

**Atheist Ireland Submission  
to FLAC on the  
Shadow Report process  
for the UN Covenant on  
Economic, Social and Cultural Rights**



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**1. Introduction**

1.1 Atheist Ireland is an Irish advocacy group. We promote atheism and reason over superstition and supernaturalism, and we promote an ethical, secular society where the State does not support or finance or give special treatment to any religion. Since being formed in late 2008, we have campaigned for a secular Irish Constitution, parliament, laws, government, education and healthcare systems. We have made submissions to the Irish Government and political parties, the UN Human Rights Council under the periodic review, the UN CERD Committee and the Council of Europe under the Framework Convention for the Protection of National Minorities. We have addressed Irish parliamentary committees, the Irish Constitutional Convention, the OSCE and the Presidents of the European Union, Parliament and Council. We are members of Atheist Alliance International, and we hosted the World Atheist Convention in Dublin in 2011. You can read details of our policies on our website at <http://atheist.ie>.

1.2 This Submission outlines the failure of the Irish State to protect the human rights of atheists and secularists in the Irish Education system, and with regard to employment in senior political and legal jobs, and will show how Ireland's human rights obligations are incompatible with the Irish Constitution. Ireland has failed to take positive measures to secure the human rights of atheists and secularists under the ICESCR despite having ratified the treaty and agreeing to guarantee these rights to all within its territory.

## 2. Article 2

2.1 Article 2.2 of the ICESCR obliges the state to guarantee the rights enunciated in the Covenant without discrimination. Ireland does not protect atheists/secularists from religious discrimination as the Supreme Court elevated the constitutional free practice of religion guarantee over the non-discrimination guarantee.

2.2 The General Comment on the Right to Education under the ICESCR states that:-

*“31. The prohibition against discrimination enshrined in article 2 (2) of the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination.”*

2.3 In a recent Submission to the Minister for Justice Equality and Defence the Equality Authority (IHR & Equality Commission Designate) stated that:- <sup>i</sup>

*“In spite of recognising the need to protect religious interests, the Supreme Court elevated the constitutional free practice of religion guarantee over the non- discrimination guarantee. A similar analysis to that of Quinn’s Supermarket was provided by the Supreme Court in McGrath v Trustees of Maynooth College which concerned the argument of the plaintiffs who were dismissed on grounds relating to their religion that this action constituted “discrimination on grounds of religious status” within Article 44.2.3 of the Constitution. In following the reasoning of Quinn’s Supermarket , the Supreme Court concluded that the purpose of the prohibition on religious discrimination was to protect the free practice of religion. This resulted in the prohibition on religious discrimination effectively being superseded or overcome by the protection of the right to free practice of religion. “<sup>ii</sup>*

2.4 The Irish Constitution clearly does not protect atheists/secularists from religious discrimination. The Irish state provides exemptions in the Equal Status Act, the Education Act and the Employment Equality Act for bodies with a religious ethos to discriminate on religious grounds.

2.5 The Irish Human Rights Commission in their Report to the UN under the UPR, recommended a Constitutional Referendum on Article 40.1 to proscribe discrimination. They also made the following comments in their Submission on the List of Issues to the UN Human Rights Committee under the ICCPR.

*“The IHRC has also called on the State to expand the definition of equality in Irish law. In particular, the IHRC considers that Article 40.1 of the Constitution should be amended to guarantee equality to all and to proscribe discrimination (direct or indirect) in any area of law on non-exhaustive grounds...”*

2.6 Article 40.1 of the Constitution reads:-

*“All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.”*

2.7 The United Nations Committee on Economic, Social and Cultural Rights in their concluding observations in 2002 stated the following on Article 40.1:

*“16. The Committee regrets that the State party has not yet undertaken any measures with regard to the Committee’s 1999 recommendation concerning the inconsistency of article 40.1 of the Constitution on equality before the law with the principle of non-discrimination as set out in articles 2 and 3 of the Covenant.”*

2.8 The Constitutional Review Group Report 1995 also recommended Constitutional change to Article 40.1 to bring Ireland in line with international human rights instruments.

2.9 Despite these observations and recommendations, there has been no change and no commitment to a Constitutional Referendum on Article 40.1 and consequently Ireland is in breach of its obligations under the ICESCR as it will continue to discriminate against atheists/secularists and fail to guarantee and protect their rights under the Covenant.

### **3. Article 2, Article 6(1), Article 13**

3.1 The Education Act 1998, Equal Status Act 2000 and Employment Equality Act provide exemptions on religious grounds and fail to protect atheists/secularists from religious discrimination because the State gives priority to religious beliefs. So do the religious oaths required for senior political and legal jobs including President, Judges, Taoiseach, Tanaiste, Attorney General and other members of the Council of State.

3.2 General Comment on Article 13 of the ICESCR states that:-

*48. In this respect, two features of article 13 require emphasis. First, it is clear that article 13 regards States as having principal responsibility for the direct provision of education in most circumstances;*

*“The Committee is of the view that this element of article 13 (3) permits public school instruction in subjects such as the general history of religions and ethics if it is given in an unbiased and objective way, respectful of the freedoms of opinion, conscience and expression. It notes that public education that includes instruction in a particular religion or belief is inconsistent with article 13 (3) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.”*

3.3 The majority of schools in Ireland at both primary and second level are operate with a religious ethos. At second level Educational Training Board schools (ETB) come under the VEC Act which does not refer to religion. Despite this all these schools have religious instruction classes and many of these operate a religious ethos. Schools in Ireland do not need to be under a religious patron to discriminate on religious grounds because the Constitution does not protect atheists/secularists from religious discrimination. Article 13 (3) protects the rights of atheists/secular parents and their children and is not confined to religious parents.

#### **4. The Education Act 1998**

4.1 **Section 15 (1) of the Education Act 1998** obliges the Board of Management of all schools to manage the school on behalf of the patron of that school.

4.2 **Section 15 (2) (b) of the Education Act 1998** obliges Boards of Management of all schools to uphold and be accountable to the patron for so upholding, the characteristic spirit (ethos) of the school. Despite being obliged to uphold this ethos, schools are not legally obliged to write it down. Parents are not aware from the Admissions Policy of any school how exactly the ethos of the school will operate on the ground.

4.3 The characteristic spirit (ethos) of a school can include any of the following:-

Religious integrated curriculum, religious instruction classes, prayers, religious ceremonies, religious symbols in classrooms and religious symbols on school uniforms and rites of passage such as Holy Communion. There is nothing in the Education Act 1998 that obliges any school to deliver the state curriculum in a neutral and objective manner.

#### **The opt- out from Religion**

4.4 **Section 30 (2) (e) of the Education Act 1998** does not oblige any student 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 has reached the age of 18 years, the student. This section of the Education Act 1998 reflects Article 44.2.4 of the Constitution which states that:-

*“Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at the school.”*

4.5 One of the key things to note is that both the Constitution and the Education Act 1998 refer to religious instruction. The religion that is integrated into the curriculum and the daily life of the school is not regarded as religious instruction but religious education. The state does not recognise that there is any right to opt out of religion that is integrated into the curriculum.

4.6 In the Supreme Court case Campaign to Separate Church and State, Barrington J stated:

*“The Constitution therefore distinguishes between religious ‘education’ and religious ‘instruction’ – the former being the much wider term. A child who attends a school run by a religious denomination different from his own may have a constitutional right not to attend religious instruction at that school but the Constitution cannot protect him from being influenced, to some degree by the religious ‘ethos’ of the school. A religious denomination is not obliged to change the general atmosphere of its school merely to accommodate a child of a different religious persuasion who wishes to attend that school.”*

4.7 Despite the above comments of the Supreme Court there are no Guidelines statutory or otherwise to define what is meant by “*influenced, to some degree by the religious ‘ethos’ of the school*”. The Education Act 1998 does not oblige any school to deliver the curriculum in neutral and objective manner and parents are left dealing with Boards of Management who have no connection to the ICESCR and who interpret human rights according to their own ethos.

4.8 In their Report in 2011, Religion & Education; A Human Rights Perspective the Irish Human Rights Commission recommended that:-<sup>iii</sup>

*“Section 15 of the Education Act should 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. In this regard, the State must 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 of any misplaced proselytism.”*

4.9 The Report from the Forum on Patronage and Pluralism recommended that that,

*“as a first step and in line with the general view expressed at the Forum, Rule 68 should be deleted as soon as possible”*.<sup>iv</sup>

4.10 **Section 6 (a) of the Education Act 1998** obliges every person concerned in the implementation of the Act to give practical effect to the constitutional rights of children.

4.11 Despite the above it is parents who are responsible for the supervision of their children if they opt them out of religious instruction classes and religious ceremonies in Irish schools. The state does not oblige schools to provide another course for students that are opted out of religion. In the main most students have no option but to sit at the back of the religious instruction class and also attend religious ceremonies if their parents cannot collect them from school.

4.12 The Report from the Forum on Patronage and Pluralism also raised this issue and pointed out that :<sup>v</sup>

*“It is important to distinguish between Education about Religion and Beliefs (ERB), which promotes learning about religions and Denominational Religious Education which focuses on faith formation.*

*The current situation for children opting out of Denominational Religious Education in primary school is inappropriate and inadequate on human rights grounds. It is unsatisfactory because some children are deprived of an educational opportunity to learn about religions and ethics. It is important that all children should be enabled, through an ERB programme, to develop knowledge, values and attitudes towards religions. There is also a need for an Ethics course appropriate to life in a democratic society. As early as the 1830s there was concern about children losing out educationally because of the opt-out clause. The Rules of the time stated that “no child shall receive, or be present at, any religious instruction of which his parents or guardians disapprove.” Furthermore, the Rules stated “the time for giving religious instruction shall be so fixed that no child shall be thereby, in effect, excluded, directly or indirectly, from the other advantages which the school affords.”*

4.13 It is impossible to opt out of religion that is integrated into the curriculum and the daily life of the school. This applies to all schools at both primary and second level. The state does not recognise that there is a positive obligation to respect the rights of atheist/secular parents and their children as the Irish Constitution obliges them to buttress religion at the cost of the human rights of atheists/secularists.

4.14 The state is well aware that there is no practical application given to the Constitutional right of parents to opt their children out of religious instruction classes or religion that is integrated into the curriculum and the daily life of the school. A recent letter to the Irish Times newspaper highlights the plight of parents trying to opt their children out of religion in Irish schools.<sup>vi</sup> The reason why the state gives no practical application to the rights of atheists/secularists is that they are mandated by the Constitution to give preference to religious over philosophical convictions.

## **5. Admission to Schools Bill**

5.1 In September 2013 the government published a Draft General Scheme for an Education (Admission to Schools) /Bill, as well as Draft Regulations. One of the intentions of the Bill is to ensure that enrolment policies will include a statement setting out the position of the school in relation to its arrangement for upholding the constitutional right of student not to attend religious instruction. There are no proposals to oblige schools to provide supervision for parents who opt out their children out of religious instruction.

5.2 This Bill does nothing to change the situation on the ground and protect the rights guaranteed under the ICESCR. It does not deal with the religious integrated curriculum, and only refers specifically to religious instruction. Neither does it deal with the practical application of the right to opt out of religious instruction classes. There is no proposal to ensure that the curriculum is delivered in a neutral and objective manner or to ensure that schools write down their ethos and inform parents exactly where they are integrating religion into secular subjects under the curriculum.

5.3 General Comment on Article 13 states that:-

*59. By way of illustration, violations of article 13 include: the introduction or failure to repeal legislation which discriminates against individuals or groups, on any of the prohibited grounds, in the field of education; the failure to take measures which address de facto educational discrimination;*

5.4 It seems clear that the State intends to ignore the human rights guaranteed under the ICESCR and argue that the Constitution protects secular parents and their children when it is clear that despite all the guarantees we still do not enjoy these rights. To date the State has not given any notice of how it will comply with the findings of the European Court in the Louise O’Keeffe case. Parents are still obliged to send their children to schools where there is no effective remedy to engage the state under Article 13 or Article 2 and where they are discriminated against in practice and in law.

## **6. Equal Status Act 2000**

6.1 Section 7 3 (c) of the Equal Status Act 2000<sup>vii</sup> gives an exemptions to schools with a religious ethos to refuse access in order to uphold their ethos. As the majority of schools at both primary and second level have a religious ethos the children of atheists/secularists have not got a right of access to the majority of schools in the country.

6.2 In schools under the patronage of the Catholic Church a baptismal certificate is required when seeking access. In many cases this is the only school in a particular area and this has resulted in parents feigning religious belief in order to gain access.

6.3 The proposed Education (Admission to Schools) Bill will not remove religious discrimination in access to schools<sup>viii</sup>. Atheists/Secular parents are legally obliged to send their children to schools that discriminate on religious grounds.

## **7. Employment Equality Act 1998**

7.1 Section 37 (1) of the Employment Equality Act 1998<sup>ix</sup> gives a religious, educational or medical institution that is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values permission to discriminate on religious grounds.

7.2 In order to train as a teacher and gain employment trainee teachers must take a Certificate in Religious studies (CRS). As the vast majority of schools in the state are religious it is nearly impossible to gain employment as a teacher without a CRS. This was the subject of an article in the Irish Times on 29<sup>th</sup> of April, “*Trainee teachers are warned career prospects depend on religious faith*”.<sup>x</sup> The state supports this discrimination as the Constitution permits religious discrimination in order to buttress religion.

7.3 Section 37 of the Employment Equality Act grants exemptions to religious bodies at the expense of the right to freedom of conscience, freedom of expression and the right to private and family life of individuals.

7.4 The Joint Managerial Body AMCSS Secretariat’s ‘Guidelines on the Inclusion of Students of Other Faiths in Catholic Secondary Schools’ states that:

*“The general programme of the school will be considered as a form of **pre-evangelisation**.”*

7.5 Pre-evangelisation of pupils who are not Catholic does not constitute respect for the religious and philosophical convictions of minorities, and it is official policy in the majority of schools in the country. Teachers would fall foul of Section 37 if they refused to pre-evangelise, as they would not be upholding the religious ethos of the school. In essence, in order to take up employment as a teacher, a person must be willing to undermine the human rights of minorities who have no option but to send their children to school that operate a religious ethos.

7.6 The proposed Bill (Bacik Bill) to amend Section 37 will not remove the ability of religious, educational or medical institutions to discriminate against atheists. The Equality Authority has recently made a Submission to Government to remove this discrimination.<sup>xi</sup>

## **8. Religious Oaths for Political and Legal Jobs**

8.1 Under the Irish Constitution the President, judges and members of the Council of State are required to swear a religious oath. This means that a conscientious atheist cannot aspire to hold any of these positions.

8.2 The recent Constitutional Convention did not recommend any change to these religious oaths, and to date the State has not given any commitment to a referendum.

8.3 The inclusion of Council of State members among those who are required to swear a religious oath is significant, as holders of key high political and legal jobs are obliged to be members of the Council of State.

8.4 This includes the Taoiseach, the Tánaiste, the Chief Justice, the President of the High Court, the Chairman of Dáil Éireann, the Chairman of Seanad Éireann, and the Attorney General. These are all ex-officio members of the Council of State.

8.5 This addition to the generally recognised extent of the religious oath obligations became clear last year, when Tanaiste Eamon Gilmore was obliged to swear a religious oath to take his place on the Council of State, despite being publicly on record as not believing in a God.

8.6 The oath that the President is obliged to take is written in Article 12.8 of the Constitution:

*8. The President shall enter upon his office by taking and subscribing publicly, in the presence of members of both Houses of the Oireachtas, of Judges of the Supreme Court and of the High Court, and other public personages, the following declaration:*

*“In the presence of Almighty God I, do solemnly and sincerely promise and declare that I will maintain the Constitution of Ireland and uphold its laws, that I will fulfil my duties faithfully and conscientiously in accordance with the Constitution and the law, and that I will dedicate my abilities to the service and welfare of the people of Ireland. May God direct and sustain me.”*

8.7 The oath that Council of State members are obliged to take is written in Article 31.4 of the Constitution:

*4. Every member of the Council of State shall at the first meeting thereof which he attends as a member take and subscribe a declaration in the following form:*

*“In the presence of Almighty God I, do solemnly and sincerely promise and declare that I will faithfully and conscientiously fulfil my duties as a member of the Council of State.”*

8.8 The obligation of the Taoiseach, the Tanaiste, the Chief Justice, the President of the High Court, the Chairman of Dáil Éireann, the Chairman of Seanad Éireann, and the Attorney General to be members of the Council of State, and therefore be obliged to swear the religious oath to maintain their primary job, is in Article 31.2.1 of the Constitution:

*2. The Council of State shall consist of the following members:*

- i. As ex-officio members: the Taoiseach, the Tánaiste, the Chief Justice, the President of the High Court, the Chairman of Dáil Éireann, the Chairman of Seanad Éireann, and the Attorney General.*
- ii. Every person able and willing to act as a member of the Council of State who shall have held the office of President, or the office of Taoiseach, or the office of Chief Justice, or the office of President of the Executive Council of Saorstát Éireann.*
- iii. Such other persons, if any, as may be appointed by the President under this Article to be members of the Council of State.*

8.9 The oath that Judges are obliged to take is written in Article 34.5 of the Constitution:

*5.1 Every person appointed a judge under this Constitution shall make and subscribe the following declaration:*

*"In the presence of Almighty God I, do solemnly and sincerely promise and declare that I will duly and faithfully and to the best of my knowledge and power execute the office of Chief Justice (or as the case may be) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws. May God direct and sustain me."*

8.10 This Article also explicitly states the following:

*5.4 Any judge who declines or neglects to make such declaration as aforesaid shall be deemed to have vacated his office.*

## **9. The Right to an Effective Remedy**

9.1 The Irish Constitution permits discrimination on the grounds of religion as it gives preference to religious beliefs over philosophical convictions. In addition it provides exemptions in the European Convention on Human Rights Act 2003. As the state does not take any responsibility for the education system complaints mechanisms will not guarantee the level of protection that the Covenant offers.

9.2 In Ireland you cannot hold the state responsible for the protection of human rights guaranteed under the European Convention as the European Convention on Human Rights Act 2003 only applies to ‘organs of the state’ and publicly funded schools are not considered ‘organs of the state’ within the meaning of the Act. This means that the Irish state ‘provide for’ the education of the children of atheist/secularists in publicly funded private schools that are opted out of the European Convention.

9.3 The Irish State cedes control of the education system to private bodies and has failed to adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their legal obligations under the European Convention and the ICESCR. The State is hardly likely to guarantee the rights under the Covenant when they have exempted the education system out of the European Convention on Human Rights Act 2003. There is no legal framework to protect the rights guaranteed under the Covenant.

9.4 The Irish Human Rights Commission has highlighted this lack of effective remedy of Covenant rights in their Submission on the list of issues to the UN Human Rights Committee under the ICCPR:<sup>xii</sup>

*"5. The IHRC wishes to highlight that despite the Committee's 2008 Concluding Observations, no clear steps have been taken to give effect to the ICCPR in domestic legislation or to provide an effective remedy to*

*any person whose rights have been violated under the Covenant. There has, to the IHRC's knowledge, been no public discussion initiated by the State on the need for such incorporation of international conventions into domestic law, not least in the Terms of Reference of the Constitutional Convention. Accordingly, there has still been no comprehensive analysis on the wider question of the status of international treaties in Irish law. The IHRC has consistently called upon the State to incorporate international human rights treaties into domestic law, as it considers that in the absence of such incorporation human rights protections contained in international treaties may not be fully realised in Irish law. The IHRC has repeatedly set out the reasons as to why the Government's position regarding the dualist nature of the Irish legal system being an impediment to incorporation does not stand up to scrutiny. The IHRC notes with regret that at the UPR hearing, Ireland stated that it did not intend to 'alter current practice'.*"

9.5 The European Court of Human Rights found the Irish State responsible for the protection of the rights guaranteed under the Convention in the school that Louise O'Keeffe attended. They found Ireland in breach of Article 3 (protection from cruel and inhuman treatment) and Article 13 (the right to an effective remedy). This was a publicly funded school under the patronage of the Catholic Church. The Irish State had argued that they were not responsible. To date nothing has changed on the ground to ensure that parents and children in Ireland can hold the state responsible for a violation of any their rights under the European Convention or the ICESCR.

9.6 In the Louise O'Keeffe case at the European Court the court stated that:-

*"115. The Court recalls that a decision or measure favourable to the applicant is not, in principle, sufficient to deprive him of his status as a "victim" for the purposes of Article 34 of the Convention unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for the breach of the Convention (for example, Dalban v. Romania [GC], no. [28114/95](#), § 44, ECHR 1999-VI). Where rights of such fundamental importance as those protected under Article 3 are at stake and where an alleged failure by the authorities to protect persons from the acts of others is concerned, Article 13 requires that there should be available to victims a mechanism for establishing any liability of State officials or bodies for acts or omissions involving the breach of their rights under the Convention and, furthermore, that compensation for the non-pecuniary damage flowing from the breach should in principle be part of the range of available remedies (Z and Others v. the United Kingdom, cited above, § 109). An applicant's victim status may also depend on the level of compensation awarded at domestic level, having regard to the facts about which the applicant complains before the Court (see, inter alia, Gäfgen v. Germany [GC], no. [22978/05](#), § 115 and 118, ECHR 2010).*

116. *As to the case-law relied upon by the Government to argue that a remedy addressing State liability was not a pre-requisite to effectiveness, the Court notes as follows. The present case is substantively different from Costello-Roberts: the applicant in the latter case essentially challenged the application by a teacher of the law (allowing corporal punishment) whereas the present applicant challenged the State's failure to legislate to provide an adequate legal framework of protection. Calvelli and Ciglio concerned medical negligence so that a civil negligence action against doctors (and, potentially, disciplinary proceedings) was considered adequate for the purposes of the procedural aspect of Article 2 of the Convention. That the Government made concessions about domestic law in Z and Others does not change the Convention principles stated therein to the effect that, in a case such as the present, a remedy against the State was required.*

117. *However, the applicant has neither obtained acknowledgement of the Convention breach alleged nor adequate redress."*

*"151. Finally, the Government appeared to suggest that the State was released from its Convention obligations since the applicant chose to go to Dunderrow National School. However, the Court considers that the applicant had no "realistic and acceptable alternative" other than attendance, along with the vast majority of children of primary school-going age, at her local National School (Campbell and Cosans v. the United Kingdom, 25 February 1982, § 8, Series A no. 48). Primary education was obligatory (sections 4 and 17 of the School Attendance Act 1926), few parents had the resources to use the two other schooling options (home schooling or travelling to attend the rare fee-paying primary schools) whereas National Schools were free and the National School network was extensive. There were four National Schools in the applicant's parish and no information was submitted as to the distance to the nearest fee-paying school. In any event, the State cannot be released from its positive obligation to protect simply because a child selects one of the State-approved education options, whether a National School, a fee-paying school or, indeed, home schooling (Costello-Roberts, cited above, § 27).*

152. *In sum, the question for current purposes is therefore whether the State's framework of laws, and notably its mechanisms of detection and reporting, provided effective protection for children attending a National School against the risk of sexual abuse, of which risk it could be said that the authorities had, or ought to have had, knowledge in 1973."*

9.7 Parents are legally obliged to send their children to schools where there is no effective remedy to vindicate their Covenant rights. To date the State has not put in place any effective remedy to vindicate the rights guaranteed under the Covenant and it has not explained how it intends to give effect to the O'Keeffe case at the European Court.

## 10. Conclusion

10.1 It is clear that Ireland does not fulfil its obligations under the ICESCR as it discriminates on religious grounds. One of the General legal obligations under the ICESCR is that;

*“43-States parties have immediate obligations in relation to the right to education, such as the "guarantee" that the right "will be exercised without discrimination of any kind" (art. 2 (2)) and the obligation "to take steps" (art. 2 (1)) towards the full realization of article 13. Such steps must be "deliberate, concrete and targeted" towards the full realization of the right to education.”*

10.2 The Divestment process, the draft General Scheme for an Education (Admission to Schools) /Bill and the Bacik Bill to amend Section 37 of the Employment Equality Act, will not fulfil the states obligations under the ICESCR. None of these methods will remove the religious discrimination that is forbidden under the ICESCR.

10.3 There is an urgent need for a constitutional referendum to remove the religious oaths for senior political and judicial jobs including President, Judges, Taoiseach, Tanaiste, Attorney General and other members of the Council of State.

## Notes

<sup>i</sup> <http://www.equality.ie/Files/Letter-to-Minister-from-Acting-Chair.pdf>

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

<sup>iii</sup> <http://www.ihrc.ie/download/pdf/religionandeducationpdf.pdf>

<sup>iv</sup> <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> p.110

<sup>v</sup> Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-Advisory-Group.pdf

<sup>vi</sup> <http://www.irishtimes.com/debate/letters/national-schools-and-patronage-1.1798947>

<sup>vii</sup> <http://www.irishstatutebook.ie/2000/en/act/pub/0008/sec0007.html#sec7>

“(c) where the establishment is a school providing primary or post-primary education to students and the objective of the school is to provide education in an environment which promotes certain religious values, it admits persons of a particular religious denomination in preference to others or it refuses to admit as a student a person who is not of that denomination and, in the case of a refusal, it is proved that the refusal is essential to maintain the ethos of the school,”

viii <http://www.irishtimes.com/news/education/change-one-thing-school-admissions-overhaul-must-address-religious-discrimination-1.1788624> “The treatment of non-Catholic parents and children in our education system is an urgent human rights issue. To some extent, their predicament stems from the unusual preponderance of Catholic and denominational schools in Ireland. Indeed, currently there is a strong focus on the need for divestment of patronage in areas over-served by Catholic schools. But divestment will be limited based on local demand, and so non-Catholics in many areas will continue to have little choice but to apply to Catholic schools.

The overwhelming focus on divestment has distracted from the vital question of how parents in this position should be accommodated. While we cannot change the ownership and patronage of State-funded schools overnight, the rights of non-Catholic parents could be immeasurably improved through one simple legislative reform. We might look to France, which permits state funding of Catholic schools but only on condition they accord “complete respect” to liberty of conscience and admit pupils of any religion.”

ix <http://www.irishstatutebook.ie/1998/en/act/pub/0021/sec0037.html#sec37>

“(a) it gives more favourable treatment, on the religion ground, to an employee or a prospective employee over that person where it is reasonable to do so in order to maintain the religious ethos of the institution, or (b) it takes action which is reasonable necessary to prevent an employee or a prospective employee from undermining the religious ethos of the institution.”

x <http://www.irishtimes.com/news/education/trainee-teachers-are-warned-career-prospects-depend-on-religious-faith-1.1776620> “This sounds fine until you ask where these other schools might be. The unaltered fact is that the Catholic Church controls 90 per cent of primary schools and that more than half of those (1,700 out of 3,200) are in areas where there is no alternative school. Behind the nice words there is a threat: non-Catholic teachers should leave Catholic-controlled schools and try to find work in the tiny part of the system that is not church-managed. For all the diversity-speak, the church has kept an iron grip on the vast bulk of the system. And within that system, it is tightening up its insistence that teachers must not merely be orthodox Catholics but must instruct children in the faith.

What’s almost beyond belief, however, is that the State is openly advertising and supporting this discrimination. On the website of St Patrick’s teacher training college in Dublin (a State-funded college validated by the State-funded Dublin City University), the “frequently asked questions” section deals with the matter quite bluntly. Question: “If I choose not to study for the CRS, are there any repercussions?” Answer: “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 . . . they are ineligible to apply.””

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

xii [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRL/INT\\_CCPR\\_IFN\\_IRL\\_14924\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRL/INT_CCPR_IFN_IRL_14924_E.pdf)