

Atheist Ireland

Submission to NCCA on Draft Primary Curriculum Framework

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Contents

1. Introduction
2. Constitutional and Human Rights of Atheists
3. The 1999 Primary School Curriculum
4. The Draft Primary Curriculum Framework
5. The Recommendation from the Forum on Patronage on ERB & Ethics
6. Constitutional Right to a Basic Moral and Social Education
7. Appendix: Extract from the Primary School Curriculum
8. Attachment: Legal Opinion

1. Introduction

The 1999 Primary school Curriculum has undermined the Constitutional and human rights of atheists, humanists and the non-religious in Ireland. It is used as a reference point for Patron bodies, schools and teachers to evangelise minorities into a religious way of life.

Any review of the Primary School Curriculum should seek to recognise and promote the Constitutional and human rights of atheists, humanists and the nonreligious. Our rights should not be viewed through a religious understanding of the world, but should recognise that we have the same positive right to freedom of conscience on our own terms and understanding of the world.

We attach a Legal Opinion that we have recently obtained on this issue which we would like you to read in conjunction with this submission. This Legal Opinion includes analysis of the Constitutional rights of atheist parents and students generally within the education system.

We do not merely have a negative right to not attend religious instruction in schools. We have positive rights as well.

In the 2016 census 468,000 people said they have no religion, and another 125,000 did not state a religion. The vast majority of Irish schools have a Catholic ethos, yet only 43% of marriages last year were Catholic while 41% were civil or humanist and another 8% were 'spiritualist'.

The United Nations and the Council of Europe have made many recommendations in relation to the rights of minorities in the education system. The Draft Primary Curriculum Framework fails to acknowledge or take on board any of these Recommendations in relation to the rights of minorities. We are expected to leave our human rights at the school gate.

The Draft Primary Framework continues to view the education system as one based on diversity and inclusion without reference to the Recommendations of the United Nations and Council of Europe who have raised concerns regarding the right to freedom of conscience and religious discrimination of minorities in the education system.

That is an example of the disrespect that the NCCA and the education system in general has for atheists, secularists, humanists and the non-religious in general.

Under the Draft Framework the right to freedom of conscience and the right to be free from discrimination are viewed through a framework that has been set by those that have influence and control of our education system. Our history shows that religious bodies have had undue influence over the rights of minorities in the education system.

This is the reason that the UN and Council of Europe have consistently raised concern about the rights of minorities in the education system and the reason why those concerns are consistently ignored.

Any change in the Primary curriculum framework should vindicate the Constitutional and human rights, and should address the failure of the current Framework to recognise and promote the rights of atheist, secularists, humanists and the non-religious.

Atheists, secularists, humanists and the non-religious seek a Curriculum Framework that is rights based, that recognises our positive and negative rights in relation to the education of our children. We also seek a Curriculum Framework that recognises human rights law and that promotes human rights.

In the main minorities have no choice where they send their children to school. The vast majority of schools in Ireland operate with a religious ethos. There are no non-denominational secular schools in Ireland. This does not mean that parents and their children are obliged to accept the ethos of any particular patron in order to access education for their children.

There are substantial philosophical differences between atheism, secularism and religion. The Constitution and human rights law protects our inalienable parental rights as well as our right to be treated with equality and be free from discrimination. We do not accept an understanding of freedom of religion that is based on any particular religion such as Catholicism; we reject it on the grounds of conscience.

The European Court in the *Lautsi v Italy* case in 2011 has said that secularism is a philosophical conviction protected under the European convention. The court stated that:-

“58. Secondly, the Court emphasises that the supporters of secularism are able to lay claim to views attaining the “level of cogency, seriousness, cohesion and importance” required for them to be considered “convictions” within the meaning of Articles 9 of the Convention and 2 of Protocol No. 1 (see *Campbell and Cosans v. the United Kingdom*, 25 February 1982, § 36, Series A no. 48).

More precisely, their views must be regarded as “philosophical convictions”, within the meaning of the second sentence of Article 2 of Protocol No. 1, given that they are worthy of “respect 'in a democratic society'”, are not incompatible with human dignity and do not conflict with the fundamental right of the child to education (*ibid.*).”

The 1999 Curriculum Framework ignored the rights of atheists, humanists, secularists and the non-religious and the Draft Framework Curriculum still fails to take on board our rights.

2. Constitutional and Human Rights of Atheists

Atheist, secularists, humanists and the non-religious in general have exactly the same rights as religious parents under the Irish Constitution. In the recent Legal Opinion that Atheist Ireland obtained on religion in schools it states that:

“18. Therefore, both the right to freedom of conscience and the prohibition on discrimination on the grounds of religious profession, belief or status, can be relied upon by persons who do not hold religious beliefs.”

“14. Article 44.2.3° prohibits discrimination as between religious persons and non-religious persons.”

“26. Specifically, with regard to the question of religion in education, the primacy of the role of parents was confirmed by Barrington J. in Campaign to Separate Church and State v Minister for Education.”

In addition Article 42.3.2 states that:-

“The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.”

There is an obligation on the State to ensure that children receive a basic moral education. Note that this Article does not oblige the State to ensure that children receive a basic moral education through religion.

Atheist, secularists, humanists and the non-religious in general have objections on the grounds of conscience (Article 42.1) to their children receiving moral education through religious education.

The rights of atheists, secularists, humanists and the non-religious are only recognised by the NCCA within a religious framework and consequently our Constitutional and human rights are undermined.

3. The 1999 Primary School Curriculum

The 1999 Primary school curriculum framework has enabled Patron bodies, schools and teachers to promote the spiritual education of students by evangelising them into a religious way of life. It discriminates against non-religious minorities. It does not take on board the positive right of non-religious minorities under Article 42.1 in relation to the education of their children.

The 1999 Primary School Curriculum focuses on the Spiritual Dimension of life in relation to the promotion of religion and religious values. It only recognises and caters for the right of individuals to choose the particular form of religious expression that reflects the spiritual aspirations that he or she seeks.

It does not take into account the positive right of atheists, secularists, humanists and the non-religious to express their own aspirations through values that are not based on a religious understanding of the world.

The NCCA have never taken on board the fact that the word ‘spiritual’ in the Education Act 1998 was not confined to religious expression.

During the Oireachtas debate on the meaning of the word ‘spiritual’ under Section 9 of the Education Act, the then Minister for Education, Michael Martin was quite clear that the word ‘spiritual’ was not confined to religious expression and that atheists could be ‘spiritual’ while not believing in the transcendence.

In general Atheists would not refer to themselves as ‘spiritual’ but regardless the purpose of the word ‘spiritual’ in the Education Act was not to oblige schools to promote the spiritual and moral education of students through religion or to demote the right to respect for non-religious convictions.

The 1995 White Paper on education states that:

“Societal and Individual Development through Education:

Proceeding from the foregoing considerations, this White Paper sets out the following statement of educational aims, incorporating individual and societal development, as a basis for active reflection by the partners, as a guide to policy formulation, and as guidelines for inclusion in the daily practices of teaching and learning in schools and colleges.

The aims are... to foster an understanding and critical appreciation of the values — moral, spiritual, religious, social and cultural — which have been distinctive in shaping Irish society and which have been traditionally accorded respect in society provisions should be interpreted, not in isolation, but in a way which is in harmony with the Constitution as a whole and which gives due weight, as opposed to priority, to each. There are precedents to suggest that a hierarchical approach will be adopted by the Courts only when a harmonisation of rights is not possible.

There are a number of legal principles which would apply in the approach to legislation and the following discussion illustrates their impact on the legislative approach to school governance.”

In the 1995 White Paper on Education there was never any intention on behalf of the State to promote moral values or spiritual values through religion, or to confine promoting the spiritual education of children through religious education. In the 1995 Framework Curriculum the NCCA recognises and promotes developing values through religion without any regard to the Constitutional rights of minorities or the intention of the Education Act 1998.

Section 30-2(e) of the Education Act 1998, Section 15-2 (b), (d), (e) and Section 9 (d) are a reflection of the philosophical aspirations of the 1995 White Paper on Education. In particular, Section 15-2 (e) states:

“(e) have regard to the principles and requirements of a democratic society and have respect and promote respect for the diversity of values, beliefs, traditions, languages and ways of life in society.”

Schools are entitled to their ethos, but they cannot discriminate against students who do not share that ethos. There was never any intention in the White Paper on Education or the Oireachtas debates on the Education Act 1998 to put in place a hierarchical approach to rights as opposed to an approach that treats all rights in harmony.

The approach taken in the 1999 Curriculum Framework has undermined pluralism and enabled Patron bodies, schools and teaching to undermine the right to freedom of conscience of atheists, humanists and the non-religious.

The failure of the 1999 Primary School curriculum to recognise the positive Constitutional right of atheists, humanists and the non-religious under Article 42.1 and 42.3.2 of the Constitution has resulted in schools, patrons bodies and teachers promoting moral values through religion to enable our children to see the relevance of religion to their lives.

That is not pluralism, as it recognises and promotes only the views of the religious majority in the country. Parents from atheist and secularist families have been told by schools that the school is obliged to promote the spiritual education of their children under Section 9 (d) of the Education Act 1998. Because of the 1999 Curriculum Framework, spiritual education is always viewed as education with a religious aim.

The Constitutional right of parents under Article 42.1 does not mean that schools are obliged to promote the moral and spiritual education of atheists, secularists, humanists and the non-religious through religion. This is just religious discrimination.

The 1999 Curriculum Framework has demoted the Constitutional rights of Atheists, secularists, humanists and the non-religious to a negative right to not attend anything that is against our conscience (with no state guidelines in place). Our positive rights under the Constitution and human rights law have been ignored and subsumed into a curriculum framework based on a religious understanding of rights.

4. The Draft Primary Curriculum Framework

The Draft Primary curriculum framework states:

“Inclusive education and diversity:

Inclusive education provides for equity of opportunity and participation in children’s learning
Inclusive education celebrates diversity and responds to the uniqueness of every child.”

The above statement is meaningless given the Irish education system. What practical application will be given to the rights of non-religious minorities in any school given the fact that at present children are left sitting in the classroom where religion takes place when there is a Constitutional right to not attend and be supervised outside the class?

The Draft Framework goes on to say that:

“Additionally, there are demands to include new aspects of learning in the curriculum such as Coding and Computational Thinking, Education about Religions and Beliefs (ERB) and Ethics, Modern Foreign Languages, and to place a greater general emphasis on Wellbeing.”

It then states that:-

“This increased diversity is reflected in the Department’s Action Plan 2016-2019 in which Goal 4.2 (pp .43-44) focuses on providing greater school choice for parents and children . As part of this and in partnership with Patron Bodies, the Action Plan sets out initial broad steps for the establishment of 400 multi-/non-denominational schools. While this is a long-term action, it potentially raises a question about the role of the State in ensuring that education related to the religious and ethical aspects of human development is provided for and that respect for all members of society is promoted and nurtured in the process.”

Again this Draft Framework fails to take into account philosophical convictions such as atheism and secularism. On the basis of conscience we do not accept that it is the duty of any State to ensure that education related to religious aspects of human development are provided for.

If the Draft Framework referred to the role of the State in ensuring that education related to atheism, secularism and ethical aspects of human development is provided for, then we would never hear the end of it.

It is clear from this aspect of the Draft Framework that the NCCA has no understanding of our Constitutional and Human Rights and seeks to continue to undermine them.

Given the legal framework in the Irish education system and the failure of the schools system to recognise and protect the rights of atheists, secularists, humanists and the non-religious, the purpose of religion courses in Irish schools is to evangelise. Our recent Legal Opinion in relation to the second level Religious Education course developed by the NCCA states that:

“76. The above material suggests that the NCCA religion course for junior certificate was molded with input from religious bodies who in turn designed guidelines for the supplementation of the NCCA junior certificate course with Catholic faith formation and development. It is impossible in those circumstances to see any justification whatsoever for withholding the right of a student to opt out of such a course. The intricate architecture

comprising the NCCA syllabus layered with guidelines and various assertions cannot overcome the fundamental principle that a child must be permitted to not attend religious instruction in State funded schools. Teaching Catholic instruction during the State religion syllabus, without offering a supervised opt out, represents an unlawful, systematic and stark attack on the right to not attend religious instruction in State funded schools.”

Given Section 15-2(b) of the Education Act 1998 the NCCA were well aware that schools would integrate faith formation into this Religious education course, but went ahead regardless.

The recently updated second level RE course is no better as its main aim is to develop values to enable students to see the relevance of religion to their lives. If this course was to develop values to enable students to see the relevance of atheism or secularism to their lives then it would be seen as indoctrination.

On the ground the vast majority of second level schools integrate faith formation into the State Religious Education curriculum and in many cases force students to take it. One of the General Principles of the European Court is that these types of religion courses must be delivered in an objective, critical and pluralistic manner.

5. The Recommendation from the Forum on Patronage on ERB & Ethics

The proposed Draft primary curriculum Framework fails to give any voice to the reason that the Recommendation from the Forum on Patronage and Pluralism in relation to ETB and ethics was not introduced in primary schools.

ERB and ethics was not introduced because of the objections of religious bodies and the fact that Section 15.2(b) of the Education Act 1998 would need to be amended in order that the course would be delivered objectively.

Any attempt to introduce such a course into primary schools without the amendment of the Education Act 1998 will further undermine our rights.

In their Submission to the NCCA in relation to the proposed ETB and ethics course recommended by the Forum the Conference of Catholic Bishops stated that:

“These approaches require teachers to adopt and promote a pluralist approach to religion. This is an approach to religion that goes against the philosophical basis of Catholic religious education. Such a contradiction would place teachers in a very difficult position where conflicting philosophical approaches to religious education would have the potential to create significant confusion.”

We agree with the Catholic Church in this regard. There are conflicting philosophical approaches to ERB and ethics. Our philosophical approach to any teaching on religion and beliefs is based on our convictions and rights under the Constitution and Human Rights law. The philosophical approach of the Catholic Church is based on their teaching. Our Constitutional and human rights cannot take second place to the teaching of any church just because they have power and control over teacher training and the employment of teachers.

The new Framework must take into account these philosophical differences and not try to crow bar our rights within language in the Framework that is meaningless but sounds inclusive, and which is based on a religious understanding of rights. It must also take into account our Constitutional and human right to not accept a form of teaching that is based on religious values for our children.

6. Constitutional Right to a Basic Moral and Social Education

There is an obligation on the State to provide a basic moral and social education for children. Article 42.3.2 states that:

“The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.”

The State leaves it up to each Patron body to devise religious, moral and ethical education. There are two hours per week given to this education.

Whilst there is a curriculum course on Relationship and & Sexuality education it can be delivered through the religious ethos of schools. This means that atheists and secularists must accept sex education and moral education based on a religious understanding of the world.

The State is obligated to ensure that minorities have a basic moral education for their children without it being taught within a religious framework (Article 42.3.2). We also have positive inalienable rights under Article 42.1 in relation to the moral education of our children. There is also a right for students to have access to objective sex education under the European Social Charter.

There is no balance of rights here. Our parental rights take second place to the rights of schools with a religious ethos to uphold their ethos. A curriculum course on ethics delivered in an objective manner would not infringe on the right of schools to uphold their ethos. They can still do that within their Patron’s programme and the time allocated to that.

An objective course in RSE would not infringe on the right of schools to deliver RSE through their ethos as they can still do that within their Patron’s time.

Denying minorities their Constitutional right to basic moral and social education in order to uphold the freedom of religion of the majority in the school is not proportionate. Moral and social education outside of a religious framework in schools with a religious ethos will not undermine that ethos. Parents and their children can have a choice and should not be obliged to attend or accept either course.

Any curriculum course of on ERB and ethics or RSE that is inclusive of atheist and secularists would have to be taught in an objective, critical and pluralistic manner. This would mean that Section 15.2(b) of the Education Act 1998 would need amendment before it went ahead to ensure the rights of minorities were protected from the evangelising mission of schools. Moving ahead without amending the Education Act 1998 will just undermine our rights further.

The purpose of the Education Act 1998 was not meant to deny minority’s access to their constitutional rights. There was always supposed to be a balance, that Constitutional balance was outlined in the White Paper on Education in 1995.

The 1999 Framework Curriculum undermined the purpose of the Education Act 1998 and the White Paper on education by cementing discrimination and disrespect in the education system and undermining the rights of minorities.

Plurality of patronage will never achieve pluralism in education. It simply cannot on practical grounds be achieved, not all parents will have access to a school that reflects their particular religious or philosophical convictions.

That does not mean that minorities must leave their Constitutional and human rights at the school gate. A new Curriculum Framework must break new ground in balancing Constitutional and human rights.

There are huge philosophical differences that cannot be overcome but that doesn't mean that our Constitutional rights are ignored or subsumed into a religious understanding of the world that we reject on conscience grounds. That is not respect or pluralism, it is indoctrination.

7. Appendix: Extract from the Primary School Curriculum

The Primary School Curriculum states:

“Spiritual Dimension

The curriculum takes cognisance of the affective, aesthetic, spiritual, moral and religious dimensions of the child’s experience and development. For most people in Ireland, the totality of the human condition cannot be understood or explained merely in terms of physical and social experience.

This conviction comes from a shared perception that intimates a more profound explanation of being, from an awareness of the finiteness of life and from the sublime fulfilment that human existence sometimes affords. The spiritual dimension of life expresses itself in a search for truth and in the quest for a transcendent element within human experience. The importance that the curriculum attributes to the child’s spiritual development is expressed through the breadth of learning experiences the curriculum offers, through the inclusion of religious education as one of the areas of the curriculum, and through the child’s engagement with the aesthetic and affective domains of learning (page 27)

General Objectives

- acquire sensitivity to the spiritual dimension of life
- develop the capacity to make ethical judgements informed by the tradition and ethos of the school develop a knowledge and understanding of his or her own religious traditions and beliefs, with respect for the religious traditions and beliefs of others.

Religious education

In seeking to develop the full potential of the individual, the curriculum takes into account the child’s affective, aesthetic, spiritual, moral and religious needs. The spiritual dimension is a fundamental aspect of individual experience, and its religious and cultural expression is an inextricable part of Irish culture and history. Religious education specifically enables the child to develop spiritual and moral values and to come to a knowledge of God.

Irish society recognises the right of the individual to choose the particular form of religious expression that reflects the spiritual aspirations and experience he or she seeks. It acknowledges, too, the importance of tolerance towards the practice, culture and life-style of a range of religious convictions and expressions, and aspires to develop in children a tolerance and understanding towards the beliefs of others.

Education, generally, seeks to reflect and cater for a variety of religious conviction and acknowledges the right of parents to arrange for their children’s education in a school whose religious ethos coincides with their own religious belief. It is the responsibility of the school to provide a religious education that is consonant with its ethos and at the same time to be flexible in making alternative organisational arrangements for those who do not wish to avail of the particular religious education it offers. It is equally important that the beliefs and sensibilities of every child are respected.

Since the Department of Education and Science, in the context of the Education Act (1998), recognises the rights of the different church authorities to design curricula in religious education at primary level and to supervise their teaching and implementation, a religious education curriculum is not included in these curriculum documents.”

8. Attachment: Legal Opinion

The attached Legal Opinion obtained by Atheist Ireland on the right to not attend religious instruction class, includes analysis of the Constitutional rights of atheist parents and students generally within the education system.