

**Submission from Atheist Ireland,
Evangelical Alliance of Ireland,
and the Ahmadiyya Muslim Community**

**to the Public Consultation
Commission on the Defence Forces
March 2021**

Contents

1. Introduction
2. Overview
3. Population Demographics
 - 3.1 Census Figures
 - 3.2 Marriage Figures
4. Catholic Culture in the Defence Forces
5. What the Defence Forces Website says
 - 5.1 Diversity and Equality
 - 5.2 Chaplaincy Service
6. What the Chaplaincy Website says
 - 6.1 Privilege for Religion over Atheism
 - 6.2 Privilege for Catholicism over Other Religions
 - 6.3 Word search of the Chaplaincy website
7. Legal and Human Rights Arguments
 - 7.1 Legal Opinion on Constitutional Rights
 - 7.2 Venice Commission
 - 7.3 EU Equality Directive
 - 7.4 Human Rights Law
 - 7.5 Higher Education Authority

1. Introduction

Irish Atheists, Evangelicals and Ahmadiyya Muslims are united in a campaign for Secularism and Human Rights. While we have different world views, and different emphases in policies, we all agree that each person should be treated with respect, our right to hold our beliefs should be treated with respect, States should treat us all equally before the law by remaining neutral between religious and nonreligious beliefs.

Parts of our campaign are:

- We will promote the fundamental human rights of freedom of conscience, religion and belief, equality before the law, and freedom from discrimination for all.
- We will promote these human rights within Irish society and Irish political institutions, and at the United Nations and other international human rights regulatory bodies.

In support of these aims we are making this Submission to outline religious discrimination in the Defence Forces and how the Defence Forces breach Constitutional and Human Rights as well as the EU Employment Equality Directive.

2. Overview

The Defence Forces discriminate on religious grounds by failing to put the position of Chaplain out to tender. The position is just given, almost always, to a nominee of a Bishop of the Catholic Church, because they are the majority religion in the country.

The only other Church allowed to nominate Chaplains (known as Official Sending Churches) is the Church of Ireland. There are no Chaplains or nonreligious equivalents for Defence Force members with no religion or who are of minority faiths including Evangelicals and Muslims.

Catholicism is part of the culture of the Defence Forces. A commitment to pluralism, diversity and inclusion is not part of the culture notwithstanding the fact that Ireland is pluralist country with different religions and nonreligious beliefs.

In times past and also today Defence Force personnel are coerced to take part in Catholic or Catholic-led religious ceremonies without any effort made to put in place rules/guidelines to ensure that they need not participate on the grounds of conscience.

That behaviour was and is unconstitutional. Regardless it is still part of the culture of the Defence Forces. The Defence Forces have never apologised or even acknowledge that this behaviour breaches the rights of all and undermines our Constitution and human rights law.

The Defence Forces is a microcosm of society and should have a clear neutral policy on religion and belief. It should not be seen as promoting a particular religious belief or obliging personnel to participate in religious rites by including religious services in military events.

3. Population Demographics

About 9% of Defence Forces personnel are non-Christian or have no religion, yet all Chaplains are either Roman Catholic (the majority) or Church of Ireland. When we sought a wider breakdown of religious or nonreligious affiliations of personnel and Chaplains, we were told we would have to request this under the Freedom of Information Act. We believe that this information should be available without having to use the FOI Act, but we have sought it as advised. We will send on our analysis if we obtain it under FOI after the closing date for submissions. For this submission we will approximate trends by looking at census and marriage figures.

3.1 Census Figures

In 2016 the CSO figures under the religion category were:	Number	%
Roman Catholic	3729115	78.31
Atheist, Agnostic, No Religion	481388	10.11
Church of Ireland, England, Anglican, Episcopalian	126414	2.65
Not stated	125274	2.63
Muslim (Islamic)	63443	1.33
Orthodox (Greek, Coptic, Russian)	62187	1.31
Christian (Not Specified)	37427	0.79
Presbyterian	24211	0.51
Other stated religion	18602	0.39
Apostolic or Pentecostal	13350	0.28
Hindu	14332	0.30
Buddhist	9758	0.20
Evangelical	9724	0.20
Lapsed (Roman) Catholic	8178	0.17
Methodist, Wesleyan	6471	0.14
Jehovah's Witness	6417	0.13
Protestant	5409	0.11
Lutheran	5329	0.11
Baptist	3957	0.08
Pagan, Pantheist	2752	0.06
Jewish	2557	0.05
Total	4761865	100

3.2 Marriage Figures

Ireland is changing and the marriage figures in 2019 reflect this. In 2019, religious ceremonies accounted for 59.0% of all marriages. There were 8,863 (43.6%) Catholic marriage ceremonies, 289 (1.4%) Church of Ireland ceremonies, the Spiritualist Union of Ireland performed 1,618 (8.0%) ceremonies and 1,220 (6.0%) couples opted for other religious ceremonies. The majority of non-religious ceremonies were civil marriages which accounted for 6,410 (31.6% of all) marriages; the remaining 1,913 (9.4%) couples had Humanist ceremonies.

<https://www.cso.ie/en/releasesandpublications/er/mar/marriages2019/>

4. Catholic Culture in the Defence Forces

Not only does the Defence Forces discriminate in the hiring of Chaplains but Catholicism has become a part of its culture. Over the years this has manifested itself in personnel having to attend mandatory Mass Parades, participate in ceremonial duties in churches and other locations, and in general pay esteem to all aspects of Catholicism.

Whilst some reforms have been implemented (Mass parades are no longer mandatory, and some ceremonial-related Masses have become ecumenical) there is still a culture of deference.

For example, the Defence Forces participation in the Arbour Hill 1916 ceremony officially includes: "Officer Guard of Honour, Colour party with escort, Trumpeters and Drummers to render musical honours to the Most Blessed Sacrament." The following video gives an outline of the ceremony and how ingrained the religious aspect is.

<https://www.military.ie/en/public-information/defence-forces-ceremonial/arbour-hill-1916-ceremony/>

On the day that Cadets are commissioned as Officers they attend a religious service in the Garrison Church in the Curragh. In this clip (the first 5 minutes) you see a priest giving a sermon and you also see the Officer Guard of Honour rendering Honours to the Most Blessed Sacrament.

<https://www.youtube.com/watch?v=CEXIXpROyzU>

When Defence Forces personnel are taking an oath or making a declaration (e.g. commissioning, court martial, being attested) they must either swear on the Bible or else indirectly reveal information about their religious or nonreligious beliefs by asking to swear on the Constitution. This breaches the human right to keep your religious or nonreligious beliefs private.

This demonstrates the lack of a commitment to pluralism, diversity and inclusion. Every member of the Defence Forces must be treated with respect and should have the right to practice their beliefs, wherever possible subject to operational considerations of the organisation as a whole.

In 2014 a working group from the Defence Forces produced a document called 'Defence Forces Response to Religious Diversity.' We have been told that we would have to request this under the Freedom of Information Act. We believe that this document should be available without having to use the FOI Act, but we have sought it as advised. We will send on our analysis if we obtain it under FOI after the closing date for submissions. For this submission we will examine the information on the Defence Forces and Chaplaincy websites.

5. What the Defence Forces Website says

5.1 Diversity and Equality

The Defence Forces website states:

"The Defence Forces are committed to promoting equality in all aspects of our work, both at home overseas, at sea and in the air. Equality aims to ensure everyone is treated fairly and is provided with the same opportunities.

The Defence Forces Equality Policies ensure we are fully compliant with the Equality Acts 1998-2015. The Defence Forces employs the principles of equal opportunities in all our policies, procedures, instructions and regulations. We support an inclusive workplace where dignity and respect are afforded to all, regardless of (list which includes religion).

The Human Rights and Equality Commission Act 2014 Section 42 places a positive duty on public sector bodies to have regard to eliminate discrimination, promote equality, and protect human rights, in their daily work.

Diversity refers to the collective mixture of differences and similarities that include for example (list of characteristics which includes beliefs). In order to reflect the society we serve the Defence Forces aims to attract future members from all backgrounds. Therefore, managing diversity and promoting inclusion in response to a more diversified society is vital.

Demonstrating a respect for difference helps create a more innovative problem-solving culture with new approaches and fresh perspectives that benefit the organisation by creating an environment where all employees can contribute fully. To be more reflective of our society, the Defence Forces strongly encourages people from minority backgrounds to join in order to assist us in becoming a more effective military force.”

<https://www.military.ie/en/public-information/defence-forces-families/gender-diversity-equality/>

Despite the Defence Forces claiming that they are committed to equality in all their work, they have no understanding of what this means on the ground. A commitment to equality cannot mean that you hire only male Catholic or Church of Ireland members to deliver Chaplaincy services. Nor does it mean that you coerce personnel into Catholic religious services or oblige them to show deference to the majority faith in the country.

5.2 Chaplaincy Service

The Defence Forces website states:

“Spirituality is a broad concept often confused with religion. While spirituality can be part of a particular religion, it can also be independent of religion. Spirituality is the part of us that connects us our state of mind, being and place; it gives us a sense of belonging and purpose. Some people explore their spirituality through a relationship with a higher force, such as God, while others develop their spirituality through a self-directed relationship with their inner self.

However, spirituality is practiced; it is as much a part of being human as physical, mental and emotional aspects. We all have a spirituality dimension. As with other dimensions – our physical, emotional and social dimensions – we need to maintain a strong, healthy spirit in order to maintain total wellbeing in mind, body and spirit.”

<https://www.military.ie/en/public-information/defence-forces-families/contact-information/contact-information.html>

6. What the Chaplaincy Service Website says

By contrast to the inclusive language on the Defence Forces website, the language on the Chaplaincy Services website privileges religion over atheism, and the Roman Catholic religion over other religious beliefs.

<http://militarychaplaincy.ie/>

6.1 Privilege for Religion over Atheism

The following religious content is not accompanied by equivalent content suitable for atheists.

- The 'Information' tab is subtitled 'Living your Faith' and the 'Remembrance' tab is subtitled 'Faithful Departed.'
- The Sacraments and Prayer section links military situational awareness with 'deepening awareness of the role of faith' and is illustrated by a Christian Bible passage from Exodus. It also says that chaplains help Defence Force personnel to 'grow in awareness of their faith as a guide for life.'

The Bible passage reads: "The Lord God went before the people, by day in the form of a pillar of cloud to show them the way, and by night in the form of a pillar of fire to give them light: thus they could continue their march by day and by night. The pillar of cloud never failed to go before the people during the day, nor the pillar of fire during the night." (Exodus 13:21-22)"

- The Mingy Prayerbook is described as 'providing personnel with some texts on which to reflect or pray,' but it does not encompass reflections suitable for atheists. For example, it advises personnel who are depressed or lonely to ask 'Dear Lord' to 'Show me what to do, who to talk to, where to turn. You are all I have got right now. Amen.'

6.2 Privilege for Catholicism over Other Religions

The religious content is devoted disproportionately to Roman Catholicism.

- There are Roman Catholic Mass times.
- There is a section devoted to an international military pilgrimage to Lourdes.
- The section on Marriage Preparation refers people to the Roman Catholic ACCORD service.
- The Photo Gallery consists entirely of Briefing Panels from the Roman Catholic International Eucharistic Congress
- The Mingy Prayerbook is overwhelmingly Christian with the Roman Catholic flavour of the website. All of the Christian prayers have their own specific theme, such as 'During Illness,' 'In Thanksgiving,' 'In a Time of Doubt.' They are assumed by default to be Catholic or Christian. By contrast, there is just one prayer each for other religions. They are titled generically as 'Buddhist Prayer,' 'Hindu Prayer,' 'Islamic Prayer,' and 'Jewish Prayer.'

6.3 Word search of the Chaplaincy website

Searches of this website for relevant terms provided the following number of hits:

38 — Prayer	12 — Catholic	2 — Muslim/Islam	0 — Atheist/ism
25 — Christ	10 — Pope/Vatican	0 — Jew/ish/daiism	1 — Secularist/ism
22 — God	2 — Protestant	0 — Hindu/Hinduism	0 — Philosophical
22 — Faith	0 — Orthodox	0 — Buddhist/ism	0 — Humanist/ism
21 — Church	0 — Presbyterian	0 — Sikh/Sikhism	0 — Nonreligious
16 — Mass	0 — Apostolic		0 — Freethinker
13 — Lord	0 — Evangelical		0 — Agnostic/ism
13 — Christian	0 — Methodist		

The word Protestant appears twice on the website. One is a Protestant Bishop expressing surprise that she was invited to a Roman Catholic service, and the other is a reference to Catholic and Protestant Irishmen who died in the First World War.

The word Islam appears twice. Both relate to Christians being persecuted by the Islamic State, and ask readers to respond by saying Roman Catholic Cardinal Newman's Prayer.

The word Secularism appears once, in which the Head Chaplain is warning not to allow secularism to hijack the significance of Christmas. Secularism is a belief/philosophical conviction protected by Article 9 of the European Convention (para 58 *Lautsi v Italy* 18th March 2011).

That is to say, the only relevant non-Christian belief references on the Chaplaincy website involve pejorative criticisms of non-Christians.

7. Legal and Human Rights Arguments

7.1 Legal Opinion on Constitutional Rights

In July 2020 Atheist Ireland obtained a Legal Opinion from James Kane, Barrister at law, on the Constitutional Rights of minorities in the education system. Part of the Legal Opinion was setting out the Constitutional Rights of minorities in relation to Freedom of conscience, religion and belief. This Legal opinion states that:

13. Also relevant is Article 44.2.3° which provides:-

“The State shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status.”

“14. Article 44.2.3° prohibits discrimination as between religious persons and nonreligious persons. In *Mulloy v Minister for Education*, a scheme devised by the Minister for Education governing incremental salary benefits for teachers provided that certain teaching experience abroad may be counted as teaching service for the purpose of reckoning salary increments. However, the scheme recognised only teaching abroad by lay teachers. The plaintiff was a

priest who taught in missions in Nigeria. The plaintiff successfully argued that his exclusion from the scheme was contrary to Article 44.2.3° in discriminating against him on the grounds of religious status. As appears from the text of Article 44.2.3°, it prohibits discrimination based on “religious profession, belief or status.” The Supreme Court analysed the scheme by reference to the question of status, in that the plaintiff had a religious status qua a priest. In dealing with the issue of status, Walsh J. stated in the Supreme Court:

“The present case concerns the disposition of public funds on a basis which, if sustainable, enables a person who is not a religious to obtain greater financial reward than a person who is a religious and is otherwise doing the same work and is of equal status and of length of service, or recognised service in the case of a teacher. If that were constitutionally possible it would enable the State to prefer religious to lay people, or vice-versa, in a matter which is in no way concerned with the safeguarding or maintenance of the constitutional right to free practice of religion or freedom of conscience or of profession of religion. In my view, the State is not permitted by the Constitution to do this. The reference to religious status, in both the Irish text and the English text of the Constitution, relates clearly to the position or rank of a person in terms of religion in relation to others either of the same religion or of another religion or to those of no religion at all. Thus it ensures that, no matter what is one's religious profession or belief or status, the State shall not impose any disabilities upon or make any discrimination between persons because one happens to be a clergyman or a nun or a brother or a person holding rank or position in some religion which distinguishes him from other persons whether or not they hold corresponding ranks in other religions or whether or not they profess any religion or have any religious belief, save where it is necessary to do so to implement the guarantee of freedom of religion and conscience already mentioned.”

15. As Article 44.2.3° protects persons who are of no religious belief from discrimination on status grounds (as per Mulloy), it must equally protect those same persons from discrimination on the grounds of profession or belief.”

<https://atheist.ie/2020/08/legal-opinion-constitutional-right-religious-instruction/>

The Defence Forces do not have an official Catholic religious ethos. Just hiring mainly Catholic Chaplains without the position going out to tender is religious discrimination forbidden by Article 44.2.3 of the Constitution and Section 37 of the Employment Equality Act.

Nor is it consistent with the Defence Forces' Public Service Duty under the Irish Human Rights and Equality Commission Act, which the Defence Forces accept that they are subject to.

It also has implications on the sex ground as most Catholic Chaplains are male priests and no women can apply for the position of priest under Catholic Church rules.

7.2 Venice Commission – Definition of religion and belief

The European Commission for Democracy through Law has put in place Guidelines for Legislative Reviews of Laws affecting Religion or Belief.

An understanding of the terms religion and belief that is based on human rights law would enable the Defence Forces to move forward as an inclusive body that is inclusive and does not discriminate on the basis of religion.

The Venice Commission Guidelines state that:

“2. The definition of “religion.” Legislation often includes the understandable attempt to define “religion” or related terms (“sects,” “cults,” “traditional religion,” etc.) There is no generally accepted definition for such terms in international law, and many states have had difficulty defining these terms. It has been argued that such terms cannot be defined in a legal sense because of the inherent ambiguity of the concept of religion. A common definitional mistake is to require that a belief in God be necessary for something to be considered a religion. The most obvious counterexamples are classical Buddhism, which is not theistic, and Hinduism (which is polytheistic). In addition, terms such as “sect” and “cult” are frequently employed in a pejorative rather than analytic way. To the extent that legislation includes definitions, the text should be reviewed carefully to ensure that they are not discriminatory or that they prejudice some religions or fundamental beliefs at the expense of others.

3. Religion or belief. International standards do not speak of religion in an isolated sense, but of “religion or belief.” The “belief” aspect typically pertains to deeply held conscientious beliefs that are fundamental about the human condition and the world. Thus atheism and agnosticism, for example, are generally held to be equally entitled to protection to religious beliefs. It is very common for legislation not to protect adequately (or to not refer at all) to rights of non-believers. Although not all beliefs are entitled to equal protection, legislation should be reviewed for discrimination against non-believers.”

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2004\)061-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2004)061-e)

A military whose Chaplaincy or hierarchy is too closely aligned with one narrow expression of religion is bound to eventually fail and end up doing a disservice to the service it purports to support.

The policy and how it is implemented should be to respect those with no religion or beliefs as much as those with deeply held religious convictions. This policy in the military appears to be practiced by most democratic countries. An example is the Policy in place in the British Armed Forces.

<https://www.gov.uk/government/publications/guide-on-religion-and-belief-in-the-armed-forces>

7.3 EU Equality Directive

(Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.)

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32000L0078&from=EN>

The EU Employment Equality Directive forbids discrimination on religious grounds. The Defence Forces does not have a religious ethos but regardless the position of Chaplains is mainly offered to Catholics and one Church of Ireland Chaplain.

7.4 Human Rights Law

Offering the position of Chaplain to mainly the Catholic Church breaches Article 26 of the International Covenant on Civil & Political Rights.

In their General Comment number 18 on Article 26 the UN has stated that:

“12. While article 2 limits the scope of the rights to be protected against discrimination to those provided for in the Covenant, article 26 does not specify such limitations. That is to say, article 26 provides that all persons are equal before the law and are entitled to equal protection of the law without discrimination, and that the law shall guarantee to all persons equal and effective protection against discrimination on any of the enumerated grounds. In the view of the Committee, article 26 does not merely duplicate the guarantee already provided for in article 2 but provides in itself an autonomous right. It prohibits discrimination in law or in fact in any field regulated and protected by public authorities. Article 26 is therefore concerned with the obligations imposed on States parties in regard to their legislation and the application thereof. Thus, when legislation is adopted by a State party, it must comply with the requirement of article 26 that its content should not be discriminatory. In other words, the application of the principle of non-discrimination contained in article 26 is not limited to those rights which are provided for in the Covenant.”
<https://www.refworld.org/docid/453883fa8.html>

Discrimination is forbidden under Article 26 of the ICCPR in law and in fact in any field regulated and protected by public authorities. Handing Chaplaincy services to the Catholic Church without it going out to tender is religious discrimination under Article 26 of the ICCPR.

7.5 Higher Education Authority

Discrimination in relation to the hiring of Chaplains has also come up with the Higher Education Authority.

Atheist Ireland successfully campaigned to make the appointment procedure for third level college chaplains publicly accountable and open to lay people.

You can read about that here <https://atheist.ie/2016/06/hea-enforce-atheist-ireland-recommendations/>

A Report from the HEA confirmed the original Atheist Ireland revelations, that a large majority of third level institutions in Ireland paid significant public funds directly to Roman Catholic bishops for Chaplains, without any advertisement, interview or tender.

The same religious discrimination is happening in the Defence Forces.