

Atheist Ireland

Submission to United Nations
Committee on Economic
Social and Cultural Rights



List of Issues for Ireland

70 Pre-Sessional
Working Group

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Introduction to Atheist Ireland

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 discriminate against or support or finance or give special treatment to any religion or belief.

Atheists are a minority in Ireland. These are the last census figures in 2016 under the category for Religion (figures in thousands): Roman Catholic 3,729.1 – Church of Ireland 126.4 – Muslim (Islamic) 63.4 – Orthodox 62.2 – Christian 37.4 – Presbyterian 24.2 – Hindu 14.3 – Apostolic or Pentecostal 13.4 – Other 97.7 – No religion 468.4 – Not stated 125.3.

Since being formed in late 2008, Atheist Ireland has campaigned for a secular, human-rights-based Irish Constitution, parliament, laws, and government, with particular emphasis on our education system which discriminates systemically on the ground of religion. We are part of the dialogue process between the Government and religious and nonreligious philosophical bodies.

We led a successful decade-long campaign to remove the crime of blasphemy from the Irish Constitution. The 37th Amendment to the Constitution Bill was brought to Dáil Éireann and the Irish public passed the amendment in a referendum in 2018. The Blasphemy (Abolition of Offences and Related Matters) Act was passed in 2019.

We base our policies on human rights standards. We have addressed the United Nations Human Rights Council and we take part in sessions of various UN Committees. We have successfully had human-rights-based recommendations made based on our submissions to these committees. We have also made submissions to the OSCE and the Council of Europe.

Article 2 – Progressive Realisation of Rights

Article 6 – Right to Work

Question 1:

Will the State party amend Section 37 of the Employment Equality Act to remove the right of publicly funded schools to discriminate against teachers on the ground of religion?

Context:

Atheist, Humanist and secular student teachers as well as those from religious minorities have difficulty accessing the teaching profession because of religious discrimination.

Under Section 37 of the Employment Equality Act, teachers are obliged to uphold the ethos of their employer. As the vast majority of schools in Ireland have a religious ethos it is difficult for minorities to access the teaching profession. Ireland's main second level teachers' union, the ASTI, is against any discrimination of teachers under Section 37 of the EEA.

Schools in Ireland are publicly funded but managed and controlled by Patron Bodies (Section 8 of the Education Act 1998). The vast majority of schools in Ireland have a religious ethos.

Section 37(1) of the Employment Equality Act 1998 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.

In order to train as a teacher and gain employment trainee teachers must take a Certificate in Catholic Religious studies (CRS).

From Dublin City University – Teacher Training

“Teachers applying for positions in Catholic primary schools in Ireland are required to hold a qualification equipping them to teach religion according to the tenets of the Catholic faith. The Certificate in Religious Studies (CRS) offered by DCU meets the requirements of the Irish Episcopal Conference in this regard and graduates have been successful in obtaining positions in Catholic primary schools.”¹

It is also the policy of the State to promote morals/values through religion. Promoting morals/values through religion and bringing all children to a knowledge of god undermines the rights of students and obliging prospective teachers to comply with this undermines their right to freedom of conscience.

The Introduction to the Primary Schools Curriculum states:

“To enable children to develop spiritual, moral and religious values” (page 34)

“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.” (page 58)

The Primary School curriculum is being updated at present. We have made a submission on our right to relation to the moral education of our children. You can find that here.²

At second level one of the main aims of Syllabus Religious Education is to develop values in students through religious education. There is no separation of Church and State in the Irish Education system. The Department of Education does not see any issue with developing values in students from atheist families to enable them to see the relevance of religion to their lives.

The Department of Education claims that this is suitable teaching for students from atheist, humanist and secular backgrounds and is inclusive of students from all backgrounds. The contents of Syllabus Religious Education are not neutral and objective and in addition Religion teachers are legally obliged to deliver the course through the ethos of the Patron.

This means that prospective student teachers from atheist, humanists and secular backgrounds cannot on the grounds of conscience teach syllabus Religious Education and must choose another subject to teach.

Prospective students from minority backgrounds cannot legally challenge the ethos of the Patron and must comply with the policies of the Board of Management of the school (Section 15-2(b) Education Act 1998).

As the vast majority of schools in the State are religious it is nearly impossible to gain employment as a teacher without a Catholic Religious Studies Certificate at primary level. Over half of second level schools are controlled by religious bodies. Some of the Education and Training Board schools which are referred to as state schools have a religious ethos because they have agreements (Deeds of Trust/Model Agreement) in place with the Catholic Church.

These are the last census figures in 2016 under the category for Religion (figures in thousands): Roman Catholic 3,729.1 – Church of Ireland 126.4 – Muslim (Islamic) 63.4 – Orthodox 62.2 – Christian 37.4 – Presbyterian 24.2 – Hindu 14.3 – Apostolic or Pentecostal 13.4 – Other 97.7 – No religion 468.4 – Not stated 125.3.

¹ <https://www.dcu.ie/courses/postgraduate/institute-education/certificate-religious-studies>

² https://atheist.ie/common/Submissions/AI_%20NCCA_Primary_Curriculum.pdf

Publicly funded schools are categorised as follows on the Department of Education's website:

Primary Schools Mainstream

2760 Catholic
172 Church of Ireland
133 MultiDenominational
17 InterDenominational
16 Presbyterian
2 Muslim
1 Jewish
1 Methodist
1 Quaker
3 Other/unknown

Primary Schools Special

106 Catholic
17 MultiDenominational
1 InterDenominational
9 Other/Unknown

Secondary Schools

344 Catholic
202 MultiDenominational
150 InterDenominational
22 Church of Ireland
2 Quaker
1 Jewish
1 Methodist
1 Presbyterian

Article 12 – Right to Health

Question 2:

Will the State party amend Section 15 -2 (b) of the Education Act 1998 to ensure that all students have access to objective Relationship and Sexuality Education at primary level and Social, Personal and Health Education at second level?

Context:

Subjects such as curriculum Relationship and Sexuality Education (RSE) at Primary level and Social and Personal Education at second level (SPHE) are delivered to all students through the "Characteristic Spirit" or ethos of each particular school.

As the vast majority of schools have a religious ethos and mainly Catholic, it is Catholic sex education for students or no RSE/SPHE education at all.

The State Report does not give a clear picture of how relationship and sexuality education is taught in schools.

At the Oireachtas (Parliament) Education Committee examination of the RSE/SPHE the Department of Education admitted under questioning by TDs that 'ethos' would have an impact on the resources used for teaching and what students 'hear'. TDs pointed out that what students 'hear' is what they are taught. ³

³ <https://www.youtube.com/watch?v=e8ELNsene98&t=314s>

The Oireachtas Education Committee (Parliament) Report was issued in early 2019. The Committee Recommended that Section 15-2(b) of the Education Act 1998 is reviewed to ensure that it cannot be used as a barrier to teaching RSE and SPHE To date no legislative amendments have come before the Oireachtas Education Committee.

The Oireachtas Education Committee Report Recommended that:

“13.The Committee recommends that clarity and direction is given by the DES (Dept of Education & Skills) regarding how schools and colleges, under religious patronage, should implement a comprehensive RSE programme so that all children and young people are treated equally.

14.The Committee recommends that the Education Act 1998 be amended or at least reviewed, so that ethos can no longer be used as a barrier to the effective, objective and factual teaching of the RSE and SPHE curriculum to which every student is entitled.

15.The Committee recommends that the necessary legislative amendments required to remove the role of ethos as a barrier to the objective and factual delivery of the RSE and SPHE curriculums be made as soon as possible and at the latest by the end of 2019.”
If Section 15-2(b) of the Education Act 1998 is not amended then children will not be able to access objective Relationship and sexuality education at primary level and Social, Personal and Health Education at second level. Teachers are not going to risk their jobs (Section 37 Employment Equality Act) to challenge how RSE/SPHE is taught. They are trained in teacher training colleges on how to uphold the ethos of the Patron.”

As per the State Report the National Council for Curriculum and Assessment (A statutory body, Section 39 of the Education Act 1998) (NCCA), are updating curriculum RSE/SPHE at the request of the Minister for Education. Their Report recommends comprehensive changes to curriculum RSE and SPHE. However they have not recommended any change to Section 15-2(b) of the Education Act 1998 which can only mean that curriculum RSE/SPHE can still be delivered according to the ethos of the Catholic Church. There is no commitment on behalf of the State to ensure that all students have access to objective and comprehensive RSE without religious influence.

Under Section 37 of the Employment Equality Act teachers are obliged to uphold the ethos of their employer. They cannot challenge the ethos of the Patron and must comply with the policies of the Board of Management of the school (Section 15-2(b) Education Act 1998).

The Catholic Church has their own published Guidelines on how curriculum RSE/SPHE is to be delivered by teachers. It is clear that they will ensure that any updated RSE/SPHE will be delivered through the ethos of the Catholic church. ⁴

The UN Committee on the Elimination of Discrimination against Women has Recommended that the Irish State:

“(c) Integrate compulsory and standardised age-appropriate education on sexual and reproductive health and rights into school curricula, including comprehensive sex education for adolescent girls and boys covering responsible sexual behaviours and focused on preventing early pregnancies; and ensure that it is scientifically objective and its delivery by schools is closely monitored and evaluated;”

The Committee also stated that it:

“further welcomes the introduction of a new short course in Social, Personal and Health Education (SPHE) for the junior cycle. Nevertheless, the Committee is concerned at:

⁴ <https://www.religiouseducation.ie/wp-content/uploads/2016/05/RSE-Guidelines-Rofl-for-web.pdf>

- (a) Reports of stereotypes and sexism in the field of education, and at the lack of concrete measures to curb this phenomenon;
- (b) The gender-approach of the apprenticeship training programme, which effectively attracts few women and girls;
- (c) The narrow approach towards the provision of sexuality education due to the fact the content of the Relationship and Sexuality Education (RSE) curriculum is left to institutions to deliver it according to the schools ethos and values and as a result it is often taught together with biology and religious courses.”

Article 13 – Right to Education

Question 3:

Will the State party vindicate in practice the right under Article 44.2.4 of the Irish Constitution of any child to attend a school receiving public money without attending religious instruction at that school, and put in place statutory guidelines to ensure that this happens?

Context:

Article 44.2.4 of the Irish Constitution 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 that school.”

Public funding of schools is conditional on the right to not attend religious instruction being guaranteed by schools.

The Minister currently argues that it is up to schools how they implement this right and duty, but there is a difference between how they implement a right and duty and whether they implement a right and duty. The Minister is aware that schools are not implementing the right and duty, and is doing nothing about this while continuing to provide these schools with State funding.

Atheist Ireland has recently made a formal complaint to the Auditor and Comptroller General regarding the misuse of public funds by the Department of Education in relation to the Constitutional right to not attend religious instruction. We have also made a Submission to the Oireachtas Public Accounts Committee on this misuse of public funds. ⁵

Our complaint and submission shows how the Department of Education and the NCCA are rendering these Constitutional rights and funding duties theoretical or illusory. They are not being transparent in how they are doing this, which includes trying to redefine the terms ‘Religious Instruction’ and ‘Religious Education’ with no legal basis for doing so, using redefinitions that are not consistent with how the Supreme Court and the High Court have interpreted the Constitutional meanings of these terms.

In the High Court case in 1996, Campaign to Separate Church and State v Minister for Education, Justice Costello cited the Rights guaranteed to parents under the European Convention and the United Nations Universal Declaration of Human Rights. He said that the Constitution had developed the significance of these parental Rights and had imposed an obligation on the State in relation to them. ⁶

⁵ <https://atheist.ie/wordpress/wp-content/uploads/2022/01/AI-CAG-Complaint-Dec-2021.pdf>

⁶ <https://www.teachdontpreach.ie/2019/10/campaign-to-separate-church-and-state-v-minister-for-education-1995/>

Despite parental rights in the Irish Constitution and the rights under the UN Declaration of Human rights, students from minority backgrounds face religious discrimination in the Irish education system. If they exercise their Constitutional right to not attend they are not supervised outside the religious instruction class notwithstanding the fact that it is a condition of state funding. No other subject is offered if they do manage to exercise their Constitutional and human rights.

Schools claim that the Department of Education does not provide enough resources for supervision outside the religious instruction class and they do not provide resources for another subject. But by accepting any State funding, schools are obliged to allocate existing funds to vindicating this right, in accordance with the Constitutional condition under which the State funding was given.

The Minister for Education now claims that the right to not attend religious instruction is confined to not attending instruction in accordance with the rites of a particular religion. There is no legal basis to this claim. When questioned over this issue the Minister for Education just claims that it is up to each individual school how they implement the Constitutional right to not attend.

In the High Court in 2011, in the case of AB v Children's Hospital Temple Street & CD & EF, Justice Hogan stated that: ⁷

“35. There is thus no doubt at all but that parents have the constitutional right to raise their children by reference to their own religious and philosophical views.”

“27. Along with the guarantee of free speech in Article 40.6.i, Article 44.2.1 guarantees freedom of conscience and the free practice of religion. Taken together, these constitutional provisions ensure that, subject to limited exceptions, all citizens have complete freedom of philosophical and religious thought, along with the freedom to speak their mind and to say what they please in all such matters....”

There are no Department of Education guidelines in place to ensure that not attending religious teaching in schools is given a practical application on the ground. This lack of guidelines has meant that the right to not attend religious teaching is being undermined. School Inspectors are not required to examine policies in relation to not attending religious instruction to ensure that students are supervised outside the class.

There is no legislative clarity regarding the right to not attend religious instruction, it has come to mean whatever a Patron body or Department of Education personnel say it means notwithstanding the fact that the courts have recognised the right to not attend.

Schools make up their own rules for students that exercise their right to not attend religious teaching. The vast majority of those made up rules are discriminatory and students are left sitting in the class where religion takes place.

Schools with a Catholic ethos even control the reading material of students that exercise their right to not attend by deciding what they can read if they do not participate in the religious instruction class. Students are also made to attend prayer and religious worship as no supervision is provided.

It is impossible for parents to challenge this through the courts because of the cost of taking a case. Not only would they have to fund legal fees for their own solicitors and barristers but they could be obliged by the courts to pay for the fees of the State if they lost the case.

⁷ <https://www.casemine.com/judgement/uk/5da0559a4653d07dedfd5b59>

Question 4:

Will the State party ensure that schools include in their Admission Policies details of how they will accommodate children who do not attend religious teaching, as required by Section 62.7(n) of the Admission to Schools Act, and ensure that schools cannot evade this requirement by merely saying that parents can meet the school to discuss it?

Context:

Section 62(7)(n) of the Education (Admission to Schools) Act 2018 obliges schools to provide in their admission policies details of the school's arrangements in respect of any student who will not be attending religious instruction. It states: ⁸

“62(7) An admission policy shall (n) provide details of the school's arrangements in respect of any student, where the parent of that student, or in the case of a student who has reached the age of 18 years, the student, has requested that the student attend the school without attending religious instruction at the school (which arrangements shall not result in a reduction in the school day in respect of the student concerned).”

The purpose of this requirement is to provide transparency from the outset, so that parents know these details before they choose a school for their children that will respect their Constitutional right to not attend Religious Instruction. The then Minister for Education Richard Bruton told the Dail:

“The Education (Admission to Schools) Bill includes a specific requirement that school enrolment policies must include details of the school's arrangements for any students who do not wish to attend religious instruction. This is an important measure which will help ensure transparency from the outset as to how a school will uphold the rights of parents in this regard.”

Atheist Ireland compiled a report in 2019 that shows that schools are defying this section of this new law. We examined a sample 100 admission policies and found that:

- Most denominational schools try to evade the requirement by stating that parents must seek a meeting with the Principal to discuss the arrangements.
- Most ETB schools try to evade the requirement by making a spurious distinction with no legal basis between religious instruction and religious education.
- Most schools do not address the right to not attend the class, i.e. the right to not physically leave the classroom and be supervised or get another subject.
- Some schools unlawfully ask parents to give reasons for wanting their children to not attend religion classes of any description thus breaching the right to privacy.
- These evasions are coordinated, based on common templates from either the Catholic Church, the Edmund Rice Schools Trust, or the Education and Training Boards.

We sent this report to the Minister over a year ago yet these practices continue.

The Minister argues that it is up to schools how they implement this law, but there is a difference between how they implement the law and whether they implement the law. The Minister is aware that schools are not implementing this law, and is doing nothing about this.

We have also asked the Oireachtas Joint Education Committee to examine this issue and it is on their agenda for this term of office.

⁸ <https://www.irishstatutebook.ie/eli/2018/act/14/enacted/en/html>

Questions 5 and 6:

Will the State party commit to providing specifically nondenominational schools, as per the Committee's last concluding observations? (Contrary to the State party's ambiguous use of the phrase 'multi-denominational or non-denominational schools', there are no publicly funded nondenominational schools registered with the Department of Education and no plans to provide any.)

Will the State party clearly define the terms, denominational, multi-denominational, interdenominational, nondenominational or other, and commit to legally defining those terms, as per the Recommendation of the Irish Human Rights & Equality Commission in their Report 'Religion & Education; A human Rights Perspective'?

Context:

There are no publicly funded nondenominational schools in Ireland. Despite the Committee's recommendations in the last round, no nondenominational schools have been established and there are no plans to do so.

The last concluding observations recommend:

"31(a) Take all the measures necessary to increase the number of nondenominational schools at the primary and post-primary education levels"

The State party's report to the Committee states:

"309. The Government's objective is to have 400 multi-denominational or non-denominational schools in the primary system by 2030."

But contrary to this claim, the Programme for Government states only: ⁹

"Achieve the target of at least 400 multi-denominational primary schools by 2030 to improve parental choice."

The terms denominational, interdenominational or multi-denominational are not legally defined in Ireland and mean different things to different Patron bodies and the State. That has consequences for the questions asked by the Committee as many multi-denominational schools and interdenominational schools operate as Catholic schools with Catholic practices.

Opening up more multi-denominational schools will not necessarily help minorities as many of these schools operate in practice as Catholic schools. They may claim that they have a Christian ethos but that means Catholic in Ireland.

The majority of schools in Ireland are publicly funded private schools. While there is a state curriculum the State does not interfere at all in how the school implements its "Characteristic Spirit" or ethos.

Parents and children are left dealing with private bodies who operate schools according to their own mission and aims of education.

All recognised schools have a Patron body. Patrons are legally defined under Section 8 of the Education Act 1998. The vast majority of schools in Ireland have the Catholic Church as their Patron. The Catholic Church also has various agreements with another Patron body called Education & Training Boards (ETBs) regarding religion in schools under their patronage. ETB schools are regarded as state schools.

⁹ <https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/>

All publicly funded schools are defined by the Department of Education according to ethos and put in various categories such as denominational, interdenominational or multi-denominational.

Recent research commissioned by the umbrella body for Education & Training Board schools (ETBs) presents a bleak picture on ETB schools and religion. Education and Training Board schools operate in the category multi-denominational and interdenominational.

The research called is called “That's how it works here: The place of religion in publicly managed second level schools in Ireland” It states that: ¹⁰

“The religious dimension was always Catholic in nature. Bar a few exceptions, the role of religion within the life of the school remained largely unquestioned by school personnel. The article explores the findings in light of the legislative and historical contexts.”

In a case in 2017 the Workplace Relations Commission stated that a particular Education & Training Board school (multi denominational) which has no agreement with the Catholic Church can have a particular religious ethos because it has a history of having a Christian ethos.

The WRC stated that: ¹¹

“It is clear that the Respondent has an established Christian ethos and it adduced evidence that the placement of the May altar is a long standing tradition which it practices every year in keeping with this ethos. This practice is in keeping with the Respondent’s Christian ethos. I am satisfied that the CTI has a Christian ethos and the teaching of religious education is a fundamental component of the curriculum in the school. The Christian ethos of the school is clearly outlined in the CTI’s Religious Education Policy.”

The Central Technical Institute in Tipperary is described on the Department of Education’s website as multi-denominational but regardless their specific religious ethos is part of how they operate on the ground.

In their Report from 2011 “Religion and Education; A Human Rights Perspective,” the Irish Human Rights and Equality Commission stated in relation to some Education & Training Boards schools that are regarded as interdenominational or multi-denominational:

“Although these schools were not intended to be denominational in the traditional sense, in practice, due to the manner in which they were established, and governed, they are”.

The Commission recommended that: ¹²

“Terms such as, “denominational,” “multi-denominational,” “inter denominational,” “non-denominational” or “other” school should be clearly defined in primary legislation, Ministerial regulations, or be determined by reference to the recognition of such schools under the Education Act.”

¹⁰ <https://bera-journals.onlinelibrary.wiley.com/doi/10.1002/berj.3490>

¹¹ <https://www.workplacelrelations.ie/en/cases/2017/july/dec-e2017-057.html>

¹² <https://www.ihrec.ie/documents/religion-and-education-a-human-rights-perspective/>