCERN: There is a lack of diversity in schools and it is negatively impacting the health and well-being of young people of ethnic minority background.**
42. In reply to LOIPR 2, paragraph 23 of the State Report refers to the commitment to contribute to the implementation of the SDGs 4 in the *Action Plan for Education*, which refers to the importance of promoting cultural diversity and global citizenship. In response to LOIPR 4(a), paragraph 34 of the State Report mentions that measures have been taken to promote the enjoyment of their own culture among children of minority groups as part of the national

equality strategies. These measures are welcome and are equally relevant to LOIPR 10(a) which the State Report addresses in paragraphs 86-88. Yet, despite these positive steps, a significant outstanding issue is the lack of diversity in schools among staff which fails to reflect the diversity of the student population.

43. Staff of the Cork Migrant Centre have reported that young people with whom they interact have confirmed that they feel the need to deny their ethnic identity, especially at school where children first encounter a wider social experience than their immediate family. Young people have reported to Cork Migrant Centre staff that not the same attention is given to racism as other issues, nor do they experience support for mixed ethnic identity or encouragement to take pride in their ethnic identity. Together with the all-white profile of teachers, it leads to an environment where young ethnic minority people feel alienated, are silenced and are not empowered to speak up. Young ethnic minority students have reported to the Cork Migrant Centre regular incidents, including incidences such as:
- Young people with their hands up being ignored/skipped by teachers;
 - Teachers saying the ‘N’ word in class while reading from a book in English class, or asking a black child to read that section;
 - Black children being used as references where anything relating to Africa comes up;
 - Some ethnic minority children have been made to feel that their opinions are less valuable;
 - Ethnic minority young people being criticized because of the presentation of their hair, which may be regarded as “untidy” by school authorities;
 - English teachers assuming that some children cannot speak English;
 - Being monitored to a higher extent than their white classmates.
44. No formal record is kept of teacher ethnicity in Ireland but there appears to be very few people of colour working as teachers in Irish schools. Rory McDaid, coordinator of the Migrant Teacher Project at Marino College, suggests this is because when school boards and Principals are recruiting staff they are looking for someone ‘who will “fit in” and not rattle things or present a challenge.’⁴¹ Young people’s sense of anxiety about their ethnic identity, and the need to fit into a homogenous identity, is compounded by the school environment itself. The lack of diversity in school staff means that students do not have role models from their own background, and the normality of diversity, present in the school population, is not reflected in the school as an institution. While the profile of the population is 85 percent white, the profile of student teachers is 95 percent white. At the same time the classrooms have become exceedingly diverse with children from over 100 different nationalities attending school. It is therefore of concern that there is an absence of mentoring for young people from ethnic minorities in schools if the only black workers in schools are the cleaners, as referenced by Christelle Bekombo, a teacher in north west Dublin, in the Irish Times in 2020.⁴² Because of her experience, Bekombo feels that more teachers of colour could be key to tackling racism in schools and making children from non-Irish backgrounds feel included.
45. The failure to promote and realise diversity in schools contributes to an environment in which children of diverse ethnic backgrounds do not feel supported in their identities, and in fact feel conflicted about the richness of their identities. Such a failure hampers progress in realising articles 2 and 29 of the Convention on the Rights of the Child, and furthermore undermines Ireland’s progress on SDGS 4.7.

46. **CONCERN: There is a lack of disaggregated data on young people and racism, particularly in the school setting.**
47. In paragraph 87 of the State Report, responding to LOIPR 10(a), the State mentions role played by the Migrant Integration Strategy, 2017-2021, in promoting of educational rights of marginalised groups. This is welcome as are the steps taken to eliminate discrimination as outlined in paragraphs 92-99 in response to LOIPR 10(c). However, at present, not enough data is being collected in order to develop effective policy and target resources that will truly make a difference. In this regard, Minister O’Gorman’s announcement of a National Equality Data Strategy designed to improve the collection, use and dissemination of equality data is most welcome.
48. It is very concerning that the issue of racism in Ireland is under-reported as a crime. iReport.ie, set up in 2013, is a national, confidential, easy to use Racist Incident Reporting System for people who experience or witness racism in Ireland, and contributes filling gaps where there is a lack of data.⁴³ INAR, the Irish Network Against Racism, indicates that unreported incidents of racism remain invisible and cannot be addressed and that reporting incidents of racism gives a voice to those affected by racism and also that it empowers them. One of the issues highlighted in the report is under-reporting, an issue that staff at Cork Migrant Centre regularly encounter: young people notify them of many racist incidents in school but neglect/refuse to take it any further because they do not feel safe reporting, a resignation that nothing will be done, or fear that they will be identified. According to iReport, 54 percent of discrimination and 74 percent of other racist incidents were not reported to anyone except iReport.ie.⁴⁴ These are significant numbers of incidents that go unreported. The report also reveals that institutional racism is evident in the policies and processes of a range of public sector organisations reporting in this period. Schools, as one of the institutions that most impinge on the lives of young migrant people, need to address the issue of racism. There is an obvious weakness in that there is no disaggregated data for racist incidents reported by young people. The collection of quality disaggregated data from all available sources, both state and civil society, would help focus initiatives towards dealing with institutional racism. This would support integration and lead to a more cohesive society for all.
49. The lack of relevant data on the impact of racism on young people allows this issue to go unaddressed, and therefore racism continues to be an extra burden on young people of ethnic-minority background. Such a continuing lack of data-collection is detrimental to the effective realisation of article 2 of the Convention on the Rights of the Child, as well as article 29(c), and furthermore undermines Ireland’s progress on SDGS 4.7

50. **RECOMMENDATIONS**

Domestic Violence

1. In developing the implementation plans for the recent Third National Strategy on Domestic, Sexual and Gender Based Violence, the State should outline steps to be taken to ensure the voice of children and young people are included in the planning process.
2. The State should ensure that the detailed implementation plans of the recent Third National Strategy on DSGBV defend the right of children to protection and recovery, and for the family to be able to stay safe and together with the non-abusive parent.

3. The implementation plans in the Third National Strategy on DSGBV should be guided by the principle that the parent's right to access must never supersede a child's right to safety.⁴⁵

Racism in School Settings

4. The State should ensure that schools have specific policies around racism and discrimination that are explicit about what constitutes racism, and that would include protocols for reporting racist incidents and details of the consequences for breaches of policy.
5. The State should ensure that schools include cultural competence and cultural awareness training for staff, that the school curriculum should reflect and respect diversity, and that workshops on racism and discrimination be included in the school curriculum to avoid negative stereotypes.
6. The State should take steps to ensure that the school environment reflects inclusion and diversity, particularly in the classroom, e.g. images, posters, teaching aids etc., and promote the use of clear signage that raises awareness on the issues of racism and discrimination in school.
7. The State should ensure the development of detailed and effective steps to support the mental health and wellbeing of child victims of racist attacks.
8. The State should ensure that every Third Level Teacher Training College include an accredited anti-racism training module to include cultural competence, diversity, anti-racism, integration and local and global citizenship.
9. The State should spearhead a campaign to encourage applicants from ethnic minorities to consider teaching as a career in order to promote appropriate diversity among school staffs.
10. The State should make every effort to collect and collate quality disaggregated data that relate to racism using the resources of both state and civil society, and this should be coordinated by the Central Statistics Office.
11. The State should budget for focussed research on racism in the educational sector, at both Primary and Secondary level, inclusive of the whole school body, staff, students and parents' councils.
12. The State should undertake targeted research to better understand the impacts of racism on young people's well-being and mental health with a view to assisting schools in making sure that victims are heard and that they are supported.
13. The State should ensure that sound and comprehensive research and data collection are used to inform effective local and national strategies for combating racism.

51. **VIOLENCE AGAINST CHILDREN (Arts. 19, 24 (3), 28 (2), 34, 37(a) and 39)**

HUMAN TRAFFICKING

52. **CONCERN: Human trafficking of children in Ireland**

53. That children in Ireland are being trafficked for exploitation is of grave concern, yet this is not addressed in the State Report. There is no mention of human trafficking of children in paragraphs 141-143 of the State Report in response to LOIPR 18(a) regarding measures taken to prevent and protect children from all forms of violence, including sexual exploitation and abuse, as well as online sexual exploitation.
54. Trafficking in children is closely linked to child sexual abuse. The 2022 *Trafficking in Persons Report* states that ‘Traffickers subject Irish children to sex trafficking within the country.’⁴⁶ The 2008 Human Trafficking Act, amended in 2013, broadly defined sexual exploitation to include the sexual abuse of children.⁴⁷ Between 2018 and 2021, of 169 trafficking investigations reported by Government, 103 were for sex trafficking.⁴⁸ Since 2018, at least 14 children have been identified as victims of human trafficking in Ireland.⁴⁹ However, as noted above in paragraph 22, a change in identification and reporting methodology means that in 2020 and 2021 child victims of trafficking may not have been classified as such, therefore the figure of 14 does not accurately reflect the number of child victims of trafficking identified by the State.⁵⁰ According to the Minister for Justice, in response to a parliamentary question (No.422) about human trafficking tabled on 12 October 2021, there were 157 offences before the Court in 2020 in relation to the sexual exploitation of a child. This involved 30 persons before the Court of whom 27 were sent forward to trial.⁵¹
55. Under the Convention on the Rights of the Child, especially articles 35 and 36, as well as its commitment to the Palermo Protocol and SDGs 5.2, 8.7 and 16.2, the State must take more effective measures to end trafficking in children.
56. **CONCERN: Failure to identify child victims of human trafficking**
57. In paragraphs 141-143 of the State Report, in response to LOIPR 18(a), the State fails to address concerns about ineffective identification of child victims of trafficking. The failure to effectively identify victims of trafficking is a serious concern, which creates an environment in which victims go unaided and traffickers go unpunished. Furthermore, the State did not formally identify any children as victims of trafficking in 2020 or 2021.
58. The 2021 *Trafficking in Persons Report* states that ‘2020 was the fourth consecutive year of decreasing victim identification and the fewest victims identified since 2013.’⁵² While the number of trafficking victims identified in 2021 increased to 44, compared with 38 identified in 2020, nevertheless there remains a significant gap in victim identification.⁵³ The 2021 *Report on Human Trafficking and Exploitation on the Island of Ireland* found that between 2014 and 2019 the true number of trafficking victims was approximately 38 percent higher than officially identified.⁵⁴ Indeed, the 2022 *Trafficking in Persons Report* notes that ‘Experts continued to raise concerns regarding the government’s inability to identify trafficking victims due to shortcomings in its identification mechanism and limiting identification of victims solely to police.’⁵⁵ According to the Minister for Justice, in response to a parliamentary question on 5 July 2022, a new approach to the National Referral Mechanism (NRM) ‘acknowledges other state bodies and NGOs have a role in identifying victims of human trafficking.’⁵⁶ However, to date no progress has been made in extending formal identification powers beyond An Garda Síochána, and as noted in the 2022 *Trafficking in Persons Report*, ‘While experts welcomed ongoing government plans to develop the new NRM, they expressed concern with the slow pace and lack of clarity surrounding its development.’⁵⁷ Furthermore, the State did not formally identify any children as victims of trafficking victims of trafficking in 2020 or 2021. As noted

above, in paragraphs 22 and 54, this may have been due to the 2018 decision to reclassify child trafficking victims as victims of sexual exploitation, which consequently excluded children from trafficking statistics.⁵⁸ The failure to formally identify children who have been trafficked for sexual exploitation as victims of trafficking thus negates the State's responsibilities towards those children as victims of trafficking.

59. The failure to effectively and accurately identify child victims of trafficking is in breach of the Convention on the Rights of the Child, especially article 35, as well as the Palermo Protocol, and is detrimental to Ireland's progress in SDGs 5.2, 8.7 and 16.2.

60. **CONCERN: FAILURE TO SECURE CRIMINAL CONVICTIONS**

61. As aforementioned, paragraphs 141-143 of the State Report is intended to respond to LOIPR 18(a) regarding measures taken to prevent and protect children from violence and provide information about the investigation and prosecution of reported cases. However, the State Report does not address the failure secure convictions of human traffickers under the anti-trafficking law.

62. Despite the identification of more than 500 victims of trafficking since 2013, only two human traffickers have been convicted under the amended anti-trafficking law. Indeed, prior to 2021 there had been no convictions under the anti-trafficking law since its amendment in 2013.⁵⁹ In 2020, 1 trafficker was convicted under false imprisonment charges.⁶⁰ While the conviction of traffickers in 2021 is welcome, the failure to secure convictions in the preceding seven years represents a failure in the administration of justice, and has risked engendering a culture of impunity. Government reported 44 investigations for trafficking in 2021 (25 for sex trafficking and 19 for labour trafficking), 22 investigations were reported in 2020 (15 for sex trafficking and 7 for labour trafficking), 39 investigations were reported in 2019 (36 for sex trafficking and 3 for labour trafficking), and 64 investigations were reported in 2018 (27 for sex trafficking, 35 for labour trafficking, and 2 others).⁶¹ (Government changed the methodology for reporting investigations in 2018, making data incomparable to data from previous years.) Meanwhile, despite 69 investigations having been initiated between 2018 and 2021, only been 9 prosecutions were initiated in that time under the anti-trafficking law: 1 prosecution for sex trafficking was initiated in 2021, 3 prosecutions were initiated in 2020 (all for sex trafficking), 5 prosecutions were initiated in 2019 (2 for sex trafficking and 3 for labour trafficking), and zero prosecutions in 2018.⁶² Additionally, while securing convictions is essential in combatting trafficking and vindicating the rights of trafficking victims, there is some concern around the cases of the two traffickers convicted in 2021 given that one of those convicted was herself a child victim of trafficking.

63. The failure to successful prosecute and convict human traffickers under the anti-trafficking law means that Ireland falls short in meetings its obligations under the Convention on the Rights of the Child, especially articles 35 and 36, as well as the Palermo Protocol, and also undermines Ireland's progress in achieving SDGs 5.2, 8.7 and 16.2.

64. **CONCERN: FAILURE TO SUPPORT CHILD VICTIMS OF TRAFFICKING**

65. In paragraphs 152-153 of the State Report, in response to LOIPR 18(e) regarding the provision of comprehensive support for children who are victims, the State fails to address concerns about supports afforded to child victims of trafficking.

66. Presently, the National Referral Mechanism provides for the rights of trafficking victims including accommodation, medical services, legal aid and advice, amongst other supports, however the State has fallen short in meeting these rights. In line with recommendations in the 2017 report by GRETA, the Second National Action Plan outlined an intention to establish a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking. However, such a mechanism has not been delivered. Furthermore, there are no dedicated services or accommodations for child trafficking victims. In the absence of such dedicated accommodation and service, children were usually placed in ‘children’s residential centers or in approved foster care and had access to social workers and one psychologist from the anti-trafficking team at the HSE.’⁶³ However, these social workers are not trained in child trafficking victim-centred approaches. The 2022 *Trafficking in Persons Report* further noted that ‘NGOs continued to report a lack of specialized services to address the physical and mental health needs of victims.’⁶⁴ Additionally, according to MECPATHS,⁶⁵ an NGO working to combat child trafficking, there is currently no social worker with responsibility for Irish national victims of child trafficking.
67. These failings undermine articles 3, 19.2 and 39 of the Convention on the Rights of the Child, and are in breach of Ireland’s commitment to ‘protect and assist the victims of such trafficking, with full respect for their human rights’ as outlined in the Palermo Protocol.

DOMESTIC VIOLENCE

68. **CONCERN: That there is a continuing lack of refuge spaces for children at risk in situations of Domestic Violence.**
69. In paragraphs 141-143 and 156-160 of the State Report responding to LOIPR 18(a) and 18(g), the State recognizes the life consequences of trauma experienced by children, for example, when their parents’ relationship breaks down, when they experience bereavement or in circumstances where the child is abused or exposed to domestic violence.⁶⁶ Such recognition is a step in the right direction, nonetheless, currently there is a concern regarding the lack of refuge spaces for victims of domestic violence and their children. This adversely affects children who therefore continue to live in homes where they are exposed to violence.
70. The Istanbul Convention requires States to provide for specialist support services and refuges in sufficient numbers and in an adequate geographical distribution (Articles 22 and 23). Ireland falls short of the required number of refuge spaces to meet this requirement and to meet the needs of women and children escaping domestic violence and abuse. Moreover, refuge space is not available in nine counties.⁶⁷ In 2016, the Committee on the Rights of the Child outlined their concern in the concluding observations on the third and fourth periodic reports of Ireland that ‘there is insufficient refuge accommodation for victims of domestic violence.’⁶⁸ The Committee asked the Irish government to ensure adequate 24 hour accommodation for persons affected by domestic violence and their children. Six years on and the State is still only beginning to tackle this often reported gap in service provision. A Tusla review of accommodation for victims of domestic violence in 2019 indicates that accommodation for victims seeking refuge is substantially deficient in capacity,⁶⁹ a state of affairs acknowledged by the Minister for Justice. Further, the review indicated that those who live rurally in need of refuge are often further disadvantaged by a lack of local provision. In 2021, Women’s Aid reported that 62% of the time they contacted refuges to query the availability of space for those most in need they were informed that the refuges were full.⁷⁰ In this respect, the announcement

in February 2022 of the creation of 72 new family refuge spaces and 10 replacement places in 10 locations across the country, alongside plans to establish a new statutory agency on domestic, sexual and gender based violence by the Minister for Justice, is most welcome.⁷¹ When a woman makes the decision to leave a situation of violence and abuse, removing herself and her family from the home may be the only option. Unfortunately, when sufficient support services are not in place, women are often faced with the decision to stay in the abusive situation or to leave and face homelessness.⁷² Indeed, many women who are homeless cite domestic violence as the cause of their homelessness, and some victims have reported that they have continued to live with their abuser believing that becoming homeless may be the only alternative.⁷³ When a mother moves herself and her children into forced homelessness, the state does not record the mother and children as being homeless. They are effectively hidden, a point strongly argued by the Children’s Rights Alliance Report Card 2022⁷⁴ In this respect, the ‘removal of the legal barriers that can prevent people experiencing domestic violence from remaining at home (where it is safe to do so)’, as has been outlined in the Third National Strategy on DSGBV, is also most welcome.⁷⁵ However, any consideration of the need for greater provision of extra refuge spaces must be understood in the context of a continuing lack of housing stock across the country. This results in limited and unsatisfactory accommodation options for survivors who are ready to transition from a refuge.⁷⁶ The Tusla audit indicated that an extra 215 refuge places is required if Ireland is to comply with the Istanbul convention figure of 1 refuge space per 10,000 of population: nearly two and half times the current number of spaces is needed to meet the 355 figure.⁷⁷ While the publication of the Third National Strategy on DSGBV is welcome, it only commits to double the number of available refuge spaces from 141 to 280 over the life-time of the strategy, which still leaves refuge spaces short by 75 places if the State is to fulfil its obligations under the Istanbul convention.⁷⁸

71. The continuing lack of refuge spaces for children at risk in situations of Domestic Violence is in breach of articles 19 and 39 of the Convention on the Rights of the Child, as well as articles 2 and 3.1. Such failings hamper Ireland’s progress on SDG 5.2.
72. **CONCERN: We are concerned that children who are victims of domestic violence can be disadvantaged in their need for therapeutic intervention and support.**
73. In paragraph 152 of the State Report in response to the LOIPR 18(e), as well as in paragraphs 101-102 in response to LOIPR 11, the State proposes interagency collaboration as a means of ensuring that the best interests of the child are met, and this includes the adequate provision of counselling for children who are victims of abuse. However, presently an abusive parent can compromise a child’s ability to access the therapeutic supports.
74. The State Report does not specifically mention children as victims of domestic violence, but the Third National Strategy on DSGBV does indicate that there is a proposal to ensure that there are clear local pathways for all adult and child victims/survivors to access the range of DSGBV supports needed, and that such quality services and facilities will be available across the country for all adult and child victims/survivors.⁷⁹ However, Barnardo’s has noted ‘situations in which abusive parents have attempted to block access to support for children and young people. Children’s access to therapeutic services, at times has been seriously compromised by the requirement to have consent from a parent who has been abusive in their relationship.’⁸⁰ To withhold, or refuse to allow a child access the support that may assist a child in dealing with the fallout from being a victim of domestic violence is to exacerbate the original violence, to double down on the victim with the least power. In this instance, the offending

parent's rights appear to supersede the rights of the child. It is clearly in the best interests of the child to access early counselling support. It is welcome that paragraph 172 of the State Report commits government to publishing a bill in 2022 that will establish a specialized family court system to address such challenges. Such reform will also involve appointing judges with specialized training, skills and experience to ensure a dedicated focus on family law. It is essential that such reforms ensure children have access to supports, regardless of the wishes of an abusive parent.

75. To allow a situation to develop that thwarts a child's access to counselling is in breach of article 19 of the Convention on the Rights of the Child, and also undermines Ireland's progress on SDGs 5.2 and 16.2. Furthermore, such a state of affairs is also contrary to aims of the UNCRC, as well as the overarching principle of the Sustainable Development Goals that prioritize reaching those furthest behind first.

76. **RECOMMENDATIONS**

Human Trafficking

1. The State should promptly improve the identification of, and assistance to, child victims of human trafficking by ensuring all social workers within Tusla (the State agency responsible for improving wellbeing and outcomes for children) receive adequate training and support in this area.
2. The State should continue to work with NGOs to provide training for staff in frontline professions to identify and report suspected cases of human trafficking, especially children.
3. Training in the consistent use of the human trafficking National Referral Mechanism (NRM) should be provided to all units of An Garda Síochána.
4. The NRM should be revised so that formal victim identification and referral can be made by entities other than An Garda Síochána, including civil society, social workers and healthcare professionals. This ensures that formal identification and victim services are available without the need for referral from, or requirement to cooperate with, An Garda Síochána. These changes should be made urgently in respect of identification and referral of suspected child victims of trafficking.
5. Clear criteria, and associated training, should be provided to all groups engaged in identification and referral. Such training should be appropriately resourced and mandated for those frontline personnel in positions likely to encounter trafficking. Specialized training should be provided to frontline personnel who may encounter child victims of trafficking.
6. Ireland should fully enforce the human trafficking laws by bringing perpetrators to justice with sanctions commensurate with the gravity of their crimes. Efforts should be made to prosecute cases of human trafficking as an offence under the Human Trafficking Acts rather than under offences carrying lesser penalties.
7. Ireland should take measures to ensure that investigations and prosecutions are appropriately resourced, including personnel, training and technology, to achieve criminal convictions in cases of human trafficking. In particular, training should be

provided to members of An Garda Síochána and the Courts conducting investigations and prosecutions.

8. Ireland should establish a specific child-centred referral mechanism which takes into account the special circumstances and needs of child victims of trafficking, in line with the intention outlined in the *Second National Action Plan to Prevent and Combat Trafficking in Ireland*, and recommended as best practice by the Organization for Security and Cooperation in Europe (OSCE).
9. The State should provide specialized accommodations for child trafficking victims that are safe, appropriate, and trauma-informed, and specialized services to address the physical and mental health needs of victims should be made available.
10. Appropriate training in trauma-informed child trafficking victim-centred approaches should be provided to social workers assigned to children who have been victims of human trafficking.

Domestic Violence

11. The State should urgently implement the plan to increase the number of available refuge spaces by 139 (from the current 140 places to 280 refuge places) in the immediate to short-time, rather than ‘during the lifetime of the strategy’ as outlined in the Third National Strategy on DSGBV.⁸¹
12. Ireland should further increase by the number of refuge spaces by 75 (from 280 to reach 355), in line with Istanbul Convention, and ensure that 70% of the population is within a 30-minute drive of a refuge space, and that this would be done in as quick a time frame as possible.
13. The State should ensure that there is a clear pathway to navigate consent for children to access all supports and therapy as victims of domestic violence that is guided by the principle of the best interests of the child.

77. **FAMILY ENVIRONMENT AND ALTERNATIVE CARE (Art. 5, 9, 10,11, 18, 20, 21, 25, 27(4))**

DOMESTIC VIOLENCE

78. **CONCERN: There is a concern that Child protection system and Family Court can work contrary to one another in the pursuit of competing objectives**
79. Paragraphs 100-101, 109, and 145 of the State Report, in response to LOIPR 11, 13, and 18(b) respectively, note measures taken to assert to primacy of the best interests of the child, measures taken to seek the views of the child, and improvements for children victims of domestic abuse within the court system. Furthermore, paragraph 172 (in response to the LOIPR 20(a)) of the State Report outlines plans to publish legislation to establish a specialized court to include specialist training of court personnel. While these development are most welcome, notwithstanding the prioritization of the best interests of the child in legislation, in practice there remains a concern that the child protection system and the Family Court can and may work contrary to one another in the pursuit of competing objectives.

80. A family where there is domestic abuse can be simultaneously involved in proceedings in the Criminal Court, in the Family Court and in the Child Protection system, or in any two of these systems. The three systems perform different functions and work with different aims and priorities. This can sometimes be experienced as unhelpfully siloed and incoherent. As a result of a lack of common focus on the safety of the child, interaction with the systems can be problematic. Take the following example where the Child protection system and Family Court can work in opposite directions: Child Protection Practice requires that, where there is conflict between protecting children and respecting the needs and rights of parents, the child's welfare must come first. Child protection therefore may require a mother to protect her children by leaving an abusive partner. However, in Family Law Proceedings the parental rights of the abusing partner may supersede the safety of the child resulting in the Family Court granting unsupervised access to the abusive partner and insisting on co-operation from the mother with that order.⁸² Proceedings, including the convictions of an abuser, in the criminal justice system for violent offences against their partner, may be deemed irrelevant in Family Law Custody and Access proceedings because the offence was not committed against the child. This fails to recognize the damaging emotional impact on the child.⁸³ One of the objectives outlined in the Third National Strategy on DSGBV under the Prosecution Pillar (2.3) is to 'Reform the operation of the Family Law Courts to ensure victims/survivors are better protected.'⁸⁴ This might best be addressed in a comprehensive manner in the new Bill due to be published in 2022, as noted in paragraph 172 of the State Report.

81. A failure to address this concern is in breach of articles 9, 18, and 20 of the Convention on the Rights of the Child, as well as articles 3 and 9 regarding the best interests of the child and violence against children. This also undermines Ireland's progress under SDG 5.2 and 16.2.

82. **RECOMMENDATIONS**

Domestic Violence

1. The State should enact legislative changes to ensure that where there are competing rights evident in a domestic violence case that the rights and best interest of the child must take priority.
2. The State should take steps to ensure that different institutions, who may be in pursuit of competing objectives in a case of Domestic Violence, be required to coordinate in order to ensure that the best interest of the child takes precedence as the overriding concern.

83. **EDUCATION, LEISURE AND CULTURAL ACTIVITIES (Art. 28, 29, 30, 31)**

CHILDREN IN DIRECT PROVISION

84. **CONCERN: There remain considerable barriers preventing a small cohort children in Direct Provision accessing third-level education**

85. Every year young people in Direct Provision prepare for their Leaving Certificate exams with the knowledge that they may not be able to progress to college with their peers. In addressing

LOIPR 27(a) regarding the question of access to high-quality education for asylum seeking, migrant and refugee children, paragraph 271 of the State Report references successive equality strategies. However, it fails to mention the remaining existing barriers that hinder equal access to third-level education for children in the international protection system.

86. The biggest barrier asylum seeking students face in accessing education is financial.⁸⁵ Attendance at third level college by some students will mean paying expensive non EU Fees.⁸⁶ While, many third-level institutions offer scholarships as part of a university of sanctuary scheme, these limited schemes are only open to those students who have taken the Leaving Certificate examination, are living in Direct Provision and who have made an application through the Central Applications Office.⁸⁷ We welcome announcements by the Minister for Further and Higher Education, Simon Harris TD, that changes in fee arrangements for students living in Direct Provision apply from the start of the 2021/22 academic year. International protection applicants who have permission to work and are seeking to access Post Leaving Cert (PLC) courses no longer have to pay international fees.⁸⁸ International Protection applicants who have been resident in Ireland for three years will be able to access third-level education by means of the Student Support Scheme run by the Department of Further and Higher Education, Research, Innovation and Science. There are also some discretionary supports provided by the DES for some students who achieve very high points in their Leaving Certificate exams in order to facilitate entry to third-level on the same basis as Irish Students.⁸⁹ However, notwithstanding the new departmental schemes, sanctuary scholarships or discretionary supports, some students living in Direct Provision may still find that they are financially disadvantaged when it comes to taking up a third-level course to which they have been accepted, for example those who are less than three years in the system. As such, they do not presently have the same open access to third-level university courses as their school classmates. In terms of the impact on the wellbeing of children and adolescents, the Irish Times' *Living in Limbo* Series reported that students who have completed the Leaving Certificate and who face very limited access to further educational or training opportunities become de-skilled and unmotivated.⁹⁰ The report of the Advisory Group on the Provision of Support, including accommodation to Persons in the International Protection Process (Catherine Day Report) recommended: 'Applicants in the international protection system should have the right to access higher education on the same basis and at the same level of fees as Irish citizens, if they meet the qualifying criteria.'⁹¹
87. The State has made significant effort to remove barriers that might hinder students in Direct Provision from accepting their merited place on a third-level course, however it is noticeable too that there remains a cohort that "fall between the cracks". In this way, certain children and adolescents are inadvertently discriminated against in breach of article 28 of the UN Convention on the Rights of the Child, and undermining Irish progress on SDG 4.3.

RIGHT TO EDUCATION

88. **CONCERN: The needs of children at risk of early school-leaving are not being met, and three percent of the school-going cohort are unable to fully realise their right to education because they leave the Irish education system without qualifications.**
89. Paragraphs 269-174 of the State Report respond to LOIPR 27(a), which requests information on measures taken to ensure access to high-quality education. These measures are welcome, as is the commitment in the Action Plan for Education to contribute to the national effort to implement SDGs, particularly Goal 4 – Education, as outlined in paragraph 23 of the State

Report in response to LOIPR 2. Nonetheless, some three per cent of children of statutory school-going age leave the education system without qualifications and without completing their education. This applies, in particular, to children in disadvantaged circumstances. It appears the State is failing to identify and address the needs of children at risk of early school leaving.

90. Children in disadvantaged circumstances are often at risk of becoming invisible within the education system. The COVID pandemic has exacerbated this situation.⁹² There continues to be a cohort of young people of school-going age who are failed by the mainstream education system. Research studies have indicated that the mainstream schooling system is poorly adapted to learning styles of this cohort of young people, and is unable to provide an environment that best facilitates personal and interpersonal development. These young people are always at risk of dropping out of the system, thereby becoming early school leavers. To date, there has been little engagement with the participatory needs of students at risk of early school leaving. In particular, data for children currently in the Direct Provision system is insufficiently detailed and comprehensive to assess accurately the risk of early-school leaving for this cohort of pupils. The absence of disaggregated data in this regard renders pupils living in Direct Provision almost invisible. Nonetheless, the general pattern of impact would suggest that school completion outcomes for children in Direct Provision is likely to be negatively affected.⁹³
91. From a Right to Education perspective, the effective identification of, and response to, the participatory needs of children in the education system is essential. Indeed this requires its own set of indicators. Considerable work has been done in this regard, mainly prompted by the work of Professor Katarina Tomaševski, Special Rapporteur for the Right to Education from 1998-2004.⁹⁴ Education has to be accessible and adaptive to the needs of students at risk of early school leaving. The proposals outlined in the recent *Out of School Education Provision* report of the Department of the Education,⁹⁵ while relevant and necessary, require the application of the principles of inclusion and adaptivity to ensure that the educational provision for children at risk of school leaving receive the learning supports specific to their needs and in a setting best adapted to their learning styles. An adequate response to such needs would necessarily preclude the application of standardised one-size-fits-all approaches and will often necessitate bespoke individual educational provision. As a guide, the Combat Poverty Report (1998) is noteworthy: it drew attention to the Edmund Rice Mentoring Project which explicitly engaged directly with the young people concerned with a view to (a) assessing their needs and (b) developing preventative strategies.
92. Given that there remains three per cent of children for whom the Irish Educational System continues to fail to meet their needs, and that there are inadequate efforts to identify and support children at risk of early-school leaving, Ireland is in breach articles 28.1, especially 28.1(b) and (e), and 29(a) of the Convention on the Rights of the Children. This further undermines Ireland's progress on SDGs 4 and 8.6.1.
93. **CONCERN: The diversity of needs of students at risk of early school leaving is not well served by a "one size fits all" approach, and current provisions are poorly integrated into the mainstream education system**
94. As noted above paragraphs 269-174 of the State Report, responding to LOIPR 27(a), lists measures taken to ensure access to high-quality education. Moreover, paragraph 22 of the State's response to the LOIPR 2 notes 'the importance of mainstreaming a child rights

perspective in meeting the SDGs,' and further states that efforts to meet specific needs is 'frequently informed by direct consultation with [children].' However, notwithstanding these developments, at present the State does not take an approach that meets the diversity of their needs of students at risk of early school-leaving. Furthermore, existing provision to meet needs of such at-risk children is poorly integrated into a system of education that appears to emphasize a "one-size-fits-all" approach.

95. As noted in the preceding concern, the provision for children and young people at risk of leaving school without completing their primary and post-primary education has been, until recently, a neglected area of the education system. It is clear that a cohort of students of school-going age at risk of leaving school early are likely to be without an adequate educational response to their needs, needs which are now well known and well documented.⁹⁶ Young people for whom the current education provision is inadequate or ill-adapted might well be considered a discriminated group insofar as they represent a definable cohort whose educational needs are inadequately addressed within and by the mainstream education system. The UNESCO Convention against Discrimination in Education is foremost among UNESCO standard-setting instruments related to education and particularly relevant to the full realisation of the right to education.
96. A significant barrier to meeting the diversity of needs of students at risk of early school-leaving appears to be an emphasis on a one-size-fits-all approach, rather than a multi-varied approach to meeting their needs. There also appears to be resistance to engage with and support alternative programmes provided outside the mainstream educational system. A 2021 NUI Galway study makes clear that the one-size-fits-all approach taken by the Department of Education fails to address adequately the needs of the young people at risk: 'Even though Youthreach supports a number of students in their progression in education, it does not cater for all. Programmes such as those presented in this report perform an important role in bridging this gap. To date, there is a lack of systematic information on the types and numbers of alternative programmes of education in Ireland.'⁹⁷ Indeed, the Irish Department of Education and Science has acknowledged this in the recent report, *Out of School Education*.⁹⁸ The report, for the most part, acknowledges the broad parameters of the problem and recognises the need for reform. This is to be welcomed although a recognition that the reform of the current system will require the adoption of best practice from the various approaches in place is absent. Nevertheless, there continues to be a preference for 'a one size fits all' approach. This, it would appear, stems in part from a systemic reluctance on the part of the Department of Education to establish, legitimise, support and fund alternative education for those children who need it. This reluctance is identified by Kovačič, Forkan, Dolan and Rodriguez in their 2021 report, *Enabling an Inclusive and Equitable Quality Education for All*: 'despite the Government's commitments to inclusive and equitable education, educational inequality perseveres in the Irish education system. Except for Youthreach, which is a state-provided programme of 'second chance' education, the area of alternative education is not explicitly defined and mentioned in the Irish education system. Even though Youthreach supports a number of students in their progression in education, it does not cater for all. Programmes such as those presented in this report perform an important role in bridging this gap. To date, there is a lack of systematic information on the types and numbers of alternative programmes of education in Ireland.'⁹⁹
97. Despite the complexity involved in making available education provisions that are adapted to the needs of learners, it is essential that every effort is made to provide an environment where students can flourish and develop. This is especially the case in those circumstances where

young people have been unacknowledged and inadequately provided for within the mainstream system. It is precisely circumstances of this kind that have prompted and evoked the creative energies of educators to offer alternative education models. While acknowledging the need for greater cohesion and more streamlined financing models, it is essential that the needs of learners and those at risk of early school leaving are addressed effectively and compassionately. Education provision must be adapted to the circumstances and needs of learners. This is the rationale for the principle of adaptability; one of the 4As in Katarina Tomaševski's 4A scheme. Dr Don O'Leary, Director of the Cork Life Centre, an alternative voluntary education provider in Cork City, has made this point very eloquently in a recent newspaper article, 'Cork Life centre calls out Government for broken promises as staff forced to step down.'¹⁰⁰

98. Ireland continues to be in breach of Article 28 of the Convention on the Rights of the Child given the continuing reluctance to envision and support the provision of an adequately resourced alternative education provision. Furthermore this undermines Ireland's progress on SDGs 4 and 8.6.1

99. **RECOMMENDATIONS**

Children in Direct Provision

1. The State should acknowledge and take steps to ensure that the remaining small group of students in Direct Provision, who have progressed through the Irish Education System and completed their Leaving Certificate should be afforded the supports necessary to access higher education on *the same basis* and at *the same level of fees* as their Irish citizen peers.

Right to Education

2. The State should develop and implement a comprehensive education tracking system that can provide more detailed information on pupil's educational status, in order to assist the early detection of pupils at risk of early school leaving.
3. Disaggregated research data for early school leaving should include children within the asylum system, with particular reference to children still remaining within the current Direct Provision system.
4. In implementing the development of a more coherent and integrated system of support for children at risk of early school leaving, The State should avoid a "one size fits all" approach and instead acknowledge and respond to the varying specific needs of learners.
5. The State should apply the 4A criteria (adaptability, accessibility, availability, acceptability), developed by Katarina Tomasevski, to all initiatives concerning early school leavers in order to ensure that the right to education for learners in particular their circumstances is fully vindicated.
6. In any and all policy development in relation to students at risk of early school leaving, the State should ensure, as far as possible, that the young people themselves be consulted in a form and manner appropriate to their age and circumstances.
7. The State should fully implement the recommendations of the Department of Education Report for an enhanced and coherent response to the challenge of early school leaving,

bearing in mind the key role that existing providers of alternative education provision with many years of experience in the field exercise in this area.

8. The State should investigate and apply best practice from other jurisdictions with particular reference to pupil-tracking, learning plans, and, where necessary bespoke support solutions, to ensure equity for all.
9. Recognizing the diversity of needs, the State should continue to support existing providers outside the mainstream system while moving towards a more coherent and integrated system of provision.
10. The State should establish a state-funded fully resourced programme for alternative education in collaboration with existing state and voluntary providers.

100. **SPECIAL PROTECTION MEASURES (Art. 22, 30, 32, 33, 35, 36,37 (a), 37 (b)–(d), 38, 39, 40)**

CHILDREN IN DIRECT PROVISION

101. **CONCERN: Living conditions in Direct Provision Centres are detrimental for healthy child development.**
102. In paragraphs 302-307 of the State Report, responding to LOIPR paragraph 29(b), the State outlines its intention to replace the current International Support Services system (Direct Provision). This development is most welcome, nonetheless while the Direct Provision system remains in place children are subject to living conditions detrimental to their healthy development.
103. The McMahon Report has noted the risks to children growing up in Direct Provision: ‘children can experience child poverty and social exclusion when they do not have the means necessary to participate in activities or have appropriate living conditions as accepted by the society in which they live.’¹⁰¹ A risk of poor nutrition, a lack of play facilities, boredom, and the impact of involuntary transfers between centres are all factors that pose a risk to healthy child development. In terms of the quality of food in centres, it has been noted that: ‘canteen-style kitchens and catering typical of many Direct Provision centres prevents families from being equipped to provide nutritious meals for their children.’¹⁰² Transfers between centres and long stays in temporary accommodation pose a risk to the stability of children’s education.¹⁰³ In 2019, a position paper by the Faculty of Paediatrics, Royal College of Physicians of Ireland, called for Direct Provision to be abolished, and instead for children and their families to be placed in community-based, family friendly, secure accommodation: ‘Children and young people thrive if they can live in families, safe communities and supportive environments that provide the right conditions and opportunities to reach their fullest emotional and developmental potential. These elements and supports are crucial in the prevention of adverse childhood experiences and long-lasting mental health challenges. Direct Provision settings cannot provide this environment as it cannot adequately meet the needs of children and their families in terms of security, family autonomy, nutrition and access to education and health services.’¹⁰⁴
104. As a consequence of living in Direct Provision, children are at risk of poverty, deprivation and social exclusion, all of which undermine their human development, health and wellbeing. This

is in breach of article 22 of the Convention on the Rights of the Child, as well as articles 27 and 31, and article 2 of the Declaration on the Right to Development 1986. It is also contrary to the aims of SDGs 2.1, 3, 10.2.

105. **CONCERN: The conditions in Direct Provision undermine family life and parenting in particular, which threatens healthy child development.**
106. Paragraph 303 of the State Report, responding to LOIPR 29(b), states: ‘The new system will be grounded in principles of human rights, respect for diversity, and respect for privacy and family.’ While the emphasis on these principles is most welcome, nonetheless while the Direct Provision system remains in place in the interim, so too do the conditions which undermine family life and parenting in particular, which threatens healthy child development.
107. Direct Provision settings have been described by the former Special Rapporteur for Child Protection, Dr Geoffrey Shannon, as an ‘unnatural family environment.’¹⁰⁵ It has been noted that the institutional and communal nature of the centres ‘disempowers parents in child-rearing and thus prevents asylum-seeking children from enjoying basic aspects of ordinary life.’¹⁰⁶ The McMahon report states that ‘Normal childhood activities, play, study, birthdays and social outings are beyond many parents to provide when in Direct Provision.’¹⁰⁷ While such an environment might be tolerable for a relatively short interim period, its negative impacts are multiplied by the length of time families have to stay in such accommodation. The lack of family space and privacy are serious concerns with regards to the conduct of family life. In a rights-awareness workshop facilitated by the Ombudsman for Children’s Office, children expressed their frustration with a lack of privacy: ‘the frustration of having to share a small room with their entire family.’¹⁰⁸ Family cooking is another key aspect of ordinary family life absent from many centres. HIQA regards restrictions on parents cooking for their children to be a child welfare concern, which hinders the development of children.¹⁰⁹ As long ago as 2014, HIQA (Health, Information and Quality Authority) raised concerns about health complications for parents arising from the conditions in centres. A common theme identified was the impact of physical or mental illness on a parent’s ability to provide quality care to their child.¹¹⁰ In addition to the practical and health obstacles to normal family life, parental rights and responsibilities are compromised by rules in centres. Supervision by centre authorities’ places constraints on parental decisions that would not otherwise arise in an ordinary family setting. For example, Dunbar et al. note: ‘if children are to be away from the centre overnight, parents are required to provide the reason for the child’s absence, the duration of absence, and the name, address and contact number of the person caring for the child.’¹¹¹ This discourages the parents from making certain choices about their children’s social lives due to supervision by centre authorities. This raises questions about the inequality in power relations between centre authorities and parents and the issue of consent whereby parents are required to divulge information about their children, which impinges on the privacy of their family life. Clearly, there is a conflict between the duty of care requirements of centre authorities, especially around child safeguarding, and the rights to privacy in family life and parental decision-making.
108. These concerns undermine article 22 of the Convention on the Rights of the Child, in addition to articles 3, 5, 16, and 18. It is also contrary to the spirit of SDG 3 which seeks to ensure the healthy lives and promote well-being for all.

109. **CONCERN: Delay in the implementation of the Government’s commitment to end Direct Provision by 2024.**
110. LOIPR 29(b) requests information on the implementation of the recommendations of the expert group on Direct Provision, including the recommendation to replace the system of Direct Provision. In response, paragraph 307 of the State Report states that the new system should be operational by December 2024. While this is welcome, paragraph 304 of the State Report states; ‘The team is progressing a detailed implementation plan and is working with DHLGH, the Housing Agency, and local authorities on developing the new accommodation model (including acquiring suitable properties), and developing applicant supports, including an income support payment and an integration model.’ This seems to indicate that progress on this issue is still in a pre-implementation or planning phase, rather than being actively pursued. Therefore, the timely establishment of alternative accommodation for children in the international protection system are concerns.
111. Changes in circumstances and additional pressures on resources since the publication of this policy raise serious concerns about adherence to the stated timetable. The arrival of refugees fleeing the unforeseen war in Ukraine compounds the existing crisis in the supply of housing in Ireland. A core issue in the implementation of the Government’s commitment to end Direct Provision by 2024 is the provision of accommodation. It is documented that people have been unable to leave Direct Provision centres due to the lack of housing. On 31 December 2021 there were 1,761 persons in Direct Provision who had received permission to remain and could therefore leave the centres.¹¹² The Irish Government’s policy document, *Housing for All: A New Housing Plan for Ireland*, estimates that Ireland will need an average of 33,000 new homes to be provided each year from 2021 to 2030.¹¹³ A recent *Housing for All* progress report indicates that this level on new homes will not be made available and warns of ‘challenges ahead’. The report further highlights risks due to the war in Ukraine including ‘significant inflationary pressures and supply chain disruption and instability’.¹¹⁴ In terms of the overall housing shortage, in 2021 there were 59,247 households on social housing waiting lists while a total of 9,183 were delivered.¹¹⁵ The gap between supply and demand is already wide and is likely to be made even worse in light of the “challenges ahead” referred to above. Therefore, ending the Direct Provision system by 2024 is unlikely, leaving children living in unfit conditions.
112. This is in breach of article 22 of the Convention on the Rights of the Child, as well as articles 3 and 27.1. It is also contrary to the spirit and aims of SDGs 1.4, 2.1, 3, and 10.2.
113. **CONCERN: Direct Provision undermines the integration of children into wider society.**
114. The State Report does not make any specific statement regarding the manner in which Direct Provision undermines the integration of children into wider society. The remote location of certain centres, limited transport, and lack of funds are serious factors in isolating children and undermining their healthy integration. While no LOIPR specifically raises this issue, it nonetheless constitutes a serious concern regarding risks to the wellbeing and rights of children living in Direct Provision centres, and therefore ought to be addressed.
115. Children in Direct Provision centres feel most included in society while at school, but are excluded from many social and extra-curricular activities due to funds, transport, strict meal times and visiting restrictions to centres.¹¹⁶ McMahon also states that ‘children’s development and self-esteem are impacted by a lack of opportunities for normal interaction.’¹¹⁷ While

friendship is essential to healthy child development, it is difficult for children resident in Direct Provision centres to develop and maintain friendships due to the restrictions of their living situation. For example, the rules and procedures in place in centres can discourage parents from permitting sleepovers which make it more difficult for children to maintain friendships outside of school.¹¹⁸ Moreover, centre rules, in the interest of other residents and child safeguarding, additionally limit and discourage children having their friends visit centres: in many centres, children cannot bring visitors to their rooms but must meet in communal areas or designated visiting rooms, which must be booked in advance.¹¹⁹ Added to this is the reality that some children in Direct Provision are too embarrassed to invite friends to centres: ‘Many of the children kept their accommodation a secret from school friends due to embarrassment and stigma.’¹²⁰ The impact of institutional child protection standards required in these communal settings undermine the ordinary interactions with their peers that children would experience in a normal home setting under parental supervision. As such, the child protections standards which are necessary in a communal institutional setting are a barrier to children interacting with their peers.

116. This is in breach of articles 22.1, 15.1 and 27.1 of the Convention on the Rights of the Child. It is also contrary to the objectives of SDGs 3, 4 and 10.

117. **RECOMMENDATIONS**

Children in Direct Provision

1. The State should urgently replace the Direct Provision system with one in which children and their families are placed in community-based, family friendly, secure accommodation as recommended by the Faculty of Paediatrics, Royal College of Physicians of Ireland.¹²¹
2. In light of the pressure on resources and changes in circumstances that have occurred since the publication of the *White Paper to End Direct Provision* in 2021, the State should review and update the timeline, budget and allocation of responsibilities in order to achieve the aim of ending Direct Provision by the stated date of 2024 and to avoid delays.
3. While the present system of Direct Provision is being wound-down, interim measures must be taken to mitigate the impact on children. Therefore, in the context of the current system, the State should urgently move children and their parents out of Direct Provision centres and provide them with own-door accommodation, with a private living space, self-catering facilities and access to more frequent transport services.
4. In the immediate short-term, a guiding principle whereby the conditions for normal family life are prioritised should be adopted within Direct Provision centres. Bearing in mind the inevitable conflict of legal responsibilities and duties of care exercised by different parties, the right to family life and privacy, and the ability to parent one’s children without interference, should, as a matter of principle, take precedence over other concerns and the application of other rules in Direct Provision centres.
5. In the medium to long-term, the State should take a cross-cutting approach to policy and include provision of appropriate family accommodation for asylum seekers in national housing policy, planning and budgeting. In this manner, a fully integrated

national housing programme would include an in-built provision to meet the need of asylum seekers.

6. In relation to the additional problems that may delay the end of the Direct Provision system, the State should provide an updated action plan that includes updated targets and detail as to how those targets will be achieved.

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