

Atheist Ireland



Input on combating intolerance against persons based on religion or belief under Resolution 76/157

24 April 2022

Introduction

Atheist Ireland is an Irish advocacy group. We base our policies on human rights standards. We have made submissions to and attended meetings of the United Nations Human Rights Committees and Council, the OSCE, the Council of Europe, and various Government Departments and consultation processes.

<https://atheist.ie>

This submission makes an input to a report about steps taken by States to combat intolerance, negative stereotyping, stigmatisation, discrimination, incitement to violence and violence against persons, based on religion or belief, as set forth in Resolution 76/157.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/402/74/PDF/N2140274.pdf?OpenElement>

Contents

1. The need to consistently use the phrase ‘based on religion or belief’
2. The balance between freedom of religion or belief and freedom of expression
 - 2.1 Overview
 - 2.2 Freedom of Thought Submission 2021
 - 2.3 Hate Crime and Hate Speech Submission 2019
3. Discrimination in Ireland based on religion or belief
 - 3.1 Irish Education System Submission 2022
 - 3.2 Irish Equality Acts Submission 2021
 - 3.3 Ireland UPR Submission 2021
 - 3.4 Minority Issues Submission 2020
4. Discrimination and persecution in Pakistan based on religion or belief
 - 4.1 Pakistan ICCPR Submission 2017

1. The need to consistently use the phrase ‘based on religion or belief’

Resolution 76/157 aims to protect people from unjust outcomes based on their ‘religion or belief’. The ‘belief’ part of this phrase includes nonreligious philosophical convictions, the holders of which have the same level of protection as the holders of religious beliefs.

In the Venice Commission Guidelines for Legislative Reviews of Laws Affecting Religion or Belief includes it states that:

“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.”

Resolution 76/157 uses the phrase ‘religion or belief’ 32 times. However, there are also 39 instances in which it refers only to the word ‘religion’ without including the word ‘belief’. There are no instances where it refers only to the word ‘belief’ without including the word ‘religion’.

Preamble para 6 ... combating religious intolerance ...
Preamble para 7 ... advocate religious hatred ...
Preamble para 8 ... any religion, nationality, civilisation or ethnic group...
Preamble para 11 ... interreligious and intercultural dialogue ...
Preamble para 18 ... attacks on and in religious places ...
Preamble para 22 ... people belonging to religious minorities ...
Preamble para 23 ... religious and cultural diversity ... interreligious dialogue ...
Preamble para 24 ... dialogue among religious groups ...
Preamble para 25 ... religious bodies ... respect for religious and cultural diversity ...
Preamble para 26 ... respect for religious and cultural diversity ... religious expression ...
Preamble para 28 ... interreligious, interfaith and intercultural efforts ...
Preamble para 29 ... interreligious and intercultural dialogue ... religious leaders ...
... leaders of world and traditional religions ... national, racial, or religious hatred ...
Preamble para 30 ... religious discrimination and intolerance ...
3 ... incidents of religious intolerance ... advocacy of religious hatred ...
4 ... advocacy of religious hatred ...
5 ... interreligious, interfaith and intercultural dialogue ... religious intolerance ...
... combating religious hatred ...
6 ... religious and cultural diversity ...
7 ... a domestic environment of religious tolerance ...
7 (b) ... members of different religious communities...
7 (e) ... advocacy of religious hatred ...
7 (g) ... negative religious stereotyping of persons ... incitement to religious hatred ...
7 (h) ... interreligious, interfaith and intercultural dialogue ... combating religious hatred ...
8 (b) ... religious freedom ... all religious communities ... manifest their religion ...
8 (d) ... religious profiling ... invidious use of religion ...
9 ... places of worship and religious sites

We note that section 7 begins by saying that the actions in it are called for by the Secretary-General of the Organisation of Islamic Cooperation. This section has seven references to 'religion' and only one reference to 'religion or belief.'

We ask the United Nations and Member States to consistently use the phrase 'based on religion or belief' when discussing this issue.

2. The balance between freedom of religion or belief and freedom of expression

2.1 Overview

As atheists, we empathise with members of other groups who face prejudice and discrimination in Ireland, because we have first-hand experience of it. We also recognise that members of other groups face more frightening hostility in Ireland, including overt harassment, intimidation and violence. We should all stand together to challenge prejudice and hostility against any and all of us, and to protect the values of Western liberal democracy that enable us to do so.

2.2 Freedom of Thought Submission 2021

Atheist Ireland made a submission about Freedom of Thought in 2021 to Ahmed Shaheed, the United Nations Special Rapporteur on Freedom of Religion or Belief. In this we highlighted: <https://atheist.ie/2021/06/freedom-of-thought/>

The Right to Not Reveal Your Thoughts

Many States do not recognise the right to not reveal your thoughts, particularly when it comes to religious beliefs or nonreligious philosophical convictions. This includes the right to not be forced to behave publicly in a manner that others can infer, even indirectly, what your religious beliefs or nonreligious philosophical convictions are.

The Right to Not Be Penalised for Your Thoughts

Laws against what some people describe as 'hate crimes' must be based on human rights standards. We cannot change how people think and feel by making it illegal. We should tackle prejudice against groups through education and community leadership, and tackle prejudice-motivated crime through the law, where the prejudice is an aggravating factor as a motive for an existing crime.

The Right to Receive Information

The right to freedom of thought implies the right to seek and receive information that can inform the development of your thoughts. This is recognised by resolution 59 of the UN General Assembly adopted in 1946, as well as by Article 19 of the Universal Declaration of Human Rights (1948). This is part of the problem with censorship and blasphemy laws. Not only do they interfere with the right to express information, but they also interfere with the right to seek and receive information.

The Right to Nonreligious Philosophical Convictions

There is an established internationally recognised human right to be atheist, agnostic, secular, humanist, or in any other way free from religion. Authoritarian theocrats frequently breach this right in practice, or deny that this human right exists, citing Catholic Canon Law or the Sharia-based Cairo Declaration on Human Rights in Islam. But the primacy of universal rights is enshrined in the key international human rights Treaties and associated Court judgments and must be upheld.

2.3 Hate Crime and Hate Speech Submission 2019

Atheist Ireland made a submission in 2019 to the Irish Department of Justice's consultation on hate crime and hate speech laws. In this we highlighted: <https://atheist.ie/2019/12/prejudice-motivated-crime/>

The Law Should Say 'Prejudice-Motivated Crime' Not 'Hate Crime'

Laws should be accurate, understandable, and enforceable. Their words and definitions should be coherent, universal and inclusive, with clear and justified boundaries, and free from ideological assumptions. A person should be able to know whether or not they are breaking it.

The Law Must Not Become a Blasphemy Law by Another Name

Because religion is one of the characteristics that is protected under the law, there is a danger that this might evolve into becoming a blasphemy law by another name. The law should take into account the same principles that led to the law against blasphemy being removed from the Constitution, and soon to be repealed from our statute law.

We should Tackle Prejudice with Education, Tackle Crime with the Law

On the one hand, we can only change prejudice, bias and hatred by education, political and community leadership, and social pressure. On the other hand, we can challenge hostility, discrimination and violence by making it illegal. And we can make prejudice an aggravating factor when it is a motive for an existing crime. While doing both of the above, we should not criminalise people merely because of what they say or publish, no matter how repugnant their views, unless what they say or publish is defamatory, or a direct incitement to violence or another crime.

3. Discrimination in Ireland based on religion or belief

3.1 Irish Education System Submission 2022

Atheist Ireland made a complaint this year to the Comptroller and Auditor General about the misuse of public funds by the Department of Education regarding the right to not attend religious instruction in Irish schools.

<https://atheist.ie/wordpress/wp-content/uploads/2022/01/AI-CAG-Complaint-Dec-2021.pdf>

Under Article 44.2.4 of the Constitution, it is a condition of State funding for schools that any child can attend that school without attending Religious Instruction at that school. This right is supported by other Constitutional Articles, laws, and policy which we outline in this complaint. The funding of schools is conditional on this right being vindicated, yet the State is currently providing funding while ignoring this Constitutional condition. This is a misuse of public funds.

3.2 Irish Equality Acts Submission 2021

Atheist Ireland made a submission in 2021 to the Irish Government's Consultation on the Review of the Equality Acts.

<https://atheist.ie/common/Submissions/AI%20Equality%20Acts%20Review.pdf>

In that submission we recommended amending the category of 'religion' under the Equal Status Act and the Employment Equality Act (and any other relevant Acts) to 'religion or beliefs,' and clarifying that beliefs include positive philosophical convictions that are not based on religion.

Currently these Acts refer only to 'religion' and not to 'religion or belief.' The definitions include "... or one has a religious belief, background or outlook and the other has not." This discrimination undermines the right to freedom of conscience, as those of us with nonreligious beliefs or philosophical convictions are not treated equally.

Those of us with beliefs or philosophical convictions are defined in relation to 'religion,' and specifically as not having a religion, which puts us in a subordinate position. We are deprived of an equal position and equal protection, as people with positive philosophical convictions of our own, alongside those in the category of 'religion.'

As well as the Irish Constitution, this discrimination in our Equality Acts does not reflect the following legal instruments:

- The EU Employment Equality Directive (Council Directive 2000/78/EC)
- The EU Race Directive (Council Directive 2000/43/EC)
- The Charter of Fundamental Rights.
- The European Convention on Human Rights
- The International Covenant on Civil & Political Rights
- The Belfast Agreement (Comparable Steps by the Irish Government)

3.3 Ireland UPR Submission 2021

Atheist Ireland, the Evangelical Alliance of Ireland, and the Ahmadiyya Muslim Community of Ireland, made a joint submission to the UN Human Rights Council when it questioned Ireland under the UPR in 2021.

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/PAK/INT_CCPR_CSS_PAK_27605_E.pdf

In this joint submission, we called for the following, none of which have happened. We ask that the report on Resolution 76/157 addresses the lack of progress on these issues in Ireland.

1. Provide Access to non-denominational schools and secular education, consistently with the accepted recommendations 135.138 to 135.140 from UPR 2016, and with repeated recommendations from the UN Human Rights Committee.
2. Put in place human rights based Statutory Guidelines on the right to not attend religion classes which are not neutral and objective, and religion that is integrated in to other curriculum subjects, and offer an alternative timetabled subject, consistently with a legal opinion obtained by Atheist Ireland on this issue, and with recommendation 36 (CRC/c/IRL/co/3-4) 2016 of the UN Committee on the Rights of the Child.
3. Hold a referendum to remove the obligatory religious oaths in the Irish Constitution for President, Judges, and members of the Council of State which includes the Taoiseach and Tanaiste, and replace them with a single declaration that makes no reference to the person's religion or beliefs, consistently with repeated recommendations from the UN Human Rights Committee.
4. Respect the right of asylum seekers to self determination on the basis of religion or belief, and ensure that asylum seekers have access to welfare and housing support as the Direct Provision centres are not suitable places for those fleeing persecution.

3.4 Minority Issues Submission 2020

In May 2020 Atheist Ireland sent a submission to Dr Fernand de Varennes, the UN Special Rapporteur on Minority Issues. As part of our submission we raised the following points regarding the Charities Act and tax law:

<https://atheist.ie/2020/05/religious-minorities/>

“6.6 The Irish Charities Act and tax law discriminate against minorities with nonreligious philosophical convictions, by giving financial privileges to religious bodies only. For example, the advancement of religion is considered a charitable purpose, but the advancement of atheism is not. Religious bodies are not taxed even on income that is not raised or used for genuine charitable purposes but for political purposes such as campaigning to maintain the ban on abortion.”

4. Discrimination and persecution in Pakistan based on religion or belief

4.1 Pakistan ICCPR Submission 2017

Atheist Ireland, the Evangelical Alliance of Ireland, and the Ahmadiyya Muslim Community of Ireland, made a joint submission to the UN Human Rights Committee when it questioned Pakistan under the ICCPR in 2017. We also jointly attended the session in Geneva and raised these issues directly with UNHRC Committee members.

https://www.ecoi.net/en/file/local/1402748/1930_1498813902_int-ccpr-css-pak-27605-e.pdf

In our submission and at the session, we highlighted ICCPR Rights that are not guaranteed and protected; blasphemy laws and related violence; freedom of religion, belief, and privacy; and the right to life and the protection of the State. Specifically, we called for the following, and we ask that the report on Resolution 76/157 addresses progress on these issues in Pakistan.

1. Repeal the blasphemy laws, and respect the right to freedom of expression about religious or nonreligious philosophical beliefs.
2. Release all prisoners who are detained or convicted based on the blasphemy laws.
3. Train the police to protect people who are in danger of mob violence, or who are victims of mob violence, including based on allegations of blasphemy or persecution of members of religious or nonreligious minorities.
4. Take legal action against people who incite violence against others, or engage in violence against others, including based on allegations of blasphemy or persecution of members of religious or nonreligious minorities.
5. Amend the Constitution to ensure that, in practice, all people have equality of treatment before the law, regardless of their religious or nonreligious philosophical beliefs or convictions.
6. Repeal those parts of the Penal Code that prevent religious and nonreligious minorities from the peaceful practise and promotion of their religious or nonreligious philosophical beliefs or convictions.
7. Remove Ahmadi literature, which is deemed as hate material, from the scope of anti-terrorism laws as outlined under the National Action Plan.
8. End the use of anti-terrorism laws against Ahmadis.
9. Immediately release and drop charges against Abdul Shakoor and all the men arrested during the raid on Rabwah.
10. Abolish the separate electoral list of Ahmadis, and ensure that all citizens have an equal right to vote, regardless of their religious or nonreligious philosophical beliefs.
11. In official declarations and affidavits required from a Muslim for National Identity Cards and Passports, remove the requirement that the person declare that they are not Ahmadi.
12. Stop the proliferation of madrasas whose curricula incite hatred and that have been used as a platform for military training and recruitment by armed groups.
13. Introduce State secular education that respects equally the human rights of all children, families and teachers, regardless of religious or nonreligious philosophical beliefs or convictions.
14. Have schools teach about religions and beliefs in an objective, critical and pluralistic manner, without religiously biased content or indoctrination into any specific religious or nonreligious philosophical beliefs or convictions.