

From racial state to racist state

Ireland on the eve of the citizenship referendum

Ronit Lentin

Introduction: Racism in Ireland, the contradictions

On June 11 2004 the Irish electorate will vote in a referendum to change Article 9 of the Irish Constitution, according to which persons born on the island of Ireland who do not have at least one parent who is an Irish citizen, will not be entitled to Irish citizenship. This article looks at some implications of this referendum to racism and immigration controls in 21st century Ireland.

In June 2003, Michael McDowell, Ireland's Minister of Justice, Equality and Law Reform, within whose responsibility lie both immigration control and government-sponsored antiracism initiatives, stated that Ireland is *not* a racist society. The government's commitment—in itself contradictory—in the Programme for Government to both 'diversity, equality and cultural difference' and to an 'increase in the rate of repatriation (of asylum seekers)', summarises the contradictions inherent in the debate on racism in Ireland. While racism in Ireland is vehemently denied, in-migration is theorised as 'new' and 'sudden', and the effect of state policies on the lives of racialised populations in Ireland is minimised, the commitment to restrict immigration and increase deportations has never been more explicit.

Echoed by a chorus of media commentators, the Minister's insistence that only in the 1990s has Ireland been transformed from a 'nursery of emigrants' to a destination of in-migration, can easily be refuted. Multi-ethnicity, in-migration and racism are not new phenomena: Ireland has always been multi-ethnic; Travellers, black-Irish people, Jewish people and other immigrants have been part of Irish society for centuries, and in-migration had always co-existed with emigration. However, together with other socio-economic and political transformations since the mid-1990s and in particular in the wake of the Belfast Agreement, recent demographic transformations have given rise to new articulations of Irishness, and to new experiences of racism by existing racialised minorities and by new migrant populations alike.

I take racism to mean 'a political system aiming to regulate bodies', rather than merely the consequence of individual prejudice. Racism always involves the state and its institutions, never only individuals. My contention is that Ireland has been evolving from a 'racial state', in which 'race' and 'nation' are defined in terms of each other—evident in the ethnically narrow framing of *Bunreacht na hÉireann*—to a racist state, where governmental 'biopolitics' and technologies of regulating immigration and asylum dictate the construction of Irishness. Calling immigrants and asylum seekers progressively 'bogus', 'illegal', and 'economic' discredits them, and via the media, feeds into common sense racism, which manifests in everyday incidents of racial harassment and institutional racial discrimination.

Racial terminology, which is about categorisation and control, constructs the state's response to cultural diversity and the ensuing racism in the wake of the arrival of a relatively small number of immigrants since the 1990s. In addition, 'intercultural' politics construct cultural difference and ethnic minority 'communities' as static, ignoring intra-ethnic heterogeneities and contestations such as class, gender, age, dis/ability and sexuality. Racial state thinking in Ireland has spawned various state-generated euphemisms such as 'non-nationals', and 'Irish born children' (to denote the children citizen of non-EU migrants). Furthermore, state asylum, immigration and inte-

gration policies approximate Foucault's theorisation of the modern nation-state as monitoring and controlling through a series of technologies the nation's biological life.

At the heart of state anti-racism initiatives, such as the KNOW RACISM National Anti-racism Awareness Programme, lies the Canadian model of multiculturalism and the 'politics of recognition' formulated by Charles Taylor with Canada in mind. However, this approach, which highlights racism as arising from 'lack of knowledge, fear or insecurity', erases the link between immigration and racism, conflates 'Irishness' and 'whiteness', and translates 'cultural diversity' to 'Forty shades of Green'.

In this article I point to the contradiction, in contemporary Ireland, between a declared politics of 'a caring society' and an increasing tendency to re-define the nation-state's boundaries by controlling not only in-migration, but also the self-definition of existing ethnic collectives within.

Ireland as a 'racial state'

David Theo Goldberg (*The Racial State*, 2002, Blackwell) posits modern nation-states as 'racial states', which exclude in order to construct homogeneity—which he sees as 'heterogeneity in denial'—while appropriating difference through celebrations of the multicultural. The racial state is a *state of power*, asserting its control over those within the state and excluding others from outside the state. Through constitutions, border controls, the law, policy making, bureaucracy and governmental technologies such as census categorisations, invented histories and traditions, ceremonies and cultural imaginings, modern states, each in its own way, are defined by their power to exclude (and include) in racially ordered terms, to categorise hierarchically, and to set aside. Goldberg posits two traditions of racial states: the first, naturalism, fixes racially conceived 'natives' as premodern, and naturally incapable of progress; the second, historicism, elevates Europeans over primitive or underdeveloped Others as a victory of progress.

Naturalism Irish-style is exemplified in English colonialism, from the seventeenth-century onwards, which racialised the Irish, casting them as bestial, and incapable of progress. While the Irish were naturalised by the British, the Irish state, constitutionally conceived as the space of white, settled men of property, historicises its own racial inferiors. This is achieved firstly (though not exclusively: see for example the racialisation of Irish Travellers, conceived as 'Irish national' though not always as 'white') through governmental technologies of asylum and immigration control, aiming to restore modernity's order just as all certainties—economic, civil, cultural, sexual—collapse; and secondly through biopolitical governmental technologies including regulations governing the lives of migrants, but also equality mechanisms, which reproduce racialised populations as ultimately unequal, since the promise of equality is always conditional.

In *The History of Sexuality*, vol. I Michel Foucault argues that when natural life becomes included in mechanisms of state power, politics turn into biopolitics, the territorial state becomes 'state of population', and the nation's biological life becomes a problem of sovereign power. Through a series of technologies, bio-power creates 'docile bodies', and the population—its welfare, wealth, longevity and health—becomes the ultimate goal of government.

In constructing homogeneities, the state therefore is not only denying its internal hetero-

geneities, it is also a normalising, regulating biopower state. As opposed to scapegoat theories of racism, which argue that under economic and social duress, sub-populations are cordoned off as intruders, blamed and used to deflect anxieties, Foucault's theory of racism is an expression of an ongoing social war nurtured by the biopolitical technologies of purification, making racism internal to the bio-political state.

The Irish state uses racialising technologies by doing all it can to maintain its homogeneity and 'managing' ethnic diversity. However it is not merely 'racial' in its formation and use of practices such as the law, but also 'racist' in terms of using biopower and governmental technologies to control, in particular, though not exclusively, migrant and minority ethnic populations.

The law in the service of the racial state

The law is central to modern state formation, promoting racial categorisation and identification, and shaping national identities through legislating on citizenship rights and immigration controls.

In 2003 the Irish state was contesting accepted definitions of populations. One example is the claim by the Minister for Justice, Equality and Law Reform that Travellers are not an ethnic group. It has taken Travellers a long time to be recognised as an ethnic group, yet on October 15 2003 the Minister for Justice can claim that Travellers 'do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin', which is why, he argues, 'discrimination against Travellers' was inserted as a 'separate ground' into the Equal Status Act and the Employment Equality Act—combining a biopolitics of 'caring' for Travellers with their discrimination. Further limiting their rights, the Housing (Miscellaneous Provisions) Bill, enacted in 2002, criminalizing Traveller camping on public and private property, gives Gardaí powers to arrest people without warrants, allows property to be confiscated and disposed of and trespassers to be jailed for a month or fined up to €3,000. This is despite the fact that commitments to provide adequate accommodation to Travellers made by the government in its 1995 Task Force on the Travelling Community went largely unfulfilled. In July 2002, the government decided to terminate the funding for the Citizen Traveller project, due, the Irish Traveller Movement claims, to its decision to run an outdoor poster campaign highlighting the negative implications for Travellers of the 'trespass law' and declaring the law 'racist'. Indeed, the decision to end the funding illustrates the contradiction between the racial state's naturalist approach to indigenous minorities and its alleged commitment to anti-racism, based on a 'biopolitics', according to which the role of the state is to 'manage' the population.

Furthermore, the Irish state is employing immigration legislation in order to prevent migrants from gaining equal access to the state. Thus the 1996 Refugee Act, hailed as 'progressive' at the time, was superseded by the 1999 Immigration Bill and the 2000 Illegal Immigration (Trafficking) Act, and was itself amended in 2003. The amended 2003 Refugee Act focuses on applicants' credibility, mandates finger printing of all applicants, makes provisions for detention, and disallows applications from countries designated as 'safe countries'. The amended Illegal Immigration (Trafficking) Act, according to the Irish Refugee Council, shifts the focus from identifying persons in need of protection, 'towards techniques devised to screen out as many applications as possible'...

A poignant illustration of the use of the law in controlling the citizenship rights of migrant populations is the relationship between the Irish state and migrant parents of children born in Ireland and who are therefore Irish citizens, as per the amended Article 2 of the Irish Constitution, as part of the 1998 Good Friday Agreement:

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

In 2004, the government is proposing to amend Article 9 of the Constitution aiming to deprive children born in Ireland to migrant parents despite the fact that citizenship was constitutionally granted to anyone who was a citizen of Saorstát Éireann (the Irish Free State) before the 1937 constitution. The 1956 and 1986 Nationality and Citizenship Act grants citizenship to anyone born in the 32 counties of Ireland, except children of diplomats. Thus granting automatic citizenship to people born in Ireland as part of the GFA was nothing new. What was new is their explicit entitlement to membership of 'the nation', a rather nebulous entity. Called a 'constitutional quirk' or a 'constitutional loophole', the amendment meant, as was ruled in the 1990 Fajujonu case, that migrant parents of children born in Ireland had a claim to remain in Ireland to provide 'care and company' to their citizen child. This process of application for permission to remain was overturned in January 2003 when the Supreme Court ruled in the Lobe and Osayande appeal, that 'non-national' parents no longer had a strong case to be allowed to remain in Ireland to bring up their child, privileging the State's right to deport, and the 'integrity of the asylum process' over these citizen children's rights, although it did not rescind the citizenship right of persons born in the island of Ireland.

The media debates following the January 2003 Supreme Court ruling exposed a host of contradictions. One contradiction is between nationality and citizenship. The *jus sanguinis* (blood-based) rights to Irish citizenship allows up to third generation Irish emigrants to claim Irish citizenship, while at the same time, the state is contesting the *jus solis* (soil-based) citizenship rights accorded to children of migrants by the Constitution. The second contradiction was between two constitutional entities, 'the nation' and 'the family', termed in Article 41.1.1 of the Constitution as 'the natural primary and fundamental unit group of Society'. The court's ruling in the case illustrates the centrality of the law as a governmental technology deployed by the racial state. Chief Justice Ronan Keane ruled that the State 'was entitled to take the view that the orderly system of dealing with immigration and asylum applications should not be undermined by persons seeking to take advantage' of the system.

On 19 February 2003, the Minister of Justice removed the process whereby an immigrant parent could seek permission to remain in Ireland solely on the grounds of having a child citizen, making 11,000 migrant families now precluded from applying for residency candidates for deportation and thousands of Irish citizen children candidates for removal from Ireland with their deported parents to foreign countries, where their safety and entitlements cannot be guaranteed, threatening the unity of the Irish 'nation'.

The proposed amendment was sought so as to defend 'the integrity of Irish citizenship', in response to a supposed 'crisis' in Dublin's maternity hospitals where, according to Department of Justice claims, 'non-national' women arrive at the late stages of their pregnancies to have babies who, in line with Irish law, become Irish citizens. However, the roots of the Government's stance was voiced by the Minister of Justice already in 1999.

Indeed, defending his performance on immigration, which came under attack from the opposi-

tion, former Minister for Justice John O'Donoghue said in November 1999: 'One reality—hard, though nevertheless a reality—is that if we were to apply an immigration policy which is significantly more flexible and liberal in its features than those applying in the rest of the European Community, there is a very little doubt that, over a period—and probably a relatively short period—we would be left to deal with an immigration inflow which we simply could not cope with... It is an extremely important and extremely complex issue. It needs to be addressed in a well-informed, comprehensive and humanitarian way'.

In 2004, after five years of deliberating on how to deal with this 'extremely important and extremely complex issue', the Irish Government decides that the most 'humanitarian' way is to hold a constitutional referendum on who would be allowed to be a citizen while at the same time taking rights away from children. Reacting to the government's restrictive immigration policies, anti-racism activist Pat Guerin was worried already in 1999 about the treatment of non-national parents of Irish children: 'Theoretically we could see a situation where Irish infants could see their parents deported'. In 2003-4 his prediction became reality with the deportations of scores of migrant parents and the removal of their Irish citizen children.

Facts, figures, myths

Part of state-inspired racism and xenophobia is the massaging of immigration figures and the tendency to homogenise migrant populations in negative terms. According to the 2002 census, 5.8 per cent of the population are 'non-national', though official asylum and immigration statistics are often deliberately misleading, contradictory and incomplete. The racial state's relation to asylum seekers is equally contradictory. While most asylum seekers are not allowed to work or access third level education, they *are* entitled to vote in local and European elections. The irony is that while voting for the local and European elections on June 11 2003, migrants may vote beside Irish citizens voting in a referendum to take away the citizenship rights of their children...

Indeed, although asylum seekers are the most disempowered group, whose right to work and access to education and training are severely limited, and although they are marginalized, excluded, poor, and, in many respects, lack freedom, many members of the Irish public believe, a belief not denied by officialdom, that asylum seekers are '90 per cent bogus', and that they 'take Irish jobs'.

A similar ambiguity exists in relation to labour migrants. In 2000 Tánaiste Mary Harney said that a failure to address Ireland's labour shortage could undermine its economic growth, since the availability of skilled workers was central to the concerns of multinational companies making investment decisions. However, more recently she indicated that with the EU enlargement, fewer non-EU workers would be needed. State regulations in relation to migrant labour are clearly dictated by its market needs, not by the human factor, another obvious illustration of the control exercised by the racial state over its boundaries.

Despite perceptions that migrants 'take Irish jobs', migrant workers make up only 2 per cent of the Irish labour force, hardly an 'influx'. Migrant workers not only pay taxes and social security contributions and purchase goods and services, they are also vital to the maintenance of the health system and the hospitality sector. But contrary to former Justice minister John O'Donoghue's claim that Ireland's migration system was 'the most open and flexible in Europe', studies for the Immigrants Council of Ireland and for the Equality Authority criticise the government's market-driven labour migration policy as two-tiered, and shows that most labour migrants experience discrimination.

Moreover, the state-spawned language of harmonisation, integration, management and mainstreaming in policy recommendations regarding migrant labour, is part of the construction of homogeneity as 'heterogeneity in denial' on the

one hand, and of a multicultural discourse of 'racelessness', denoting a shift from biologically driven racism to culturalist conceptions of race, on the other. Assuming an ability to solve almost any problem put before them – including immigration – Irish state actors disavow the everyday racism experienced by racialised populations in the name of a universalism which asserts control over all dimensions of social life.

Conclusion: Multiculturalism, 'integration', and the promise of 'racelessness'

In contemporary multi-ethnic Ireland 'multiculturalism' is a common linguistic currency, but the experiences of 'the multiculturals' disavow their everyday, institutional and state racist undertones, in the name of racelessness. Assimilationism in relation to immigrants is unproblematically termed 'integration' by state agencies implementing multiculturalist (or 'interculturalist') policies, which ignore the multicultural illusion that face to face communication between the dominant and the dominated can subvert the structures of power. Indeed, by stressing integration as a 'two way process', the Irish state puts equal onus on migrants to play their part, and unequal power relations are not mentioned. In constructing immigrants and asylum seekers as both 'new' and a 'problem', 'the nation' is conceived not only as homogeneous, but also as 'invaded' by 'floods' of refugees, and therefore as arguably 'porous'.

The Irish racial state, while promoting racelessness, is always about its own white (Christian, settled) superiority. While declaring its commitment to equality, care and interculturalism—the Irish version of racelessness—the Irish racial state has already begun deporting migrant parents whose applications for residency on the ground of having an Irish citizen child have failed, together with their Irish citizen children. Instead of a language of 'integration' and 'interculturalism', I propose an interrogation of how the Irish nation can become other than white (Christian and settled), by privileging the voices of the racialised and subverting state immigration but also integration policies. Stage one of such interrogation would be to do all we can to defeat the citizenship referendum on June 11.

Ronit Lentini is director of the MPhil in *Ethnic and Racial Studies*, Department of Sociology, Trinity College Dublin, and co-editor, with Robbie McVeigh, of *Racism and Anti-racism in Ireland*, Belfast, Beyond the Pale Publications, 2002.

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