

## Atheist Ireland

UN Human Rights Committee  
8-14 Avenue de la Paix  
CH 1211 Geneva 10



Date: 22 July 2014

### **Submission from Atheist Ireland regarding Ireland's written response to the Committee's questions in Geneva**

Thank you very much for your questions to Ireland during the 11th session in Geneva, and for all of the work that you are doing to help bring about the implementation of Ireland's Covenant obligations. Here is some information for you to consider regarding Ireland's written responses to your questions, with regard to Articles 18 and 19 (Issues 25, 26 and 27).

#### **1. The Committee reminded Ireland that it has been asking Ireland about obligatory religious oaths since 1993.**

Ireland did not address this issue in its written response. Ireland has also ignored recommendations on this issue from a Constitutional Review Group and an All-Party Parliamentary Committee. Additionally, In 1990 the Irish Law Reform Commission recommended abolishing all religious oaths in Irish courts.

#### **2. The Committee asked Ireland why non-denominational primary education is not yet widely available in all regions of Ireland, with most new schools being multi denominational, not non-denominational?**

There are still **no** non-denominational schools in Ireland. See page vi, Report of Forum on patronage and Pluralism 2012:

*"Non-denominational Patronage: Schools under the patronage of a secular body and which has an explicitly secular ethos. This does not preclude the provision of a programme on education about religion. As yet, there are no non-denominational national schools in Ireland."*

Source: <http://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-Advisory-Group.pdf>

There are nine schools (called model schools) that are run directly by the Department of Education, whose patron is the Minister for Education. Not even any of these schools are nondenominational. Five are Catholic and four are Protestant. The State has already told you this in its response to the List of Issues in 2008. See notes on p9 of Information received from Ireland on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/IRL/CO/3). CCPR/C/IRL/CO/3/Add.1 Page 8/9

Source: (1) [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f3%2fADD.1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f3%2fADD.1&Lang=en)

**3. The Committee asked how can insufficient demand in a local area be used to justify no provision of nondenominational schools?**

This is at the core of the discrimination against atheists and minority faiths in Ireland. It is a local application of the “will of the majority” argument that the State made at national level about abortion, and that the Committee described as totally unacceptable.

**4. The Committee asked, with regard to denominational schools, does the State believe it is required to ensure a neutral teaching environment outside of the religious instruction classes that children can be opted out of? Specifically, the UN asked will the State remove Rule 68 of National Schools, which enforces an integrated religious curriculum?**

The State did not respond to this question. It does not intend to remove Rule 68, or to amend the Education Act 1998 to protect the rights of atheists and minority faith citizens from the religious integrated curriculum in denominational schools.

The Irish Human Rights Commission has recommended the removal of Rule 68, and the Amendment of the Education Act. It has quoted this recommendation in its submission to the Committee. The State had the opportunity to follow this recommendation in the the new Draft General Scheme of an Admissions to Schools Bill, but it chose not to do so.

Here is the quote from page 77 of the IHRC submission to the Committee:

*“Specifically that Section 15 of the Education Act 1998 be amended to provide for modifications to the integrated curriculum to ensure that the rights of minority faith or non faith children are also recognised therein. The IHRC recommended here the State take sufficient care that information and knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner with the aim of enabling pupils to develop a critical mind with regard to religion in a calm atmosphere which is free from any misplaced proselytism.”*

**5. The Committee asked the State to explain the compatibility with Covenant obligations of private schools with a near monopoly of providing a vital public service being allowed to openly discriminate against children on the basis of their parents religious convictions?**

The State did not respond to this question. It did not address how atheist and minority faith citizens can vindicate their Covenant rights in the Education System. There is no effective remedy to enable parents to do this.

**6. The Committee asked are non-faith families still discriminated against in admission to schools under new Admissions to Schools Bill?**

The Bill does not displace the existing exemptions that allow schools to discriminate on the ground of religion, and give preference to co-religionists. This has resulted in schools requiring parents to produce Catholic baptismal certificates to gain access to their local school, in circumstances where the vast majority of schools are religious, and mostly Catholic.

From Page 8 of the Draft General Scheme of the Bill:

*“The Head reinforces the principle of maximum accessibility to and inclusiveness in recognised schools but does not displace the existing exemptions provided to schools under Sections 7(3) (a) and 7(3) (c) of the Equal Status Act, 2000... Section 7(3) (c) provides that schools where the objective is to provide education in an environment that promotes certain*

*religious values, can admit a student of a particular religious denomination in preference to other students or that such a school can refuse to admit a student who is not of that denomination, provided it can prove that this refusal is essential to maintain the ethos of the school.”*

Source: <http://www.education.ie/en/The-Education-System/Legislation/Draft-General-Scheme-of-an-Education-Admission-to-Schools-Bill-2013.PDF>

The Government in its response to the Committee stated:

*“Under Section 15 (2) (d) of the Education Act 1998, each school is obliged to publish its enrolment policy. The enrolment policy must be non-discriminatory and must be applied fairly in respect of all applicants. Equality legislation outlaws discrimination in relation to the admission of a student. However, the legislation provides that, in exceptional cases, a school can refuse to admit a student who is not of the religion of the school, provided that it can prove that this refusal is essential to maintain the ethos of the school.*

*The Education (Admission to Schools) Bill 2013, which is currently being drafted, is aimed at improving the admissions process and to ensure that the way schools decide on applications is structured, fair and transparent. The legislation also proposes a mechanism for ensuring that every child receives a school place.”*

This is **simply not true** on the ground. Catholic schools regularly ask for Catholic baptismal certificates as part of their admission process, and the Bill will not change that. The vast majority of schools have a religious ethos and they can legally (Section 7-3-(c) Equal Status Act) give preference to co-religionists. In order to achieve this they require proof of religion/ baptismal certificates.

Also, even if you do gain admission, you cannot effectively opt your child out of religious instruction. The Government in its response to the Committee stated:

*“Provision for children who opt out of religious instruction*

*Under Article 44 of the Irish Constitution, all parents have the right to withdraw their child from religious instruction in school. Under Section 30 of the Education Act 1998, a student cannot be required to attend instruction in any subject which is contrary to the conscience of the parent of the student or, in the case of a student who is 18 or more, the student him/herself.*

*Schools are obliged to respect parents’ rights to withdraw their children from religious instruction classes. Different schools have different ways of facilitating parents who wish to withdraw their children from religious instruction classes. This depends on the individual circumstances of each school and the wishes of parents.*

*The new Education (Admission to School) Bill 2014, which is currently being drafted, will require schools to publish an enrolment policy which will clarify the school’s arrangements for upholding the constitutional rights of parents in this regard.”*

This response claims that schools are obliged to respect parents' rights to withdraw their children from religious instruction classes and that this is done with the wishes of parents.

In reality, in Ireland there are no non-discriminatory exemptions or alternatives that would accommodate the wishes of parents. Parents are responsible for the supervision of their children if they opt them out of religious instruction classes or religious ceremonies. It is only a limited exemption process as it is not possible to opt out of a religious integrated curriculum as the state does not recognise the right under the Covenant to a neutral and objective education.

It is not just religious instruction classes which parents seek to withdraw their children, there is also prayers and preparation for religious sacraments such as holy communion. Schools in Ireland are not legally obliged to provide supervision if a child is opted out of religious instruction or religious ceremonies. In the main children that are opted out sit at the back of the religious instruction class and attend religious services in the local church unless their parents pick them up from school during these periods.

The supervision of children that are opted out never depends on the wishes of parents as they are legally responsible for the supervision of their children if they opt them out. The state provides no alternative course in ethics and even if it did the legal framework would permit the school to deliver it according to their own religious ethos and not in a neutral and impartial manner.

This limited exemption system has created a considerable burden for parents and consequently they are deterred from exercising the right. In addition many parents feel that there is no point in opting out of religious instruction classes when they cannot opt their children out of the religious integrated curriculum. Consequently parents cannot ensure that the teaching of their children is in conformity with their convictions.

## **7. The Committee asked for a copy of the new Bill on Section 37 of the Employment Equality Act, and asked how does the new Bill protect atheist teachers?**

This is a link to the Bill.

<http://www.oireachtas.ie/documents/bills28/bills/2013/1913/b1913d.pdf>

It retains the exemption that allows discrimination on the ground of religion, but says that this cannot be used to justify discrimination on other grounds. It is described as:

*“An Act to amend the Employment Equality Acts 1998-2011 and thereby extend the general definition of discrimination to include discrimination on the grounds of gender identity, as well as to extend general protection against discrimination on the basis of civil status, gender identity or sexual orientation in, and in connection with, employment, vocational training and membership of certain bodies.”*

The Irish Human Rights and Equality Commission made a submission to the Department of Justice about Section 37.

Source: <http://www.equality.ie/Files/Recommendation-Paper-re-section-37-amendment.pdf>

The most relevant section, that refers to Article 26 of the ICCPR, is as follows:

*“23. Concern that the scope of the exemptions contained in section 37(1) may result in discrimination contrary to Article 26 of the International Covenant on Civil and Political Rights has been expressed by the UN Human Rights Committee. It is also worth recognising the observations made by other UN and Council of Europe bodies, which encourage Ireland to promote the establishment of non denominational or multid denominational schools to encourage diversity and tolerance of other faiths and beliefs. Amendments to section 37 would assist with achieving these aims”*

Also relevant are:

*"41. The approach of this Bill would create a two tier system of protection, absolving religious institutions (even those in receipt of public funds) from the Article 4(2) provisions and would allow privately funded medical and educational institutions to continue to be bound by section 37(1) as it currently stands. This would, in effect, allow discrimination otherwise prohibited by the Act to be lawful.*

*42. Article 4(2) does not distinguish between private and public institutions and we are of the view that the approach of this Bill is undesirable and may continue to leave the State exposed to a breach of its Article 4(2) obligations."*

Also, the recommendations on Page 78 The IHRC submission to the Committee includes:

*"That the education of teachers not include compulsory content that conflicts with the rights of such teachers. The report recommended that any improper encroachment on the right to freedom of thought, conscience and religion of teachers should thus be avoided.... That there be an appropriate amendment to the Employment Equality Acts 1998-2012 to ensure respect for the private life of teachers where their private life does not properly encroach on the rights and freedoms of others."*

Here is a concrete example of how atheists and minority faith teachers are discriminated against under Section 37 of the Employment Equality Act (and which will not be changed by the proposed Bill described by the Irish state, despite what the Irish State is saying).

All training colleges in Ireland are denominationally run, Catholic or Anglican, state funded institutions. There are no non-denominational teacher training colleges in the country. This is a direct quote from one of Ireland's State-funded teacher training colleges:

Source: [http://www.spd.dcu.ie/site/religious\\_studies/documents/CERIFICATEINRELIGIOUSSTUDIESOverviewandFAQs.pdf](http://www.spd.dcu.ie/site/religious_studies/documents/CERIFICATEINRELIGIOUSSTUDIESOverviewandFAQs.pdf)

*"Do I have to do the Religious Certificate in Religious Studies?  
The Certificate in Religious Studies is a requirement for teaching in a Catholic primary school. Teachers applying for positions in Catholic primary schools in Ireland are expected to hold this qualification which equips them to teach religious education according to the tenets of the Catholic faith. The Certificate in Religious Studies (CRS), offered by St Patrick's College (SPD), meets this requirement and has, in the past, enabled graduates to secure teaching positions in Catholic schools both in Ireland and elsewhere."*

*"If I choose not to study for the CRS, are there any repercussions?  
As the vast majority of schools are under Catholic management you will be limiting the number of schools where you can hold a teaching position. Also, although some people have secured employment in Catholic schools in the past without the Cert, many such teachers have found that upon seeking promotion (e.g. principalships) they are ineligible to apply."*

And this is a link to a full document about the Certificate, the content of which could not be taught by conscientious atheists or non-Christian believers (including teaching children how to pray and preparing para-liturgies):

[http://www.spd.dcu.ie/site/religious\\_studies/documents/CRS\\_Booklet\\_Content\\_online.pdf](http://www.spd.dcu.ie/site/religious_studies/documents/CRS_Booklet_Content_online.pdf)

It must be taken into consideration here that the vast majority of schools in the state are Catholic schools. Consequently prospective teachers from minority faith backgrounds and atheists/secularists are required to take this course and teach Catholic religious studies in order to train and get employment as a teacher.

## **8. The Committee asked why has the Irish Government not responded to the UN on its commitment to remove the Irish blasphemy law?**

Ireland did not address this issue in its written response. Ireland has recent recommendations from the Irish Constitutional Convention to remove this, and to replace it with a new clause forbidding incitement to religious hatred. Such a clause would itself discriminate against victims of other types of hatred by focusing only on religious hatred and giving that constitutional privilege.

The ballot paper given to the Constitutional Convention did not include the option to replace the clause with a positive clause on freedom of expression based on Article 10 of the European Convention of Human Rights. This option was recommended by the 1996 Irish Constitution Review Group chaired by TK Whitaker.

## **9. Conclusion**

Thank you again for your questions to Ireland during the 11th session in Geneva, and for all of the work that you are doing to help bring about the implementation of Ireland's Covenant obligations.

Please take into consideration that Ireland has consistently failed to implement your recommendations on these issues, and has failed to answer many of your questions in its written response.

The stronger the recommendations that the Committee makes, the more effectively we as civil society advocacy groups can promote their implementation between now and your next review of Ireland.

Yours sincerely,

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