

# Paradoxical spaces of Traveller citizenship in contemporary Ireland

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## Abstract

In this paper we examine the role of law in shaping the socio-spatial lives of citizens through an examination of the changing nature of governmentality with respect to Travellers in Ireland between 1998 and 2003. Undertaking an analysis of the policy process, new legislation, the Citizen Traveller campaign, media reports, and interviews with politicians, police and Travellers, we document how the Irish government attempted during this period to shift its strategy of dealing with the 'Traveller problem' from a regulationist form of citizenship designed to force Travellers to adopt a sedentary lifestyle, to active citizenship that offered Travellers recognition, rewards and rights in return for managed nomadism or sedentary conformism. However, rather than leading to the emancipation and empowerment the Irish government envisaged, we detail how failings by both the government and Travellers in implementing reform has perpetuated the original situation and paradoxically led to new legislation that further criminalizes Traveller lifestyle and strengthened the government's mandate to forcibly manage Travellers' lives.

**Key index words:** Travellers, active citizenship, law, nomadism

## Introduction

In April 2002, the Irish Government, without regard to the consultative processes<sup>1</sup> established in recent years enacted legislation (Housing [Miscellaneous Provisions] Act 2002) that for the first time in the history of the Irish State:

- Criminalised camping on private and public property.
- Gave the Gardai [the police force] the power to arrest, without a warrant, any person who:
  - (a) refuses or fails to give his or her name and address to a member of the Garda Siochana when demanded under section 19C, or gives to the member a name or address that is false or misleading, or
  - (b) fails to comply with a direction under that section.
  - (c) whom the member finds committing an offence under section 19C(1)
- Allowed property to be confiscated and disposed of
- Allowed trespassers to be jailed for a month
- Allowed trespassers to be fined 3,000 euro

While on the surface this criminal trespass legislation (Appendix II) prohibits everyone from illegal camping or trespass, in reality it targets a minority, Irish Travellers. While far from homogenous, Irish Travellers are often considered a different ethnic group to the rest of the Irish population, with a lifestyle that is nomadic. Although small in number (0.6% of the

Irish population in 2002) they are widely recognised as one of the most disadvantaged and discriminated against groups in Irish society (faring badly on every indicator of disadvantage including unemployment, illiteracy, poverty, health status, access to decision-making, and political representation) (O’Connell, 2002). The new legislation further extended a number of Acts ratified in the second half of the twentieth century designed to regulate Traveller lives and delimit their spatial mobility with respect to housing, trespass, use of roads, ownership and control of animals, destruction to property, anti-social behaviour and trading (see Table 1). The effect has been to make many of the spaces central to the maintenance of Traveller culture legally ‘unenterable’ (Garner, 2004). In Mitchell’s (1997) terms, Traveller space has been annihilated by law. Travellers who wish to remain nomadic and those awaiting accommodation from local authorities are now left with two choices: they can either move and make themselves liable to another trespass charge in another place, or they can they can stay where they are, with the possible consequence of being evicted, fined, made homeless or imprisoned<sup>2</sup>. The legislation is symptomatic of the ‘taken-for-granted’ nature of sedentary socio-spatial hegemony – the importance of space to the government’s’ ability to (re) produce their authority and the notion that the state has the right to step in and act when citizens are perceived not to be exercising their ‘freedoms’ in *appropriate* ways (Bancroft, 2005).

Table 1: Legislation affecting Irish Travellers spatial mobility.

<b>Legislation</b>	<b>Year</b>	<b>Function</b>
Local Government (Sanitary Services Act) section 31	1948	Control of Temporary Dwellings. This Act has the power to move caravans if considered unsanitary or likely to cause a nuisance.
The Planning and Development Act	1963	Empowers local authorities to remove Travellers who are camped unofficially and to confiscate their dwellings.
Road Traffic Acts	1961,1968, 1993	Prohibits temporary dwellings on side of road.
Prohibition of Incitement to Hatred Act	1991	Prohibits incitement to hatred on the grounds of race, colour, religion, ethnic or national origin, membership of the Travelling community and sexual orientation.
Housing (Miscellaneous Provisions) Act.	1992	Section of this Act empowers local authorities to remove Travellers who are camped unofficially to an official site anywhere within a five-mile radius of where they are.
Local Government Act 1994	1994	Strengthened a local authority's powers to make bye-laws in relation to the use of temporary dwellings under the Local Government Act, 1948
Criminal Justice (Public Order) Act	1994	The relevant sections that would later impact on Travellers are 'confiscation of goods' and 'provision of identification by defendant'
Casual Trading Act	1995	This Act requires market traders to apply to each local authority for a casual licence for any market in their area, this results in increased costs for engagement in market trading. Previously only one licence was required for the whole country.
Control of Horses Act	1997	Places restriction on the ownership of horses.
Housing (Traveller Accommodation) Act	1998	Section 32 gives increased powers of eviction to local authorities.
Housing (Miscellaneous Provisions) Act 2002	2002	Makes trespass a crime rather than a civil matter.

What makes this situation particularly disconcerting is that it was the outcome of a process designed to actively address Traveller disadvantage and discrimination. While other aspects of this process have been successfully introduced, such as the implementation of anti-discrimination laws (e.g. Prohibition of Incitement to Hatred Act [1991]<sup>3</sup>, the Equal Employment Act [1998], and the Equal Status Act [2000]), the process of active citizenship - offering rights for managed nomadism or sedentary conformism, principally through the Traveller Accommodation Act (1998) - has largely failed, leading to a return to, and retrenchment of, regulationist governmentality.

In this paper, rather than focus on the deep-seated stereotypes and forms of everyday discrimination that Travellers face and how this shapes their everyday spatiality (see for example, Sibley, 1995; MacLaughlin, 1995a, 1995b; Halfacree, 1996; McVeigh 1997; Ní Shúinéar, 1997; Helleiner, 2000; Fanning, 2002; Garner, 2004), we instead examine the processes of active citizenship and the Irish government's attempt to find a new way to deal with the 'Traveller problem' that conformed to liberal democratic ideals and policies promoted as part of a wider European project to address structural inequalities of minority populations (Department of the Environment, 1995). In doing so, we seek to add to the growing literature on the role of law and governmentality in shaping the socio-spatial lives of citizens (see Blomley, 1994; Blomley *et al.*, 2001; Holder and Harrison 2003; Hannah, 1993, 2000; Bancroft 2005; Vanderbeck, 2005). In particular, we demonstrate how the process of active citizenship represents a certain kind of spatial enactment within Blomley's (2003) terms, that seeks to shift the legitimation, foundation and operation of the Irish state's management of space with respect to Travellers from one exclusively consisting of conformist regulation to one supplemented by coercion and co-option in return for recognition and rights. While active citizenship in this context has often been seen as the creation of public spaces for dialogue and cooperation, and a process through which the negotiated management of space can occur, in this case the focus, we would argue, was the use and regulation of public and private space and delimiting who can legitimately own and occupy it (with little sense of shared management). That said, rather than a neat narrative of the state constructing a well-worked out strategy to gain more power and engage Travellers in a process that manoeuvred them into a more constrained system of governance, our case example illustrates the messy, contested, contingent ways that policy and practice unfold, and that attributing blame for failings in the process or execution is not a simple task. In other words, we posit that this was a process that set out largely with 'good intentions'<sup>4</sup>, but which unravelled in practice to such an extent that led to a revanchist backlash (see Smith, 1996 for other examples).

Our approach has been to construct a genealogy of the period of 1998-2003, from the enactment of the Traveller Accommodation Act (1998) to shortly after the Housing (Miscellaneous Provisions) Act (2002), tracing out the processes of governmentality operating at this time. This took the form of examining the policy process, legislation, the Citizen Traveller campaign, media accounts in all editions of *The Irish Times*, *Sunday Times*, *Irish Independent* and *Sunday Independent* (1998-2003). Twenty-five interviews were held with members of Traveller and sedentary society and people drawn from fields of politics, policing and community development work (Dáil Deputies, Garda, County Councillors, local authority officials, individual Travellers and Traveller representatives). The interviews took place over a two-year period (2001-2003) and involved in-depth discussions on the history of settled/Traveller conflict, Traveller relations with local authorities, and the implications and

material consequences of various anti-nomadic legislation and settlement policies. In the final section, we examine the reasons why the process of active citizenship largely failed in the case of Travellers, to be replaced with more restrictive legislation.

### **Active citizenship, the Traveller Accommodation Act (1998) and The Citizen Traveller campaign**

*Active citizenship refers to the active role of people, communities and voluntary organisations in decision-making, which directly affects them. This extends the concept of formal citizenship and democratic society from one of basic civil, political social and economic rights to one of direct democratic participation and responsibility (Ireland, 2000:7).*

The core emphasis in active citizenship (both at the individual and community level) is on responsible participation in the decision-making, policy-making and service delivery processes of the state by individuals that in turn leads to citizen empowerment. That is, through participation that is compliant with the regulations and expectations of the State, a person accrues citizenship and entitlements to rights. Failure to comply with the required mode of participation and resistance to regulation leads to penalties. As the above quote illustrates, the Irish government has embraced the concept of active citizenship as means to seemingly increase democratic participation. From the mid-to-late 1990s Traveller specific organizations (for example, Pavee Point, Irish Traveller Movement, National Traveller Women's Forum Exchange House, and the Parish of the Travelling People) were included in policy discussion and formulation, and area based community programmes were developed. This shift was largely welcomed by policy makers, political and Traveller representatives as a progressive and democratic alternative to the dependent status that had previously been imposed on Travellers by the social citizenship of the welfare state (Powell and Geoghan, 2004). Thus, the moralising rhetoric starting with the commencement of the National Settlement Programme in 1963 through to the mid-1990s was to be replaced by a process of 'accommodating' Travellers and Travellers helping themselves and having a responsibility towards the national community, the environment and the locality. This led into two, almost simultaneous processes: the enactment of the Traveller Accommodation Act (1998) and the forming and funding of the Citizen Traveller campaign.

The Traveller Accommodation Act (1998) was one part of a larger process of legal reform aimed at protecting minorities and Irish ratification of international human rights legislation. In effect it constituted the Irish government's undertaking of its duty to Travellers by providing accommodation. The Act was justified as a necessary measure in the drive for successful settlement and enhancement of individual Travellers quality of life and citizenship status. For the first time in the history of the State, it required each local authority, in consultation with Travellers and the general public, to prepare and adopt a five year Traveller Accommodation Programme by 31st March 2000. As such, local authorities became obliged to meet the existing and projected accommodation needs (to include transient sites for short term stays) of (indigenous) Travellers within its administrative area.

The Act works on a *quid pro quo* basis, wherein the State provided sites, accommodation and rights as long as Travellers comply with the law. In turn, parts of the law were made more restrictive. For example, Section 32 replaced and strengthened the powers of local authorities and the police to evict Travellers from public land and from the side of the road. It empowered

local authorities to act where an unauthorised temporary dwelling is within five miles of a serviced site if the trailer could be accommodated on such a site. As such, Travellers can be forced to move to sites (often over crowded and unsanitary) with limited facilities. This may include just one tap between several families. Travellers are not allowed to camp within one-mile radius of any Traveller accommodation provided for Travellers by local authorities whether or not any other accommodation is available (this has since been updated to include any local authority accommodation). Travellers' homes can also be confiscated or removed if they are considered unfit for human habitation due to a lack of proper services (this could relate to almost all illegally camped caravans); likely to obstruct or interfere with the use of public or private amenities; or likely to constitute a significant risk to personal health or public safety. Justifying Section 32 Deputy Molloy stated that: 'The purpose of these provisions is *to protect* residents in Traveller accommodation' (Dáil, vol. 538, 20 June, 2001 (our emphasis). Thus the Act helps to highlight the difference that active citizenship makes through the increased powers to help Travellers on the one hand through providing sites and accommodation, and on the other exclude nomadic, non-compliant Travellers from public space (or at least legally exclude behaviours that make it possible to live their way of life). The result was that sections of the Act that make living a nomadic life almost impossible were down played; after all they only applied to Travellers who refused their responsibilities to society<sup>5</sup>.

Accompanying the Act was the government sponsored 'Citizen Traveller' public relations media campaign, formally launched in October 1999. Conceived of in 1998, it grew out of the 1995 *Report of the Task Force on the Travelling Community* which, as one of its main recommendations, stressed the need for improved levels of contact between Traveller and settled communities both at a national and local level and that this would:

*...result in better understanding on the part of the 'Settled' population of the general needs of Travellers, their culture and aspirations and also the contribution which cultural diversity makes to society; enable Travellers to understand more about the anxieties of the 'Settled' population; contribute to the reduction in the present levels of conflict and tension, which exist between both communities by helping to eradicate misconceptions, intolerance and hostility.*

Funded by the Equal Status division of the Department of Justice, Equality and Law reform, the Traveller Communication Committee, subsequently renamed Citizen Traveller, was charged in May 1999, with implementing an integrated communications initiative that was directed at Traveller and settled community alike. The campaign was managed by four Traveller organizations; Irish Traveller Movement (ITM), Pavee Point, Parish of Travelling People, and the National Traveller Women's Forum, and advised by media, marketing and public relations companies (Edelman Public Relations and Public Communications Centre). Over two thirds of government funding was spent on advertising, market research, direct marketing and public relations.

It was hoped that Citizen Traveller would make a significant contribution to creating the conditions necessary for government policies to succeed (particularly its settlement policies), to accelerate the rate of social change amongst Travellers along desired lines, to expose local people and local authorities to positive images of Travellers, and to encourage local authorities to provide Traveller accommodation. In short, Citizen Traveller aimed to recreate Traveller identity, improve their image (and self-image), and make them more acceptable to

the general population. The campaign was largely perceived as non-controversial and benign while at the same time government was seen to be doing something to alleviate poverty and improve relations between the two communities.

Since then vast resources and energy have been introduced into programmes and partnerships aimed at tackling Traveller exclusion, marginalisation and discrimination (including the establishment of Traveller workshops, Traveller Training centres, special pre-schools, primary health care projects, anti racism, community advocacy and Traveller awareness programmes). Indeed as Powell and Geoghan's research on community development demonstrates 'working with Travellers was often a criterion for funding' related to social and economic issues (2004:169).

### **A stuttering campaign, resistance and government failings**

Both the Citizen Traveller and Traveller Accommodation Act were not wholly embraced by either Travellers or sedentary society and both suffered problems of implementation and encountered resistance.

The Citizen Traveller Campaign encountered many problems from its initiation. In particular, although the campaign was created in part to 'give Travellers a sense of community identity that could be expressed internally and externally' (ITM, 2002) (to be realized through the work of activists, academics and media campaigns), many Travellers did not get involved. Within sedentary society there is a taken-for-granted assumption that there is such a thing as a Traveller 'community'. The idea of a Traveller 'community', however, is a fairly recent social construct imposed on Travellers by members of sedentary society and Traveller organizations. As Mackay (1982:227) states, 'Traveller organisations are neither mass or democratic; one would not expect them to be so, given the familial rather than collective nature of Traveller society'. In fact it could be argued that Traveller society is inherently divisive, characterised by diversity, by contestation, by various opposing positions, and to talk about them as a unified community carries misleading connotations<sup>6</sup>. While there have been many instances of Traveller organisations working together effectively (for example ITM is a national network of organisations and has over seventy Traveller organisations from all parts of Ireland in its membership), at the local level division within Traveller society is based on a segmented kin structure that provides little basis for mass organisation as one manager of a local Traveller Partnership stated when interviewed:

*They [Traveller representatives] would mean nothing to the Travellers living in Tallaght unless he was related in some way. If he was related in some distance [sic] way to them, they would accept that what he was saying was right. Other than that they wouldn't. (Manager of a local Traveller Partnership, November 2002).*

These sentiments were also echoed in interviews with individual Travellers:

*They [Traveller representatives] are just the big people. They look after their own people. What chance would my James have? None. I look to my own if I need help. Stay away from those running the workshops. ...you couldn't agree with them. They never done nothin' for mine (Traveller woman, November 2002)*

*We always kept to ourselves. Never had much to do with them [Traveller organisations]. Just gottin on with it. Never heard from what they were doing. It'd be nothing to have concern for us (Traveller woman, Interview June 2002).*

Moreover, many nomadic Travellers did not alter their spatial behaviour, continuing to trespass, (or at least what is considered to be trespass according to sedentary norms), to perform anti-social behaviour, and to undertake black market trade<sup>7</sup>.

The national media very quickly latched onto incidents that disproved the 'ideal citizen' portrayed in the Citizen Traveller campaign. In particular they focused on mass encampments which repeatedly desecrated amenity areas by dumping vast amounts of rubbish and industrial waste, particularly in the Leinster region (see Plate 1). This was supplemented by widespread assertions of extortion and the criminality of Travellers. Although there was nothing new about mass encampments, or the perception that Travellers are dirty, threatening, lawlessness and immoral (see Ní Shúinéar, 1997; Helleiner, 2000; Fanning, 2002), the juxtaposing of images of the camps with those of the Citizen Traveller campaign provided an irresistible opening for the anti-Traveller lobby to develop a 'moral panic' about Travellers and their part in a perceived breakdown in law and order. This in turn led to sedentary society largely rejecting the 'Citizen Traveller' campaign. An article in *The Sunday Independent* stated:



Flipping images: the trashing of the football pitch has rubished a new campaign seeking humane living conditions for travellers

Plate 1: Turning the 'Citizen Traveller campaign on its head'. Source: *Saturday Independent* 21 July, 2001.

*Rather than telling us again that we are bigots, Citizen Traveller should see the mote in the eye of the travelling community (March 3, 2000).*

Brendan O'Connor in *The Sunday Independent* (July 23, 2000), argued that Travellers should:

*Stop the hand-out mentality and start taking part in real change... Citizen Traveller's argument appears to be it is everyone's fault except that of travellers. If a person was to suggest that travellers might take more responsibility for their own health, that person would probably be branded a racist, the latest weapon adopted by traveller advocates in their war of blame on the settled community.*

*God knows what the reaction would be if someone suggested traveller children might have a better mortality rate and standard of health if the travelling community stopped interbreeding.... Considering that the traveller economy is largely a criminal black economy, travellers get a damn easy ride in the media in Ireland.*

The *Irish Independent* on Saturday, 21 July 2001 (see Plate 1) headlined: 'How an optimistic campaign to improve travellers' lives was rubbished in just one day'. Dillon went on to say:

*On the very day the Citizen Traveller group launched a sophisticated new poster and radio campaign demanding humane living conditions, the media was filled with images of a Dublin football pitch which had turned into an ugly industrial dump. It was a public relations disaster for the travelling community.*

This incident was turned into a public relations opportunity for state officials and the local county council. A senior county council official was reported as being 'exasperated', stating that the incident was 'tragic and ironic' and that:

*....as head of traveller accommodation unit in South Dublin County Council, his job is to provide proper living conditions for travellers...it is a job he is very keen to get on with. But the trashing of the football pitch...means that much of the hard work already done by the unit to address local concerns about travellers had gone up in smoke....they reinforce all the old traveller prejudices...this makes his job of trying to accommodate **genuine** traveller families much more difficult (*Irish Independent*, 21 July 2001, *our emphasis*).*

Olivia Mitchell, the Fine Gael TD for Dublin South, according to a report 'became surprisingly outspoken for a politician':

*It was not the first time a "pitch invasion" had happened in her area, she said, and she was sick of it...The legislation which protects and condones this flagrant disregard of the litter laws, and of the rights of other members of the community, must be changed. Otherwise travellers will never attain the kind of change in public attitude their Citizen Traveller campaign seeks to effect (*The Sunday Times*, 2001 July 22).*

As a result, within a very short period of time there was a backlash against 'Citizen Traveller' with the campaign's slogan and discourses espousing respect for Traveller culture, and tolerance and acceptance of difference being used to berate Travellers in general. These attitudes were evidenced in a number of surveys. For example, in the National Attitudes to Travellers and Minority Groups Survey in 2000, 1,000 settled Irish adults were asked about

nowhere else to go. For the most part local authorities refuse to provide sanitation or rubbish facilities to these encampments which results in the accumulation of rubbish and sewage, although at the same time it must be recognised that some Travellers are not passive victims of stereotyping and often make little effort to tackle waste issues (see Plate 2). Of course, it is these actions that spurred the anti-Citizen Traveller campaign.



Plate 2: Traveller Rubbish

### **Housing (Miscellaneous Provisions) Act, 2002 and the death of the Citizen Traveller campaign**

In the face of growing hostilities to ‘illegal’ Traveller encampments, a perceived failing of the Citizen Traveller campaign, along with a shunning of the opportunity extended to Travellers by the state, and on the basis that existing criminal sanctions and civil remedies were inadequate to deal with Traveller anti-social behaviour, Deputy Olivia Mitchell (Fine Gael) introduced a new Bill to Dáil Eireann in December 2001. Initially, however, the Government was opposed to any changes in the law. Binchy (2002: 5) states that on the 30th May, 2001:

*Mr Bobby Molloy, Minister of State at the Department of the Environment and Local Government with special responsibility for Housing and Urban Renewal, was forthright in his rejection of the argument by Mr. Brian Hayes TD that there was a need to change the law in respect to trespass. Mr Hayes argued that the accommodation programme would not be successful because people would “not accept the continual flouting of the law” as a result of the Minister’s actions.*

Minister Molloy stated:

*I introduced the Traveller accommodation legislation and the local authorities have drawn up and adopted their accommodation plans. It is time now to implement these proposals. The accommodation proposals require the provision of transient sites. If local authorities in Dublin had been active in implementing these proposals and if the transient sites were in place, this type of difficulty would not arise.*

their attitudes towards 13 different minority groups. Travellers were the second least popular group, just after drug addicts; 96% of respondents said they would not accept a Traveller as part of their family. In a national survey in 2001 (A Barometer Survey) 90% of people interviewed said they would oppose Traveller accommodation being sited near their home; 61% agreed that people 'rightly blame Travellers for many things' (cited in Garner, 2004:63). In Powell and Geoghan's (2004) survey on community activists involved with Travellers, 72.7% of respondents disagreed with the statement 'Irish society is becoming more supportive and inclusive of Travellers'; 1.7% felt that their settled compatriots saw Travellers 'as their equal citizens'; 91.9% felt that the majority of Irish people saw Travellers as their social inferiors (Powell and Geoghan, 2004:167-168). In an ironic twist, the Citizen Traveller campaign began to harden attitudes to Travellers that would later be drawn on to justify restrictive legislation.

While the Citizen Traveller campaign floundered, the government and its agencies failed to live up to their side of the bargain. In particular, many local authorities openly resisted implementing the Traveller Accommodation Act and in many cases intensified disciplinary actions against Travellers. There has been very little attempt to create a network of transient sites (with the exception of two in Donegal and one in Westmeath) and many official temporary sites remain poorly serviced and maintained in unhealthy and dangerous conditions. The 'indigenous clause' (wherein Travellers have to be registered in a county to receive accommodation in a county) has allowed local authorities to continue to evict Travellers who were not in their jurisdiction at the time their accommodation plans were drafted. Ironically, local authority surveys were carried out in summer months when many transient families were away and therefore not included in estimates (ITM, 2001:2). Others have lost their places on accommodation lists through eviction. Incongruously, the legislation contained no sanctions should accommodation plans not be implemented and by 2002 only 111 of a recommended 2,200 Traveller-specific accommodation units had been provided (The Irish Times, 9 March, 2002). 'The European Commission against Racism and Intolerance Second Report on Ireland' warned that:

*...the fact that no sanctions are provided for in the Housing (Traveller Accommodation) Act against authorities who do not take measures to provide accommodation for Travellers may weaken its effectiveness (ITM, 2003:20).*

Further, many county councils continued, and indeed accelerated, their unofficial 'boulder policy' - the practice of digging trenches or placing large boulders where Travellers traditionally camp. As one 'pro-Traveller' councillor stated:

*...it's not an official policy but you tell me what you can do when hundreds descend on a place? They just devastate the whole place, negotiations have to start to try get them to leave and you know they always look for money. The only thing you can do is stop them in their tracks before they arrive. Just close off the places (Interview, July 2002)*

This situation, coupled with the lack of short stay halting sites and the slow provision of other accommodation, has meant that Travellers who wish to remain nomadic or those waiting on accommodation increasingly camp on vacant industrial land, near housing estates or roads which are in the process of construction or on amenity land and at times arrive in large numbers (this strategy is often used as a tactic against eviction)<sup>8</sup>. There is simply

*The absence of transient sites gives rise to difficulties. This is not a new problem although it may be new to Deputy Hayes or to Dublin. People throughout the country experience this problem in spring and summer every year. Local authorities which have taken action on this issue no longer experience difficulties to the same extent as heretofore. The Traveller community in this country has been neglected and there is no easy solution to the problem of accommodation provision. We have a Supreme Court decision on what one can and cannot do where facilities are not provided....Where facilities are not provided, one cannot simply push people on. There is a responsibility on local authorities to provide transient sites to cater for Travellers and that has not yet been achieved to a desirable extent.*

However, as the general election of 2002 came closer the Government altered its view to be more attuned to the electorate. In an about turn the government now saw Travellers as the problem, rather than the failure of authorities to provide transient sites. This was part of a broader strategy of appearing ‘tough on crime’ in which Travellers were portrayed as lawless and anti-citizen. The outcome was the sudden publication of an amendment to the Housing (Miscellaneous Provisions) Bill, which passed quickly through the Dáil and Seanad on the 27th and 28th of April 2002. The amendment inserted a new Act – Part 11A – into the Criminal Justice (Public Order) Act 1994 which further strengthens the powers of local authorities and the Garda to evict Travellers from public spaces. The provision also amended Section 32 of the Traveller Accommodation Act and made trespass a criminal rather than a civil offence. Nomadic Travellers faced fines of 3000 euro and/or one month’s imprisonment if found guilty of criminal trespass (Binchy 2002). Further, a garda can arrest any person without a warrant and can remove their possessions (including their homes) and store them. Travellers can be forced to move on without any alternative accommodation being provided. As a consequence of the legislation it is now almost impossible for nomadic Travellers to keep within the confines of the law. The effects of the new legislation are evident in the rise of overall eviction figures between May 2001-May 2003 (see Table 2)<sup>9</sup>.

Table 2: Traveller Evictions (number of eviction notices served against individual families by local authorities under the various legislation).

Local authority areas	Year ended May 31st 2001	Year ended May 31st 2002	Year ended May 31st 2003	Total
South Dublin	59	49	212	320
Galway City	50	30	31	111
Fingal	31	39	31	101
Dun Laoghaire Rathdown	25	32	26	83
Dundalk Town Council	24	39	2	65
Wexford	31	10	8	49
Clare	3	10	35	48
Tipperary North	11	14	17	42
Westmeath	4	7	29	40
Limerick City	0	24	10	34
Drogheda Borough Council	10	11	9	20
Kerry	6	3	10	19
Other local authorities	38	28	32	98
<b>Total</b>	<b>282</b>	<b>296</b>	<b>452</b>	<b>1,030</b>

N.B. circa 1,207 Traveller families living on unauthorised sites. Source: *The Irish Times* (July, 2003)

As one local authority worker put it:

*This is difficult for councillors at one level. When in July, August and September thirty to forty of a convey arrive ... [it will] cost you 12 or 13 thousand euros just to get there [court]. What has happened and what will happen is that those local authorities who have not got the moral courage to fulfil the Traveller housing programme will take advantage of the legislation just to move Travellers on. To get them out of their area. Its now going to be abused in my opinion to move ordinary Travellers rather than this convoy. They will use it and lazy councils will use it. Councils who do not have the moral courage, councils who have no financial strength in terms of buying land will use it (Interview, August 2002)*

The new legislation is in direct conflict with the provisions of the Traveller Accommodation Act (1998) which specifies that the annual patterns of movement of Travellers should be taken in to account and provided for. It also gives local authorities an 'opt out' clause in the provision of accommodation in that they can now evict Travellers that are camped illegally (even if awaiting accommodation) from their jurisdiction.

In the media the legislation was justified as helping to free up resources to deserving and compliant Travellers: 'Most Travellers could benefit from the new legislation if it helps local authorities prioritise their accommodation rather than having to police the excesses of "trader Travellers" who have accommodation elsewhere...' (*The Irish Times*, March 29, 2002). According to one Traveller representative the reality is somewhat different:

*The legislation was introduced to deal with large scale encampments right? In reality it will never be used for this. There's no Garda station in the country that would be in a position to physically seize 100 or 150 caravans.*

*There's been camps on the Navan road, Long Mile Road. There's been camps up in Finglas, quite large scale camps, it's happened in Cork, it happened all round. The local Gardai have to negotiate with those people; their going to have to say 'look you can stay a week, two weeks or whatever'. I mean they're not going to be able to go in and just pick up a 150 caravans. And what is happening is that the legislation is being used against individuals, one or two families, families waiting on accommodation. We saw it in Ennis, Cork and other places. We were told it would never be used this way (Interview, Traveller Representative, October 2003).*

The views and wishes of Travellers were ignored in the consultation process for the new legislation. Indeed, the amendment to the Criminal Justice Act 1994 was undertaken without any regard to the consultative processes that had been established in recent years. Paradoxically, the Department of Justice, Equality and Law Reform had set up a committee made up of government officials, Garda, Traveller and local authority representatives, in order to investigate the issue of large-scale encampments. This committee had recommended no change in the law but its views were discounted (ITM, 2003).

The new legislation, as well as altering the legal terrain for Travellers, sounded the death bell for the Citizen Traveller campaign. Members of the campaign, outraged at the new legislation, strayed from the official mandate by launching a two week poster campaign in early July declaring that the new legislation was racist. Billboards proclaimed 'Suddenly in Caring Ireland to be a Traveller is a terrible crime'....'This racist and unworkable laws on trespass criminalises 1,200 unaccommodated Traveller families' (see Plate 3). Government

officials responded by withdrawing all funding and the Committee was left with no alternative but to suspend the campaign. In September 2002, Mr. Michael McDowell, the Minister for Justice, Equality and Law Reform ordered a review of the now defunct campaign. The report concluded:

*The campaign did not fully embrace the objectives behind the campaign. Specifically it has represented the Traveller perspective exclusively and did not address the concerns of the settled community'. It did not achieve significant success in its main objective: ...healing the divide in Irish society that stands between the settled and Traveller communities (press release, Department of Justice, Equality and Law Reform, October 2002).*



Plate 3: 'Suddenly, in caring Ireland, to be a Traveller is a terrible crime. The racist and unworkable law on trespass criminalises 1,200 unaccommodated Traveller families.'

### **Why active citizenship largely failed both the Irish government and Travellers**

As we have outlined, both the Traveller Accommodation Act (1998) and the Citizen Traveller campaign largely failed to engender a successful process of active citizenship, with the actions of Travellers, politicians, sedentary society and the media leading to the disbandment of the Citizen Traveller campaign and the introduction of the Housing (Miscellaneous Provisions) Act, 2002, without consultation, which gave greater powers to the state to regulate Traveller lives. The Irish government sought to both increase and delimit the social and spatial freedoms of Travellers by employing a strategy of active citizenship in which Travellers' rights to protection against discrimination were tied to compliance with the regulation of Traveller lifestyle. It did not, however, provide the infrastructure to enable such compliance. Frustrated at the lack of progress, Campaign organisers turned the spotlight on government and the enactment of what it considered 'racist' legislation. Some nomadic Travellers continued antagonistic actions such as widespread littering, destruction of property, and anti-social behaviour.

In the end, the lack of compliance with the Traveller Accommodation Act by local authorities and the Citizen Traveller campaign worked to reinforce stereotypes of Travellers (particularly nomadic Travellers) as pathological, degenerate and lacking any possibility for self improvement (they were given an opportunity which *they* snubbed) and prepared the ground for society to insist upon legislation to stop the transgressors. Although we have the benefit of hindsight, we feel that the process of active citizenship was largely doomed from the outset for a number of reasons.

First, the process did not take place in a political or social vacuum. Active citizenship was a new strategy for trying to deal with an old problem. There is a long history of failed attempts to bring Travellers and their organisations into alignment with sedentary society (apart from national scale policies there were countless confrontations between Travellers, sedentary society, and local authorities around the country). As a consequence, the media, local authorities and sedentary society in general were not engaging with the Traveller subject in the here and now but were in fact responding to, and building upon discourses and stereotypes mobilised in the past (for example, references to Travellers not paying taxes, to filth and dirt, anti-citizen behaviour); discourses and stereotypes they were largely unable to move beyond. Likewise, Travellers themselves were sceptical of the state's intentions and the ability of sedentary society to start to become more inclusive given the deep rooted negative attitudes and systematic discrimination, and many continued to act in a resistive and confrontational manner.

Second, the practice of active citizenship is not a neutral drive to empowerment, participation and equality – it is fundamentally a fact of power, not of democratic exchange. Although specifically targeted at Travellers, state policies and programmes are framed by a culturally specific agenda (geared towards sedentary living and sedentary society's acceptance of Travellers worth), which then defines the proper parameters of political action and the institutional framework appropriate to those limits. Involving Travellers in the policy process has allowed government to renegotiate and consolidate their dominant position of influence and has firmly positioned state and state actors as the only route to significant social change (even in the face of overwhelming evidence to the contrary – for example the repeated failure of accommodation and health programmes) (Powell and Geoghan, 2004). Government is thus presented as democratic and pluralistic by accepting otherness. However, though more subtle than previous policies (where government explicitly sought Travellers' rehabilitation and assimilation), the underlying ideology persists with the attempt to add Travellers to existing standards, to convert the Traveller from 'something into something else' – only this time Travellers are doing it *for themselves* and the sake of *their* culture. As such, active citizenship sets up a position which many Travellers would find difficult to accept. Namely that they transform their lifestyle so that it corresponds to that of sedentary society.

Despite being portrayed as emancipatory, the Traveller Accommodation Act and the amendment to the Criminal Justice Bill 1994 legislates certain moral claims; that the right to a nomadic way of life is inappropriate and illegitimate. The legislation has created a situation in which nomadic Travellers now have nowhere legally to camp (except for a handful of transient sites) and moving from one camp to another involves nothing more liberating than moving from one criminal trespass charge to another. The intent is clear: to control behaviour and space such that Travellers simply cannot lead a nomadic lifestyle without breaking the law (Mitchell, 1997). The law attempts, in effect, to remove nomadic Travellers from public space, delimit their geography, and enforce their invisibility through sedentary conformism in

return for recognising their lifestyle (which it has just severely delimited) and introducing legislation that makes individual discrimination illegal (e.g., Equal Status Act [2000]). Within this framework Travellers who continue to travel and refuse to actively participate in the social, economic and political 'project' according to the 'set ground rules' are portrayed as anti-citizen and made to forfeit their rights; non-conforming territoriality and a perseverance with their traditional way of life is constructed as their own wilful exclusion from the entitlements and responsibilities of citizenship.

Third, active citizenship sets up a situation wherein policy makers and legislators can legitimately transfer responsibility for the predicaments of minority groups onto those groups, regardless of the structural issues that underpin those predicaments. Such a strategy is likely to be rejected by any group in the long term because they will inevitably work to their detriment, especially given that they are not in a position themselves to address significant structural issues. Furthermore, such a strategy excuses the state from tackling these issues because the minority group is not holding up its side of the bargain. In our example, this seems to have happened with the state not supplying Traveller accommodation, but the blame for the closure of the Citizen Traveller campaign and the need for the introduction of more regulationist legislation is firmly centred on Travellers.

### Conclusion

In this paper we have detailed the project of active citizenship with respect to Travellers in the period 1998-2003. While the project started with the ambition of tackling issues of discrimination and providing rights to Traveller in return for certain lifestyle concessions, it ended with the introduction of legislation that further criminalized Traveller lifestyle and gave more powers to state agencies to regulate their lives. As a consequence, the socio-spatial lives of Travellers has become further constrained through the application of law and practices of governmentality to the use of space. Indeed, the regulation of spatial behaviour is the chief strategy for forcibly managing Travellers' lives. However, as we have detailed, this situation has arisen from within a contested, contingent context, one aimed at empowering Travellers, rather than a deliberate strategy to further legislate their lifestyles. As we have detailed, all sides were complicit in facilitating the failure of active citizenship. Many Travellers ignored the project and continued to undertake anti-social behaviour that antagonised sedentary society and the media. Government and local authorities failed to implement the Traveller Accommodation Act (1998), leaving Travellers with no means to comply with aspects of the social contract.

Active citizenship as it is presently practiced enables the Irish government to control, regulate and limit Travellers mobility and coerce settlement while at the same time be seen to be acting in ways that are consonant with liberal democratic ideals. As we have argued, however, this is the reason why it has largely failed in its ambition. Far from being fully inclusive, active citizenship as promoted by the Irish government imposes a grid of definition on the possibilities for 'citizen Travellers' that serves to circumscribe lifestyle choices and to highlight and exclude those who do not play by 'the set ground rules'. Citizenship status is, in effect, predicated upon sedentary status, and policy in regards to nomadism continues to be dictated by principles of deterrence and disablement. The fact that government has consistently failed to live up to its side of the bargain, and local authorities have wilfully obstructed the process, is rarely highlighted in the media and only tentatively approached in official reports and reviews. As such, the process is set up in such a way that it is Travellers who are blamed for any problems of implementation as they were given the freedom and opportunity to participate as full and responsible citizens which they affronted.

From this analysis, it seems to us that active citizenship can only be made to work if deep-seated structural issues - attitudinal, social, economic and spatial - perpetuated by the state and sedentary society are addressed, and rights are tied to responsibilities that recognise and respect Traveller lifestyle rather than operate to create a sedentary conformism. In other words, structural changes, such as the nationwide provision of halting sites, should be implemented in full in order to enable Travellers to conduct their traditional way of life. Such changes should not be conditional on Travellers having to change their lifestyle in advance of any structural reform. At present, Travellers are being offered rights for responsibilities that are not achievable without changes in the attitudes and provision of services of local authorities and sedentary society in general.

As noted, Travellers are not a homogeneous group and not all Travellers want to live in caravans or to remain nomadic, but many do. Eight years after the start of the active citizenship process there were 1,000 nomadic Traveller families living under the constant threat of harassment, eviction and prosecution. In 2003, 463 families, 22% of the total number of Travellers, were living without permanent, quality accommodation five years after the adoption of the local Traveller accommodation programmes (Review of the Housing [Traveller] Accommodation Act 1998, June 2004). It seems the project of active citizenship has largely failed Travellers and the state and yet there seems to be no will within government to explore another approach to the Traveller issue. As a result, it is difficult not to conclude that the Travellers will continue to suffer long term discrimination and structural inequalities unless they submit to sedentary conformism; for the foreseeable future law and the practices of governmentality will work to explicitly regulate their lives principally through the management of spatial behaviour.

### Notes

1. National and Local Traveller Accommodation Consultative Committees were established under Section 20 of the Traveller Accommodation Act 1998 to advise Government in relation to general and local matters concerning accommodation for Travellers. The Committees include representatives from the Irish Traveller Movement, Pavee Point and the National Traveller Women's movement. A sub-committee was formed in 2000 made up of government officials, Garda, Traveller and local authority representatives in order to investigate the issue of large-scale encampments.
2. This legislation is comparable to the British Criminal Justice and public Order Act (1994) (CJPOA) which increases the powers of local authorities and the police to evict people from unofficial encampments. The CJPOA does not specifically mention Travellers or Gypsies but refers to trespassers and unauthorised campers. Travellers who camp in public places can be evicted, fined and/or have their caravans seized and destroyed. As with the Irish Criminal Trespass legislation the CJPOA followed on the footsteps of a panic about mass encampments. According to the Commission for Racial Equality, in Britain Travellers and Gypsies are now left with two choices, '...either to become house dwellers or be criminalized for following a nomadic way of life' (Campbell 1995:28). (see also Vanderbeck 2005:73, Morris and Clements 2002).
3. It should be noted however, the Prohibition of Incitement to Hatred Act (1989) is regarded as a weak piece of legislation which leaves the onus on the complainant



- to prove intentionality to incite to hatred and has resulted in very few cases being brought before the court (see Helleiner, 1995, McVeigh, 2002). It did, however, dramatically affect the outspokenness of political representatives and muted much of the anti-Traveller rhetoric in Dáil debates and official documentation
4. This is not to deny that in reality, officials, officials and some of those charged with implementing the process may have had implicit sedentarist and assimilationist motivations. Also, national level objectives are not necessarily translated into practise locally (see Vanderbeck, 2005). However, the consultative process did, at least in the initial stages, include significant input from Travellers representative groups (see Powell and Geoghegan, 2004).
  5. In Britain the Caravan Sites Act 1968 had a similar effect. While it placed a duty on local authorities to provide sites for Travellers 'residing in or resorting to' their area it enabled local authorities which had provided 'sufficient' sites to attain 'designation' status, which brought with it enhanced powers to evict Travellers stopping in their areas. Even with the incentive of designation status many local authorities 'still did not create sufficient – or, in some cases, any – sites' (Morris and Clements 2002:13).
  6. On division within Traveller society see L. Lucassen, Leo. and A. Cottar (eds) (1998) *Gypsies and Other Itinerant Groups: a socio-historical approach*. New York: St. Martin's Press, Ni Shuinéar (2005), p.1.
  7. See in particular reports on the despoliation of the Dodder Park, Dublin, the GAA pitch and Ballyrogan and Knocklyn, Dublin (*The Irish Times* 7 April, 2002, 8 May 2002, 31 Dec. 2001, *Magill* 2001: 43, *Southside People* 16 April 2002).
  8. Indeed, over the years Travellers have become increasingly conversant with the law in regard to where they can encamp and how long the process of getting prohibition orders take. Once an order is served Travellers move on to another place and the local authority must begin the process over again (Boyle 1999). For example, in 1999 when a group of six Traveller families were threatened with eviction from a green area in Naas County Kildare, members from their extended families arrived in support:

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