

Alternative Report on Racial Discrimination in Ireland

to the Committee on the Elimination of Racial Discrimination (CERD)
for its Consideration of the Combined Fifth to Ninth Periodic Reports
of Ireland (CERD/C/IRL/5-9), November 2019

Submitted by Atheist Ireland,
the Evangelical Alliance of Ireland,
and the Ahmadiyya Muslim
Community of Ireland

Contact:

Michael Nugent, Chairperson, Atheist Ireland
michael@michaelnugent.com

Jane Donnelly, Human Rights Officer, Atheist Ireland
janebdonnelly@gmail.com

Pastor Nick Park, Chief Executive, Evangelical Alliance of Ireland
nick@evangelical.ie

Imam Ibrahim Noonan, Imam for Island of Ireland,
Ahmadiyya Muslim Community of Ireland
inoonan786@gmail.com

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Part One – Overview

1.1 Introduction

Atheist Ireland, the Evangelical Alliance of Ireland, and the Ahmadiyya Muslim Community of Ireland work together in a campaign for secularism and human rights. Despite our different world views, we agree that each person should be treated with respect, our right to hold our beliefs should be treated with respect, and States should treat us all equally before the law by remaining neutral between religious and nonreligious philosophical convictions.

As part of our work:

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

1.2 Issues addressed in the Concluding Observations 2011

Non/multi-denominational education
CERD/C/IRL/CO/3-4 paragraph 26

Relevant paragraphs in the State party's report
CERD/C/IRL/5-9 paragraph 135-157

1.3 Implementation of the Recommendations

The State has not accelerated its efforts to establish alternative non-denominational or multi-denominational schools. There are no non-denominational schools, and there seems to be no prospect of any non-denominational schools being established. The policy of divesting a number of Catholic schools to other patron bodies has ground to a halt.

The State has amended the existing legislation that inhibits students from enrolling into a school because of their faith or belief, but it has only done so for Catholic schools. Also, even though they can no longer legally discriminate in access, these schools are still allowed to ask parents their religion because that part of the Act is not yet in operation.

The State has not encouraged diversity and tolerance of other faiths and beliefs in the education system by monitoring incidents of discrimination on the basis of belief. In fact, it encourages intolerance of non-faith families or families who seek a secular education for their children. It promotes moral education through religion, and does not support the right to opt out without discrimination from these courses.

1.4 Our Recommendations

For the purposes of the Convention on the Elimination of Religious Discrimination, we ask you to focus on the intersectionality between religious and racial discrimination, particularly with regard to the impact on people moving to Ireland from other countries.

1.4.1 Patronage: multiple patronage and ethos leads to segregation and inequality

The State should stop ceding control of almost all schools to private patron bodies, the vast majority of which have a self-interested religious prejudice while providing an essential public service.

1.4.2 Access: the right to attend a local school without religious discrimination

The right to discriminate in access on the ground of religion was removed for Catholic primary schools, but remains in place for minority faith schools. It is also in place for second level schools. All children should have access to their local school without religious discrimination.

1.4.3 Curriculum: the right to a neutral education not a religious integrated curriculum

Minorities should have the right to a neutral education, even in denominational schools, in the parts of the curriculum outside of the religious instruction classes from which they can opt out.

The right to opt out of religious instruction classes and worship in Irish schools must be vindicated in practice and not merely be a theoretical illusion.

Students who opt out of religious instruction classes (including classes that are called religious education classes) should be given an alternative timetabled subject.

Article 44.2.4 of the 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.”

However the right to attend a school without attending religious instruction is affected *prejudicially* by the fact that no alternative subject is offered, and schools are not responsible for the supervision of children who want to exercise this right. Most schools leave such children at the back of the class, where they are still influenced by the content.

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. He said:

“The parties to the First protocol of the European Convention for the Protection of Human Rights and Fundamental Freedoms agreed that States when assuming functions in relation to education “shall respect the rights of parents to ensure such education and teaching in accordance with their own religious and philosophical convictions (Article 2). The Irish Constitution has developed the significance of these parental rights and in addition has imposed obligations on the State in relation to them.”
<https://www.teachdontpreach.ie/2019/08/define-supreme-court/>

It seems to us that Human Rights law is used to support the rights of Catholic parents but, when it comes to supporting the human rights of nonreligious and religious minority parents and their children, the Minister and the Department of Education ignore those rights.

1.4.4 Teaching: the right of minorities to equal access to the teaching profession

In order to get employment as a teacher in the majority of Primary schools, minorities should not be required to have the Catholic Certificate in Religious Studies.

Minorities should not be obliged to actively support the Catholic ethos that is integrated into all subjects and the daily life of the school.

Section 37 of the Employment Equality Act no longer allows schools to discriminate against teachers on the grounds of sexuality, but they can and do still discriminate on the ground of religion. This should be further amended to rectify this.

Part Two – Problems

2.1 Patronage: multiple patronage and ethos leads to segregation and inequality

The underlying problem with the Irish education system is the patronage system, whereby the State cedes control of schools to private patron bodies, the vast majority of which have a self-interested religious prejudice while providing an essential public service.

In 2014, the Oireachtas Joint Committee on Education concluded that multiple patronage and ethos as a basis for policy can lead to segregation and inequality in the education system, and that the objectives of admission policy should be equality and integration.

This is a significant and strongly-worded conclusion, that contrasts the current segregation and inequality with the objective of equality and integration. This conclusion goes to the heart of the religious discrimination in the Irish education system. The State should take it seriously, and act on it.

The policy of successive governments to promote plurality of patronage has resulted in the segregation of children not only on the grounds of religion but also on race, because of the intersectionality between racial and religious discrimination.

On average, 11 per cent of primary and secondary school pupils are non-Irish nationals. According to the latest school census, eight per cent of children from immigrant backgrounds were concentrated in 23 per cent of primary schools. In 20 schools, more than two-thirds of pupils are of non-Irish background.

Minorities wish to send their children to their local publicly funded school, where they can integrate and make friends. It is not practical for the state to fund different schools in every area in the country and it is a policy of segregation.

2.2 Access: the right to attend a local school without religious discrimination

Minorities are dispersed throughout the country and have no option but to send their children to schools with a religious ethos. Section 7 3 (c) of the Equal Status Act permits minority faith schools with a religious ethos to give preference to co-religionists, in the event of a shortage of place and in order to uphold their ethos.

This privilege has been removed from Catholic denominational schools, but these schools are still asking parents and students what their religion is, because the part of the Act that requires schools to describe their admissions processes is not yet in force.

2.3 Curriculum: the right to a neutral education not a religious integrated curriculum

Children have a human right to a neutral studying environment in all schools (multi-denominational or denominational). There are no non-denominational schools in Ireland and Home schooling is not a valid option.

The UN Human Rights Committee questioned Ireland about the right to a neutral education for minorities, even in denominational schools, in the parts of the curriculum outside of the religious instruction classes from which you can opt out.

Question by Yuval Shany:

“My follow-up question goes to the issue of denominational education, and I note the statement on improvements that are planned in the transparency of school admission policies. My two follow up questions in this regard are:

How does the Delegation explain the compatibility with the Covenant of a state of affairs that allows private schools, which have a near monopoly in Ireland on a vital public service, to openly discriminate in admission policies between children on the basis of their parents' religious convictions?

I would appreciate, whether orally or in writing, the Delegation's theory on this point, on this legal point. And whether the State believes or not that it is required to ensure a neutral studying environment in those schools, in denominational schools, outside the confines of religious instruction classes that can be opted out from?"

The state did not respond to this question, and the concluding observations included, on this particular issue:

"The Human Rights Committee is concerned about the slow progress in increasing access to secular education through ... the phasing out of integrated religious curricula in schools accommodating minority faith or non-faith children. ... Ireland should introduce legislation to ... ensure that there are diverse school types and curriculum options available throughout the State party to meet the needs of minority faith or non-faith children."

A Religious integrated curriculum presupposes that children could learn about Christianity and the Catholic faith in detail and not objectively without being subjected mentally to what constitutes or might constitute unwanted influence or indoctrination. The Education Act 1998 does not oblige schools to inform parents exactly where in the curriculum they are integrating religion and what part of each subject is not delivered in a neutral and objective manner.

The right to Freedom of Conscience, religion and belief and the right of parents to ensure that the teaching of their children is in conformity with their convictions is not guaranteed and protected to minorities in Ireland.

2.3.1 Opting out of Religious instruction classes and worship

The majority of minorities do not have any option with regard to where they send their children to school. As the Catholic Church control the vast majority of schools in the country minorities have no choice but to send their children to schools whose mission is to evangelise.

Opting out of religious instruction classes and worship in Irish schools is a theoretical illusion. The Constitutional right to opt out in Irish schools has not been interpreted to mean the physical removal of students from religious instruction classes, prayers, preparation for Holy Communion/Confirmation, Religious ceremonies (Mass etc).

Parents are responsible for the supervision of their children if they wish to remove their children from religious instruction classes, prayers, and preparation for Holy Communion/Conformation or ceremonies (Mass etc).

There are no non-discriminatory exemptions or alternatives that would accommodate minorities and consequently parents cannot ensure that the teaching of their children is in conformity with their convictions. Small children are easily influenced by the evangelising mission of the vast majority of schools in Ireland. The religious ethos in the majority of schools can undermine the convictions of minority families.

No other subject is offered for children that are opted out of religion. In most cases children are left sitting in the back of the religious instruction class and will also attend religious ceremonies during school hours as parents simply cannot remove their child from school on a daily basis as it is far too much of a burden.

2.3.2 No objective teaching about religion, beliefs and ethics

One of the Recommendations from the Forum on Patronage and Pluralism was:

“P 9 Education about Religion and Beliefs (ERB), and Ethics

The Advisory Group is of the view that all children have the right to receive education in ERB and Ethics and the State has the responsibility to ensure that this is provided. The Advisory Group requests that the NCCA, with assistance from the partners and mindful of existing programmes, should develop curriculum and teacher guidelines for ERB and Ethics, in line with the Toledo Principles, the RedCo, and the Cambridge Primary Review.

The Advisory Group has a particular concern for those children who do not participate in religious programmes in denominational schools. They may go through their primary schooling without any ERB and ethical education. For these children, the proposed programmes in ERB and Ethics are of central importance.”

Despite the particular concern of the Forum and the work done by the NCCA on introducing a new subject (ERB and ethics) it has not been introduced.

The reason for the failure to introduce this subject is because of the objections of the Catholic Church. In their Submission to the NCCA on the proposed introduction on the Recommendation from the Forum on ERB and ethics the Catholic Church stated that:

“5. 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.”

The vast majority of schools in Ireland do not adopt a pluralist approach to religion as that goes against the philosophical basis of Catholic religious education who is the main Patron Body. Minorities have no choice but to attend schools under the patronage of the Catholic Church where the positive obligation to respect and promote respect for their convictions is disregarded and where their children cannot opt out without discrimination.

2.4 Teaching: the right of minorities to equal access to the teaching profession

In order to get employment as a teacher in the majority of Primary schools, minorities are required to have the Catholic Certificate in Religious Studies. Minorities are also obliged to actively support the Catholic ethos that is integrated into all subjects and the daily life of the school.

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 Religious studies (CRS). As the vast majority of schools in the state are religious it is nearly impossible to gain employment as a teacher without a CRS. Section 37 of the Employment Equality Act grants exemptions to religious bodies at the expense of the right to freedom of conscience, freedom of expression and the right to private and family life of minorities.

The UN Human Rights Committee has concluded that:

“The Human Rights Committee is concerned that under Section 37(1) of the Employment Equality Acts, religious-owned institutions, including in the fields of education and health, can discriminate against employees or prospective employees to protect the religious ethos of the institution (arts.2, 18, 25 and 27).

Ireland should amend Section 37(1) of the Employment Equality Acts in a way that bars all forms of discrimination in employment in the fields of education and health.”

In order to access the teaching profession and teach young children in Primary schools this is part of the requirement for minorities to get a job. Minorities are expected to teach as a truth the Catholic faith and to actively promote its ethos.

2.4.1 Recognition of Qualifications to Teach Catholic Religious Education

This is from the Recognition of Qualifications to Teach Catholic Religious Education in Catholic Primary Schools in the Island of Ireland:

“A. Undergraduate:

For a teacher with an initial teacher education degree to be recognised to teach in a Catholic school they should have 120 contact hours* in the area of Religious Education, to include an exploration of Catechesis and Catholic Religious Education, (hours of Religious or Theological subjects, in the B.Ed. or other degree), and of Religious or Theological Studies (taken in an additional Certificate). The prescribed areas for study include:

I. Religious Education:

Demonstrate knowledge, understanding and appreciation in a manner that indicates a professional approach to:

1. The rationale and aims of Religious Education in Catholic Primary schools in Ireland, including an understanding of the development of the child’s linguistic, psychological, spiritual, ethical and moral readiness to engage progressively with their religious tradition
2. The Religious Education and ethical formation of Catholic pupils as set out in the National Directory for Catechesis and the Catechism of the Catholic Church
3. The current syllabus/curriculum in Religious Education designated by the Irish Catholic Bishops’ Conference
4. The programme(s) and/or materials approved for use in Catholic Schools
5. The vision of the person, community and civil society embraced by the Catholic Church including the distinctive features of Catholic Education
6. Short and long term planning for the teaching of Religious Education in Catholic Primary schools in the Island of Ireland.

II. Theology:

Demonstrate knowledge, understanding and appreciation in the following fields of study:

1. God; Faith, Creed and Trinity
 2. Jesus Christ and discipleship
 3. Scripture
 4. Prayer, Sacraments and Liturgy
 5. Ethics, Social Justice and Spirituality and Human Rights
 6. Church and Mission, Ecumenism and Inter-religious Dialogue
- These themes allow for inclusion of many current issues, such as social justice, peace and reconciliation, gender, ethics, ecology, equality, disability, sexuality, racial, cultural and religious diversity, citizenship.”

It should not be a requirement to teach the Catholic faith in order for minorities to get job in the vast majority of schools. The lack of minorities in the teaching profession is a reflection of our discriminatory laws that undermine the human rights of minorities and their integration into Irish society.