



HUMANIST ASSOCIATION OF IRELAND
compassion • equality • reason

Humanist Association of Ireland Submission to the Human Rights Council

Universal Periodic Review of Ireland, 2nd Cycle
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Humanist Association of Ireland (HAI)

'The Humanist Association of Ireland (HAI) is a non-profit company, limited by guarantee and not having a share capital, the aim of which is to promote the ideals and values of Humanism. Humanism is a positive ethical philosophy of life based on concern for humanity in general and for individuals in particular. It is a view of life which combines reason with compassion. It is for those people who base their understanding of existence on the evidence of the natural world and its evolution, and not on belief in a supernatural power. The HAI is affiliated to the International Humanist and Ethical Union and the European Humanist Federation. It has particularly close relationships with similar organisations in Northern Ireland.'¹

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¹ *Equality for the Non-Religious: <http://humanism.ie/campaigns/> [accessed 12/8/15].*
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1. Discrimination in School Enrolment

1.1 *Discrimination Supported by Equal Status Act 2000.* National Schools cater for pupils aged 4-13 years and are predominantly state-funded, but are usually under the patronage of a religious institution (usually the Roman Catholic Church or the Church of Ireland). Such schools routinely discriminate in enrolment against children from which do not profess a religious faith. This discrimination is permitted by the Equal Status Act 2000. Section 7(3) specifies that: 'An educational establishment does not discriminate under subsection (2) by reason only that:

'(c) where the establishment is a school providing primary or post-primary education to students and the objective of the school is to provide education in an environment which promotes certain religious values, it admits persons of a particular religious denomination in preference to others or it refuses to admit as a student a person who is not of that denomination and, in the case of a refusal, it is proved that the refusal is essential to maintain the ethos of the school...'

1.2 This submission argues that this provision plainly discriminates against families who do not profess the faith of the patron, or indeed any faith at all and is a breach of the Universal Declaration of Human Rights (UDHR), Article 18.

1.3 *Criteria for Selection to National School.* Below is an example of the terms of enrolment for a National School which is typical of the sector in general². (The criterion for those of no religion is italicised.) It is clear that children from families who profess no religious faith are discriminated against and are highly unlikely to gain admission to the school.

Criteria for Selection. The Board of Management considers each Application on an individual basis and will assign priorities to enroll [*sic*] children using the following guidelines:

1. Church of Ireland parishioners of Howth Parish. (This area comprises of the lands within the Howth peninsula, the coast road as far as the Kilbarrack Road, the right hand side of the Kilbarrack Road up to the train line, along the train line as far as Portmarnock and along the road back to Baldoyle and back to Howth.)
2. Church of Ireland parishioners of neighbouring Parishes customarily served by the school, where no Church of Ireland School exists.
3. Children from main stream Protestant Churches within the Parish Boundaries.
4. Children of staff members as a practical incentive to encourage staff to remain working at the school.
5. Children from inter-church families living within the parishes listed at A & B where parents express a wish to have their child educated specifically within a Church of Ireland Ethos.
6. Children who are members of churches which are involved in the Irish-Inter Church meeting and living within the parish boundaries i.e. Roman Catholic Church and children of other Christian denominations.

² <http://burrowschool.scoilnet.ie/blog/information-for-parents/burrow-school-policies/> [Accessed 12/8/15]

7. *Children from other faiths and children with no religious affiliations living within the parish boundaries.*

Applications for children who are members of Protestant, Reformed, Old Catholic Churches, Mar Thoma Church, Evangelical Lutheran Churches of Norway, Sweden, Iceland, Finland, Lithuania, Estonia and Denmark are treated similarly to children from the Church of Ireland (category 2).

Applications from children who are members of the Eastern Orthodox or Oriental Orthodox Churches and Greek or Russian Orthodox and are living within the parish are treated similar to children from the mainstream protestant churches (category 3).

Where a connection with a Protestant Church is indicated, in the allocation of places, the Board of Management may require written confirmation of Church attachment as follows:-

Baptismal Certificate

Family name on register

Letter from the Church of Ireland incumbent or where Church of Ireland incumbent signs the Application form.

This equivalent process may happen for other denominations also.

1.4 In practice, admissions policies such as these mean that many secular parents have their children baptised in order to give them a reasonable chance of gaining enrolment to a local school. These 'sham baptisms' are the result of pressure amounting to coercion to deny their real opinions and values and indeed tends to undermine their moral position in relation to their children. They are likely feel obliged to participate in further 'sham' religious rites of passage and church attendance in order to ensure that their children do not stand out in school for being 'different'. We argue that this 'coercion' of parents denies their right to 'freedom to hold opinions without interference' (UDHR, Article 19) and it is particularly insidious in forcing parents who wish to set a good moral example to their children into a hypocritical position.

1.5 *Domination of the Catholic Ethos in National Schools.* National schools are primary-level schools funded by the State and managed by a private patron body. The religious ethos of National Schools is set out in *Rules for National Schools* (1965)³ which are susceptible to amendment by the Minister for Education. Chapter IX – Rule 68 states:

“Of all the parts of a school curriculum Religious Instruction is by far the most important, as its subject-matter, God’s honour and service, includes the proper use of all man’s faculties, and affords the most powerful inducements to their proper use. Religious Instruction is, therefore, a fundamental part of the school course, and a religious spirit should inform and vivify the whole work of the school.

³ <http://www.education.ie/en/Advanced-Search/?q=rules%20for%20national%20schools&pageNumber=3> [accessed 12/8/2015]

“The teacher should constantly inculcate the practice of charity, justice, truth, purity, patience, temperance, obedience to lawful authority, and all the other moral virtues. In this way he will fulfil the primary duty of an educator, the moulding to perfect form of his pupils’ character, habituating them to observe, in their relations with God and with their neighbour, the laws which God, both directly through the dictates of natural reason and through Revelation, and indirectly through the ordinance of lawful authority, imposes on mankind.”

1.6 It is submitted that Rule 68 does not adequately respect the freedom of religion of all children who do not belong to a Christian religion. The insistence on emphasising a particular faith in every school at all points in the school day is inappropriate for a state-funded school system which was established to avoid offending either Roman Catholics or Protestants and which in a modern state should cater for those of all faiths and none⁴. The failure to provide an appropriate educational environment for children from families which do not profess a religious faith is a breach of UDHR, Article 19.

2. Discrimination in Employment in Schools

2.1 The Employment Equality Act 1998, section 37 permits discrimination in selection for employment and during employment on religious grounds: ‘where it is reasonable to do so in order to protect the religious ethos of the school.’

2.2 This submission is concerned that this provision is discriminatory and a breach of the UDHR Article 19, in that it precludes individuals – particularly teachers – from key areas of employment on religious grounds and prevents their acting in accordance with their own beliefs. A system that allows individuals to be penalised for their choice of religion interferes with an individual’s right to ‘manifest his religion or belief in teaching and practice, worship and observance.’

2.2 Similarly, the second paragraph of *Rules for National Schools* (Section 1.5, above) requires teachers to observe a particular religious view, irrespective of his or her own beliefs and is therefore a breach of Article 18.

3. Blasphemy

3.1 The Defamation Act 2009 gives effect to Article 40.6.1°(ii) of the Constitution, viz.:

⁴ The Stanley Letter of 1831. https://www.google.ie/search?q=stanley+letter,+1831&ie=utf-8&oe=utf-8&gws_rd=cr&ei=_hnbVaPuFsnxUsXNibAF [last accessed 24/8/15]

'...The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law.'

and defines a person as having committed blasphemy (section 36) if:

- (a) he or she publishes or utters matter that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion, and
- (b) he or she intends, by the publication or utterance of the matter concerned, to cause such outrage.

3.2 Although the Act does allow a defence to be made on the grounds of 'genuine literary, artistic, political, scientific, or academic value', this submission argues, that the threat of prosecution might in fact be a breach of UDHR Articles 18 and 19.

3.3 The UDHR does not limit the freedom of opinion and speech by any notion of 'outrage', so this submission seeks the declaration that this clause is a breach of Articles 18 and 19.

4 The Constitution of Ireland, 1937

4.1 Preamble

4.1.1 The first line of the preamble reads:

'In the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred,'

It then goes on to the formal declaration: 'We, the people ...'.

4.1.2 This submission argues that the inclusion of this specific statement of Christian belief alienates those Irish citizens who do not share that belief.

4.2 Religious Oaths of Office

4.2.1 The constitution lays down that the President (Article 12,8), all judges (Article 34, 6.1) and members of the Council of State (Article 31, 4) must swear a religious oath ('In the presence of Almighty God') before taking office. Both the President and judges are also required to say 'May God direct and sustain me.' A judge who does not make the religious declaration within a prescribed time of being appointed 'shall be deemed to have vacated his office.' (Article 6, 4).

4.2.2 This submission argues that the both the preamble and the religious oath are discriminatory and in breach of UDHR, Articles 18 and 19. In particular, the religious oath precludes those who do not subscribe to a monotheistic religion from taking important roles in the governance of the nation. It is submitted that this also violates the right to equality before the law protected by Article 7 UDHR.

6. Recommendations

5.1 *Equal Status Act 2000*. Section 7(3)(c) be repealed so that it is no longer legally permissible to discriminate in enrolment against children whose families profess no religion.

5.2 *Religious Ethos of National Schools*. Chapter IX of *Rules for National Schools* be removed so that a particular faith no longer permeates all the activities of National Schools nor places teachers in the role of faith formation.

5.3 *Employment Equality Act 1998*, section 37 be repealed so that discrimination on religious grounds is no longer permissible in the employment context.

5.4 *Blasphemy*. Repeal of section 36 of the Defamation Act 2009 and the offending paragraph of Article 40.6.1°(ii).

5.5 *Constitution*. Removal/replacement of the opening part of the preamble (5.1 above) and the requirement for religious oaths for public office.

Humanist Association of Ireland
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