

The Human Rights Impact of Direct Provision



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Presentation Overview

- Direct Provision in Ireland: The Context
- Direct Provision & Human Rights
- Challenging Direct Provision



Direct Provision: Some Context



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Direct Provision in Ireland

- Dispersal to accommodation centres, (mainly) operated by private operators, under control of Reception & Integration Agency, **Dept of Justice**.
- Weekly payment, made by **Dept of Social Protection**
 - €19.10 per adult
 - €9.60 per child
 - No other welfare entitlement (except for UNPs and ENPs)

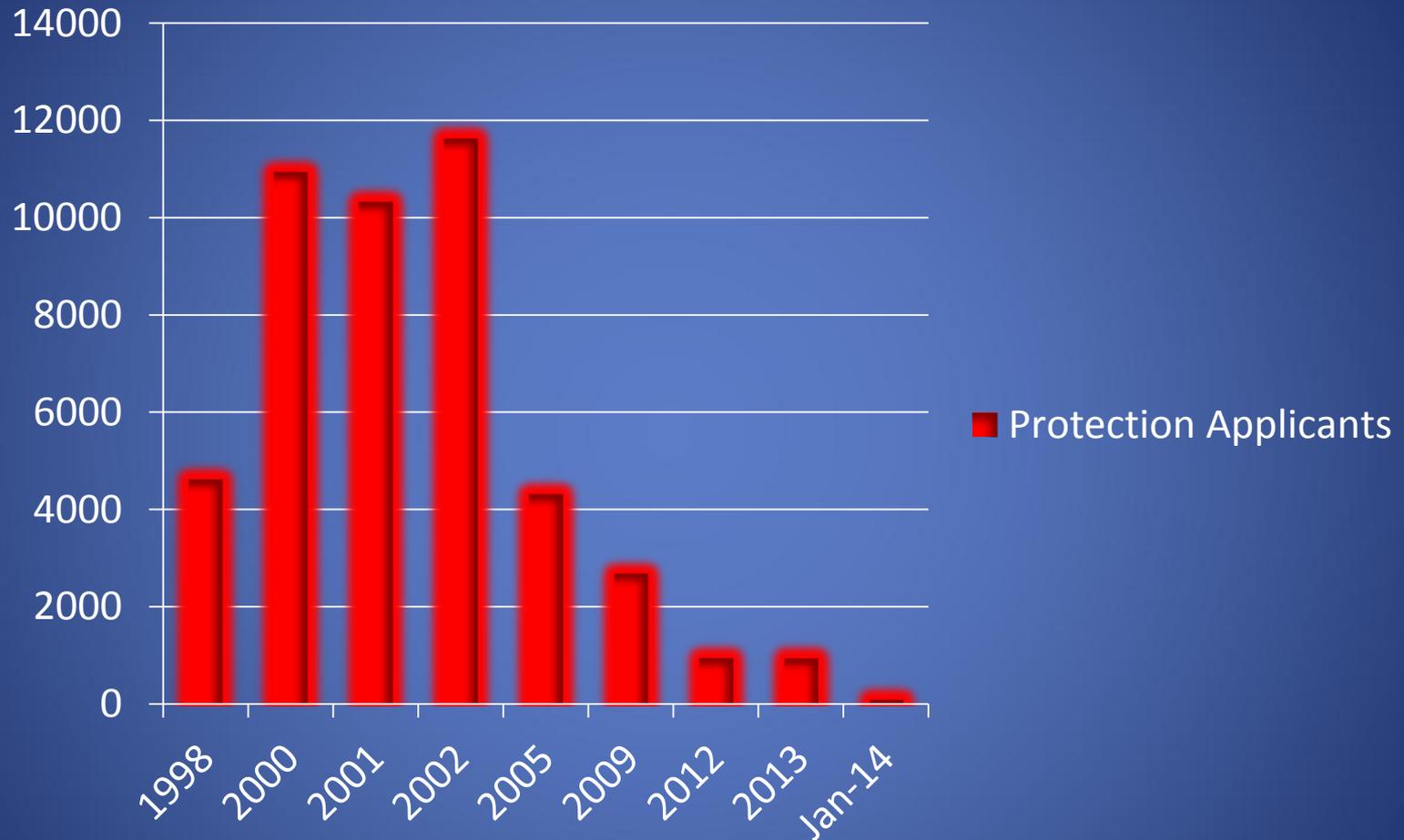


Other Rights & Restrictions

- Prohibited from **working**;
- Provision of **medical card**;
- **Education** up to leaving certificate;
- **No obligation to remain in direct provision centres but** no access to payment or alternative accommodation.
- **Serious legal concerns** as regards how direct provision currently operates, [Thornton \(2013\)](#).

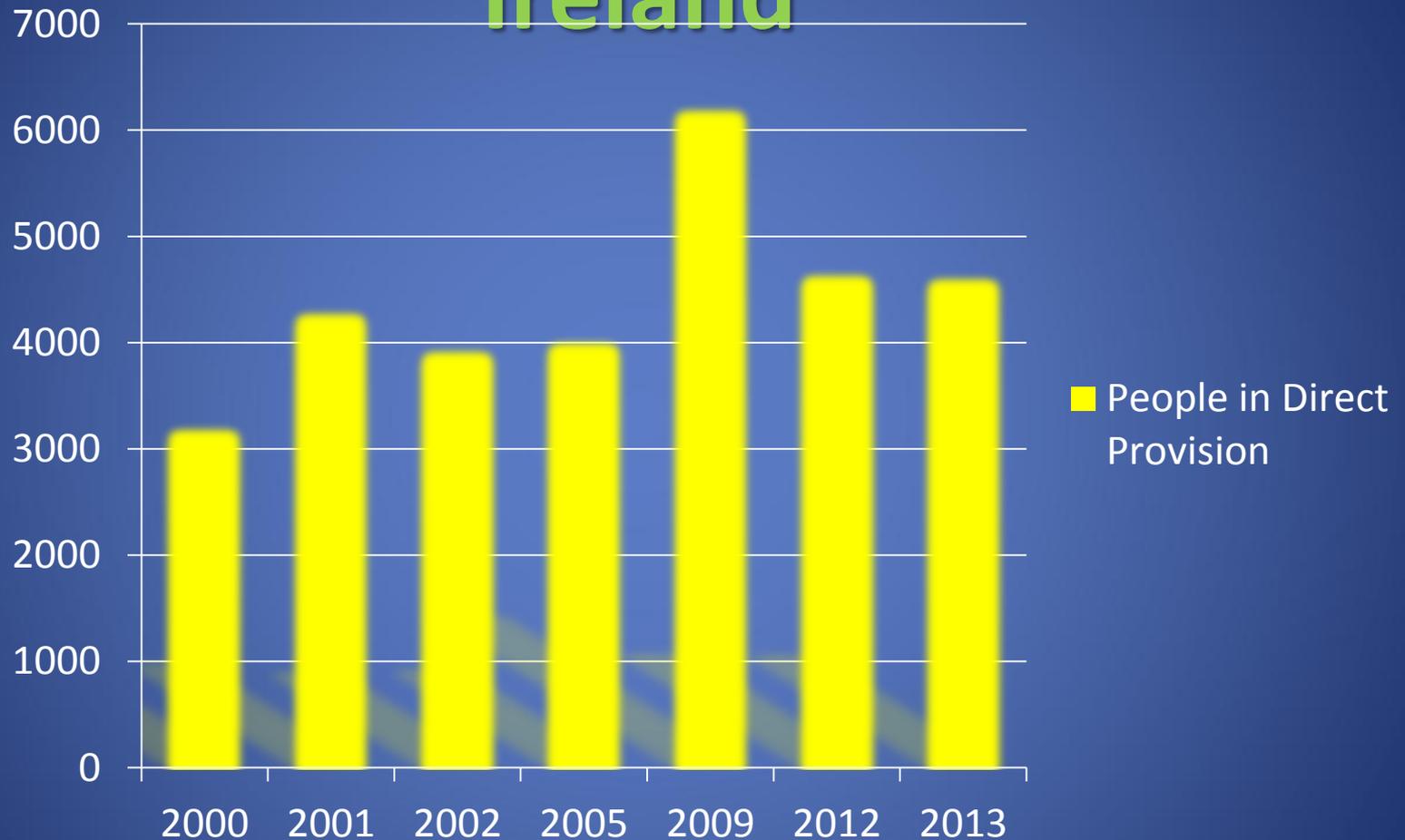


Protection Applicants



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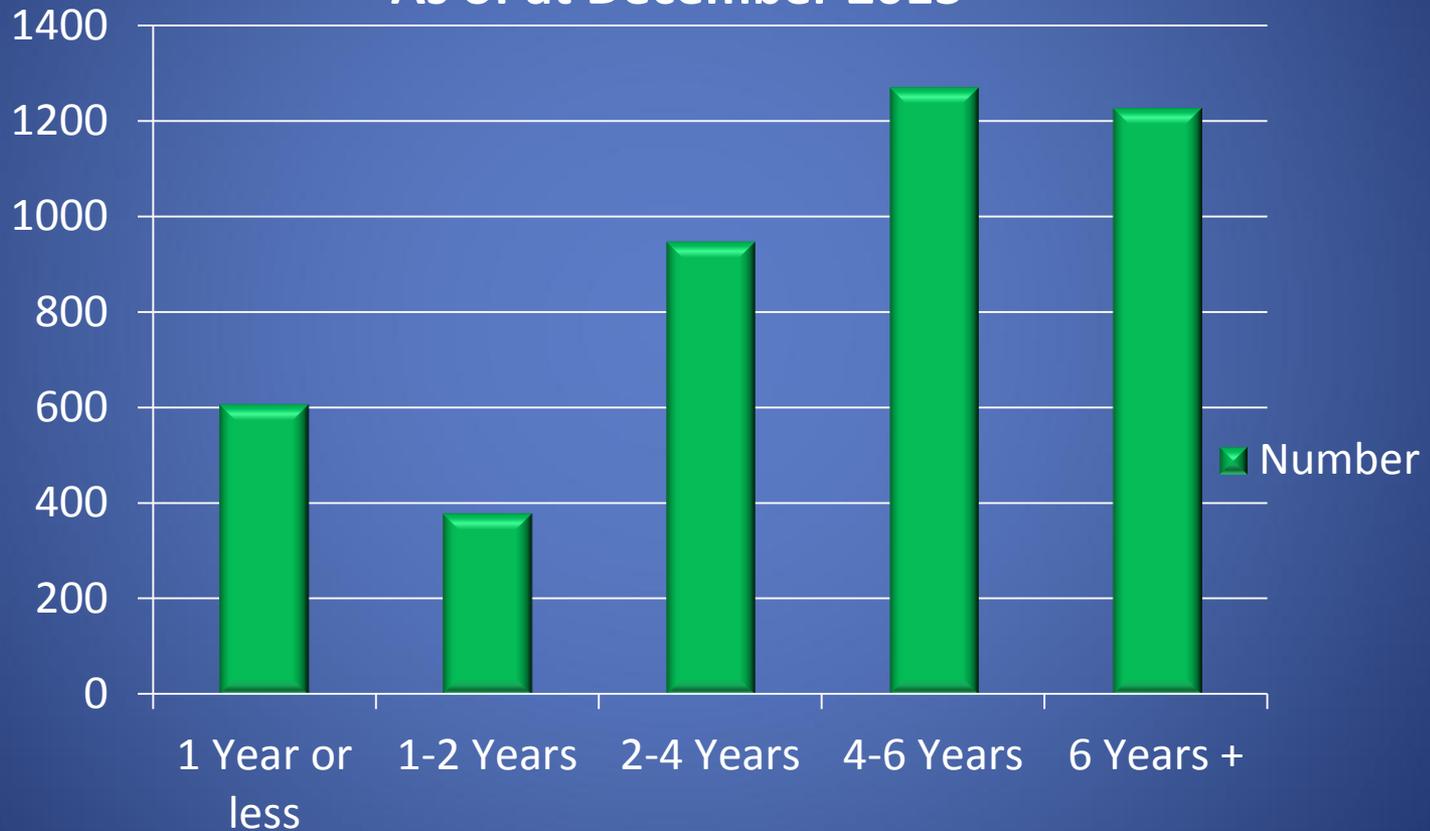
People in Direct Provision in Ireland



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Time Spent in Direct Provision (Based on Initial Asylum App)

As of at December 2013



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Direct Provision: Select Reports & Commentary 2001-2014 (1)

- **2001:** Bryan Fanning and Angela Veale, [Beyond the Pale: Asylum Seeking Children and Social Inclusion in Ireland](#)
- **2003:** FLAC, [Direct Discrimination?](#)
- **2004:** Almost 7,000 asylum seekers in direct provision
- **2005:** UN Committee on the Elimination of Racial Discrimination [raise concerns](#) as regards direct provision
- **2006:** Ombudsman for Children's, [Report to the UN Committee on the Rights of the Child](#) (2006)



Direct Provision: Select Reports & Commentary 2001-2014 (2)

- **2007:** An attempt by the Department of Social Protection to place the direct provision payment on a legislative footing, however the Department of Justice objected to this (€19.10 per adult per week; €9.60 per child per week) (see p. 17 [here](#)).
- **2008:** NASC report, [Hidden Cork](#) provides an overview and challenges perceptions on life in direct provision
- **2009:** Free Legal Advice Centres, [One Size Doesn't Fit All](#)
- **2010:** [Value for Money and Policy Report on Asylum Seeker Accommodation](#), published by the Reception and Integration Agency (I challenge this report [here](#) and [here](#))
- **2011:** UN CERD Committee [expresses further concerns](#) as regards direct provision.
- **2012:** Irish Refugee Council, [State Sanctioned Child Poverty and Exclusion](#)



Direct Provision: Select Reports & Commentary 2001-2014 (3)

- **2013:** Northern Ireland High Court refuses to return children to the direct provision system.
- As of at 31 December 2013, there are 4,360 people in direct provision. IRC publishes Alternatives to Direct Provision.
- Ombudsman criticises Direct Provision system



- **2014:** European Migration Network report released. Challenge to direct provision system in the High Court in April 2014.

April 10 2014: Direct Provision is 14 years old

Reports are plentiful, there is no need for a further report!!!



Rights of the Child & Family Life in Direct Provision

- Convention on the Rights of the Child
- Constitutional recognition of rights of children (pending)
- Northern Ireland Court in **ALJ case** (see [here](#))
 - Family forced to live in a communal direct provision hostel;
 - The minor children, B and C, could “develop their own sense of belonging and separate identity” in Northern Ireland, which they could not do in direct provision centres in the Republic of Ireland;
 - Significant physical and mental health issues amongst asylum seekers in direct provision in Ireland.
- **Impact of this decision in Ireland?**



Inhuman & Degrading Treatment

- Prolonged stay in direct provision and subject to very limited cash payment
- ECHR & EUCFR on asylum seekers, socio-economic rights & state obligations:
 - **M.S.S v Belgium & Greece** (ECtHR-removal)
 - **N.S & M.E** (CJEU-removal)



Economic, Social & Cultural Rights

- To what extent are Ireland's obligations under the ICESCR met by direct provision?
 - €19.10 payment has remained the same since 2000
 - Lack of any legislative rights for asylum seekers
 - Level of social control, poverty and enforced idleness imposed on asylum seekers for several years-potential violation!



Complaints & Social Control

- Concerns expressed by UN Human Rights Committee
- A transparent complaints mechanism, independent of the Reception and Integration Agency, needs to be established



Challenging Direct Provision



Key Rights Limitations & Opportunities

- Asylum seekers **protest**....but lacks widespread public support
- **Majority** in Oireachtas **ignoring/supporting direct provision** (reflecting wishes of constituents?).
- Scrutiny from other legal systems, **ALJ** (Northern Ireland)
- The impact of **EU Law** and **ECHR Law**
- **UN scrutiny** in the coming months....
- Ability of civil society to **suggest alternatives**



Key Rights Opportunities (but dangers also!)

- **Domestic**

- Case before High Court in April
- Growing media concern
- Increased powers of IHREC under 2014 Bill

- **International**

- Pressure due to NI decision?
- UN Human Rights Committee
- UN Committee on Economic, Social & Cultural Rights
- Possibility to engage European Committee on Social Rights?



Further Reading

- Thornton, L. [“The System of Direct Provision & Ireland’s Obligations under the UN International Covenant on Civil & Political Rights \(ICCPR\)”](#) (March 2014)
- Thornton, L. [“Law, Dignity & Socio-Economic Rights: The Case of Asylum Seekers in Europe”](#) (2014) FRAME, Working Paper Six.
- Thornton, L. [“Asylum Seekers and Social Welfare Law in Ireland: An Anatomy of Exclusion”](#) (2013) 20(2) *Journal of Social Security Law* 66
- Thornton, L. [“Upon the Limits of Rights Regimes: Reception Conditions for Asylum Seekers in the Republic of Ireland”](#) (2007) 24(2) *Refuge: Canada's periodical on refugees* 86

