

# Only a Secular School System Can Protect Our Convention Rights

Joint Submission  
November 2016

To Mr Nils Muižnieks  
Council of Europe Commissioner  
for Human Rights

From



## Overview of our Submission

1. The Irish State does not protect the rights guaranteed under the European Convention in the education system, regarding (a) access to a local school without religious discrimination and (b) the delivery of the State Curriculum in an objective, critical and pluralistic manner.
2. The State cedes control of publicly funded schools to private Patrons, most of whom integrate a Catholic ethos throughout the State Curriculum and the entire school day. Children cannot opt out of this religious ethos. This breaches the positive obligation on the State to respect the human right of all parents to ensure that the teaching of their children is in conformity with their convictions. This right to respect is an absolute right, not to be balanced against the rights of others, or one that can be gradually achieved.
3. While we continue to campaign for a secular school system, we support the immediate implementation of the Recommendations from the Irish Human Rights & Equality Commission on the Admission to Schools Bill 2016, including amendment of Section 7–3(c) of the Equal Status Act 2000, and Section 15–2(b) of The Education Act 1998.
4. We conclude this submission with individual perspectives from Atheist Ireland, Evangelical Alliance Ireland, and the Ahmadiyya Muslim Community of Ireland.

## Our Submission

### **1. The Irish State does not protect the rights guaranteed under the European Convention in the education system. In particular, the Irish State has failed**

- (a) **to ensure that access to a local school without religious discrimination is legally protected (Article II of Protocol 1 and Article 14), and**
- (b) **to ensure that the state curriculum is delivered in an objective, critical and pluralistic manner, so that parents can ensure that the teaching of their children is in conformity with their convictions (Article II of Protocol 1 and Article 14).**

This failure to protect Convention rights was obvious in the Louise O’Keeffe case at the European Court. The Irish State had failed to ensure protection for children under Article 3, and the Court also found that there was no effective remedy to vindicate Convention Rights under Article 13.

The Court stated that:

“151. Finally, the Government appeared to suggest that the State was released from its Convention obligations since the applicant chose to go to Dunderrow National School. However, the Court considers that the applicant had no “realistic and acceptable alternative” other than attendance, along with the vast majority of children of primary school-going age, at her local National School (Campbell and Cosans v. the United Kingdom, 25 February 1982, § 8, Series A no. 48). Primary education was obligatory (sections 4 and 17 of the School Attendance Act 1926), few parents had the resources to use the two other schooling options (home schooling or travelling to attend the rare fee-paying primary schools) whereas National Schools were free and the National School network was extensive. There were four National Schools in the applicant’s parish and no information was submitted as to the distance to the nearest fee-paying school. In any event, the State cannot be released from its positive obligation to protect simply because a child selects one of the State-approved education options, whether a National School, a fee-paying school or, indeed, home schooling (Costello-Roberts, cited above, § 27).

152. In sum, the question for current purposes is therefore whether the State's framework of laws, and notably its mechanisms of detection and reporting, provided effective protection for children attending a National School against the risk of sexual abuse, of which risk it could be said that the authorities had, or ought to have had, knowledge in 1973."

The same principles apply to the rights guaranteed under Article II of Protocol 1 of the European Convention, and under Articles 8, 9, 10 and 14. The Irish State still cedes control of the education system to private Patron bodies, mainly religious.

## **2. Ceding control of schools to private Patrons who integrate a Catholic ethos throughout the State Curriculum breaches the positive obligation on the State to respect the human rights of all parents and children**

The State cedes control of publicly funded schools to private Patrons. The Education Act permits parents to opt their children out from Religious Instruction classes. These classes are part of the Patron's private ethos curriculum, and are not part of the State Curriculum. However, the State does not pay for supervision, and most children are left sitting at the back of the religion class, and cannot choose another subject.

In addition, all Schools in Ireland can integrate their religious ethos (Characteristic Spirit) into *the State Curriculum and the entire school day*. An example of this would be that religious ethos can be integrated into Relationship and Sexuality Education at Primary and Second level. However, the religious ethos can also be integrated into subjects such as nature study, music, art and even English and maths. Also, religious ethos can mean prayers before classes, attending school Masses, and religious symbols on walls and on compulsory school uniforms.

As the vast majority of schools are controlled by the Catholic Church, it is overwhelmingly the ethos of the Catholic Church that is integrated into the State Curriculum. The State has no control over ethos or how it is implemented in schools. The State does not oblige schools to write down their ethos, or to inform parents where the ethos is integrated into the State Curriculum.

The European Court and the United Nations both recognise the positive obligation on the State to respect the right of all parents, regardless of their religious or philosophical convictions, to ensure that the teaching of their children is in conformity with their convictions.

**This right to respect is an absolute right, not to be balanced against the rights of others, or one that can be gradually achieved. Our education system is structured to regard this right as a negative right (an opt-out right) and fails to recognise that there is also a positive obligation to respect this right of all parents.**

This right to respect cannot be overridden by the alleged necessity of striking a balance between the conflicting views involved, but that is exactly what is happening in our education system. Our education system is structured in a manner which means the practical application of our Constitutional and Convention rights are ignored. Despite the positive obligation on the State to respect the inalienable rights of parents, the State has absolved itself of that responsibility and ceded control to private bodies such as the Catholic Church who are the patron of the vast majority of schools. None of these private bodies has ratified the European Convention.

**The Oireachtas Education Committee has concluded that multiple patronage and multiple ethos of schools can lead to segregation and inequality. This is central to ensuring freedom of religion and belief in Irish schools: the patronage system itself needs to be replaced with a religiously neutral State school system, not made even more segregated by the addition of more private patrons.**

### **3. We support the Recommendations from the Irish Human Rights & Equality Commission on the Admission to Schools Bill 2016**

While we continue to campaign for a secular school system, the legal framework in Ireland can immediately be amended by implementing the Recommendations of the Irish Human Rights & Equality Commission in relation to the rights guaranteed under the Convention. These Recommendations could ensure that our Convention Rights would be protected and guaranteed.

The Recommendations from IHREC read as follows:

<https://www.ihrec.ie/documents/observations-education-admission-schools-bill-2016/>

1. The Commission recommends that the Equal Status Act be amended to give effect to the principle that no child should be given preferential access to a publicly funded school on the basis of their religion.
2. The Commission recommends that the new section 62(6) to be inserted into the Education Act should be amended to the effect that, in setting out the characteristic spirit and general objectives of the school, outside the specific context of faith formation and religious instruction which parents wish to avail of and where exemptions apply, regard shall be had to providing information in relation to religion in an objective, critical and pluralistic manner that avoids indoctrination, in accordance with the jurisprudence of the European Court of Human Rights.
3. The Commission recommends that the Bill set down minimum standards in relation to the nature of exemptions for students who do not want to attend religious instruction or provide that the Minister for Education and Skills may regulate how schools shall provide for such students.
4. The Commission recommends that the new section 62(6) to be inserted into the Education Act should be amended to the effect that in setting out the characteristic spirit and general objectives of the school, the school shall ensure that the values of an inclusive school that respects and accommodates diversity across all nine grounds in the equality legislation are respected.

Two pieces of legislation that if amended could guarantee Convention Rights are Section 7–3(c) of the Equal Status Act 2000:

“An educational establishment does not discriminate under subsection (2) by reason only that 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,”

and Section 15–2(b) of The Education Act 1998:

“Uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values which inform and are characteristic of the objectives and the conduct of the school, and at all times act in accordance with any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school.”

**4 (a) Perspective from  
Michael Nugent Chairperson  
and Jane Donnelly  
Human Rights Officer  
Atheist Ireland**



Atheist Ireland is an advocacy group for atheism, reason and ethical secularism. We respect the right of others to believe differently than us about atheism and religion, as long as the State does not assist any group to impose their beliefs on others who do not share them. That is why we are proud to work in alliance with Evangelical Alliance Ireland and the Ahmadiyya Muslim Community of Ireland to promote a secular education system, where State-funded schools teach children about religions and beliefs in an objective, critical and pluralist manner, while respecting the human rights of pupils, parents and teachers.

We run [teachdontpreach.ie](http://teachdontpreach.ie), Ireland's best secular schools resource. We promote our Schools Equality PACT, an acronym for Patronage, Access, Curriculum and Teaching. We support the OSCE's internationally agreed Toledo Guiding Principles on teaching about religions and beliefs based on human rights. We have got the Oireachtas Education Committee to agree that multiple patronage and multiple ethos of schools can lead to segregation and inequality.

It is understandable that many parents, and representatives of particular religions, would have as their priority that the education system satisfies their own desires, and the desires of those who think like them. But the role of the State should be to counteract this self-centred approach in the common good. The education policy of Atheist Ireland is based on the human right to be educated without being indoctrinated with religion and to be free from proselytism. And we would be just as opposed to children being indoctrinated with atheism as with religion.

By ratifying the European Convention on Human Rights and the various UN Conventions, the Irish State has already agreed to guarantee to respect all parents' religious and philosophical convictions in the Irish education system, and not just those of a majority. However, the Irish State now claims that it is Constitutionally obliged (not merely permitted, but obliged) to buttress religious discrimination, including in publicly funded schools.

In practice, a religious ethos means integrating religion into the State Curriculum and the general milieu of the school day. It is part of Catholic teaching that religion must be integrated into other subjects (Circular letter from the Vatican 2009). It is also part of Catholic Church teaching that Religious Education cannot be delivered in a neutral and objective manner. Because of this teaching, which is protected by legislation, Section 15(2) (b) of the Education Act 1998, atheist or minority faith parents cannot exempt their child from the elements of religion that are integrated into all the various subjects under the State Curriculum.

Because of the integrated curriculum, there are potential areas of all subjects that parents could legitimately consider likely to give rise in their children to a conflict of allegiance between the school and their own values, and therefore atheist and minority faith parents cannot guarantee that the education that their children receive is in conformity with their own convictions. Despite the guarantees under the Irish Constitution on parental rights, atheist and minority faith parents are denied basic human rights in the Irish Education System.

The patronage system cannot achieve respect for the religious and philosophical convictions of all parents, because human rights are guaranteed to individuals not to the religious majority in a given area. What we have in Ireland is the abuse of a dominant position. The patronage system lends its weight to identifying members of society by their religious affiliation. It coerces parents to identify with various groups in society, especially when children can be refused access to the local school in the event of a shortage of places and in order to uphold a religious ethos.

**4 (b) Perspective from  
Pastor Nick Park  
Executive Director  
Evangelical Alliance Ireland**



“You will attend that mass, even if I have to drag you there by the hair!” Those were the words of a teacher in Drogheda, directed at a teenage girl whose religious convictions led her to refuse to attend a religious service in which the class had been ordered to sing. When I visited the school principal and pointed out that such compulsion was contrary to our nation’s Constitution, he snapped, “How dare your lot come into a Catholic school and start lecturing me about what our Constitution says?”

There is an erroneous notion, propagated by those religionists who want their particular brand of faith to be propped up at the taxpayer’s expense, that having a genuinely secular education system in Ireland somehow represents a promotion of atheism, or even a denial of the rights of religious parents.

One of the problems with the words secular and secularism is that they are used in two entirely different ways. Some people understand secularism as a desire to eradicate religion from public life altogether – that you can practise religion in private but shouldn’t speak about it in public. Heiner Bielefeldt, Professor of Human Rights and Human Rights Policy at the University of Erlangen, makes a very useful distinction between doctrinal secularism and political secularism. <sup>1</sup>Doctrinal secularism is anti-religious in nature and wants to see religion banished altogether. In many ways this kind of aggressive secularism functions like a dogmatic religion itself.

Political secularism is the idea that the State should be entirely neutral with respect to religion, and that religion should be afforded no special privileges and subject to no special restrictions. In a politically secular society all religious groups, and those of no religion, operate on a level playing field and compete in the marketplace of ideas. As Bielefeldt puts it, political secularism “gives religious communities their independence from unwanted state intervention, and makes possible that people across religious boundaries enjoy equal rights and an equal status as citizens.” As a Christian leader, I believe passionately that a secular educational system is good for families, good for teachers, good for religion and good for society.

It is good for families because it puts the religious formation of children back where it belongs - in the hands of parents. If parents wish to seek the help of churches in that process then they are free to do so. What is intolerable is that, often through a lack of available schools in a given area, families are left with no choice but to hand their children over to a system that submits the child to religious indoctrination that is often at variance with the values and views of the parents. It is good for teachers because they are not forced into dishonesty. At present, non-Catholic teachers must either accept that their career prospects are extremely limited, or else teach stuff that they themselves do not believe to be true.

It is good for religion itself because faiths thrive when they are shared by those who believe their tenets most passionately. If I wanted to devise a strategy to destroy a religion, I cannot think of anything more effective than making its teaching a compulsory act, often implemented by those with little or no interest, and inflicted upon bored schoolchildren. Such a practice virtually guarantees that religious belief is divorced from real life and becomes perfunctory and irrelevant. It is good for society because diversity is championed, and children learn the kind of tolerance and mutual respect that can never flourish under educational apartheid.

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<sup>1</sup> Bielefeldt, Heiner. “The Liberal Concept of Political Secularism” in Ronald Tinnevelt & Gert Verschraegen (eds.) *Between Cosmopolitan Ideals and State Sovereignty: Studies in Global Justice*. Basingstoke: Palgrave Macmillan, 2006. 103



**4 (c) Perspective from  
Imam Ibrahim Noonan  
Imam of Galway Mosque  
National Imam and Missionary In-Charge of  
The Ahmadiyya Muslim Association of Ireland**

The Ahmadiyya Muslim Community has always adhered to the fact that Religion and State are two different entities. Therefore it views that secular knowledge should be given eminence within the school curriculum. However if any school desires that religion be taught, then not one or two ideologies should be given importance, but rather a broader picture of each religion should be presented with its basic fundamentals.

As many people are less familiar with the Ahmadiyya Muslim community than they are with atheism or Evangelical Christianity, it is important to outline here some basic information. We are a worldwide Islamic movement which believes that Islam is the final divine faith given to humanity which will enable humankind to come close to God Almighty. We believe that Prophet Muhammad is the final messenger and Prophet, who gave to humankind the final divine teachings through the Holy Quran, which was sent down by Almighty God through revelation to him.

The Ahmadiyya Muslim community believes that Jesus went through crucifixion but survived and was taken down alive, and after a short recovery period from his wounds he left Israel and went in search for the lost tribes of Israel to fulfil his mission to them. We believe that Jesus died a natural death as revealed in the Quran and that he would not be returning, but that someone else would return instead of him who will possess the characteristics and similar qualities of piety and meekness which was foretold by the Holy Prophet.

The Ahmadiyya Muslim community believes that Hadrat Mirza Ghulam Ahmad of Qadian is that very person of whom the Holy Prophet spoke, and who is known as the Promised Messiah who founded the Ahmadiyya Muslim worldwide movement in 1889. The Ahmadiyya Movement in Islam is currently being led by His Holiness Hadrat Mirza Masroor Ahmad, who is the Imam and the head of the worldwide Ahmadiyya Muslim community. He is the Fifth Successor of the Promised Messiah.

Due to these beliefs, the Ahmadiyya Muslim community faces severe and extreme persecution, to the extent that many members of the community have been killed in Pakistan, Bangladesh, Indonesia, and recently in Scotland. The Ahmadiyya Muslims suffer from serious religious discrimination in several other countries. This discrimination is now seen in Europe, due to the influence of mainstream Islam both from the Sunni and Shia branches of Islam.

In Ireland secular educational institutions, from primary schools to Universities, are being told that Ahmadi Muslims are not Muslims, and that we don't represent Islam. Furthermore, actual efforts by certain Shaykhs and Imams have been made to stop Ahmadi Muslim Imams and scholars from talking about Islam in Irish schools, institutions and Universities. Also, it has been noticed that interfaith communities have been influenced by mainstream Muslims to not involve the Ahmadiyya Muslim community in any ecumenical dialogue or interfaith groups, from government level down to secular institutions.

This is clearly against the basic human rights of individuals and communities, who have the right to believe and to propagate their beliefs in a safe and friendly environment. No secular institution, from primary to secondary school or any university, has the right to decide or be bullied into deciding who is a Muslim or not a Muslim, or who represents Islam and who does not.