

# Education Equality

## Submission to the Human Rights Council

Universal Periodic Review of Ireland, 2<sup>nd</sup> Cycle

25<sup>th</sup> Session, April-May 2016

### **1. Education Equality**

[1.1] Education Equality is a newly established organisation formed in August 2015 with the purpose of promoting fair and equal treatment for all children and parents throughout the educational system. We were formed with the specific aim of combatting religious discrimination in education, especially at primary level.

[1.2] Education Equality is a not-for-profit, all-volunteer organisation. It is supported by and has received a funding donation from the Humanist Association of Ireland. We are currently in the process of seeking similar support from other organisations whose objectives coincide with ours. However we maintain an independent identity that is “label-free”: the organisation is not associated with any label or religion. Rather it is open and accessible to people of all beliefs and none who believe that the Irish education system should treat all children and parents equally regardless of their religion.

[1.3] Various efforts have been made by organisations and individuals to address the issue of discrimination in the Irish school system, particularly in access to school places. Education Equality was established to bring a coordinated, unified approach to the campaign for equality. Since our inception in August 2015, we have been seeking the support of all interested organisations and individuals as partners in this single alliance dedicated solely to the goal of equal respect in the education system.

[1.4] Education Equality is concerned by a number of elements of the education system which prevent equal respect being given to the rights of children and parents without a religion and of minority religions. These factors include religious discrimination in schools admissions policies (facilitated by legislation, the Equal Status Act 2000, s 7(3)(3)), difficulties in opting out of religious instruction if a child is attending a school with an ethos different to his/her own, and the “integrated curriculum” that requires all primary education to be infused with religious values. Education Equality has identified as its first priority the removal of s 7(3)(c) such that discrimination on the grounds of religion is no longer permitted in schools admissions.

[1.5] Education Equality takes a multi-pronged approach to removing discrimination in school access. Our activities include political lobbying, raising public awareness of inequalities in the education system and providing support and guidance for parents on how to deal with discrimination, including guidance on appealing refusal of school places and information on opting out of religious instruction. Our legal section works on challenging discrimination through the legal system by coordinating test cases. We are currently working on the beginnings of a constitutional challenge to s 7(3)(c) of the Equal Status Act 2000.

## 2. Discrimination in Access to Education

[2.1] This report submits that current practice in schools admissions in the Irish educational system is discriminatory and violates the right to freedom of religion under Article 18 of the International Covenant on Civil and Political Rights (ICCPR).

[2.2] The Irish education system is based on the “patronage model”, under which the State does not run a system of public schools, instead fulfilling its constitutional obligation to provide *for* primary education under Article 42.4 of the Irish Constitution by funding privately-run schools. Over 98% of primary schools are privately-run religious schools and 90% are under the patronage of the Catholic Church.

[2.3] It is common practice for religious schools to require a baptismal certificate or equivalent as a condition for admission. Many schools admit children belonging to the school’s own denomination in preference to other children. The result is that where schools are over-subscribed, unbaptised children encounter great difficulty finding a school place.

[2.4] While discrimination in the provision of education is generally prohibited by the Equal Status Act 2000, a specific exemption is given for schools which provide education in an environment that promotes certain religious values. Section 7(3)(c) of the 2000 Act provides that a school does not discriminate where it admits one child in preference to another, or refuses to admit a child who does not belong to the denomination of the school, where this refusal is essential to maintain the ethos of the school.

[2.5] This report submits that in maintaining s7(3)(c), the State is violating the right to freedom of thought, conscience and religion guaranteed in Article 18 ICCPR. Individuals who do not conform to the “right” religion are effectively penalised for their choice of religion by being refused access to a public service. Being penalised for the exercise of one’s religion is the antithesis of religious freedom. Parents who are pressurised into baptising their children in order to get a school place, and contrary to their own beliefs, also suffer a violation of their right to freedom of religion.

[2.6] It is also submitted that the exemption from non-discrimination law for religious schools constitutes a violation of Article 26 ICCPR which requires that the law prohibit any discrimination on the grounds *inter alia* of religion. It is also contrary to the Article 2 ICCPR right to non-discrimination in the enjoyment of ICCPR rights.

[2.7] Recognising the above inconsistencies, the Human Rights Committee recommended during the periodic review in 2014 that the State should “introduce legislation to prohibit discrimination in access to schools on the grounds of religion, belief or other status, and 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.”<sup>1</sup> These recommendations have remained fulfilled.

[2.8] We are also concerned at the disproportionate effect that religious distinctions in admissions policies have on immigrant children and families, a lesser percentage of whom belong to the Catholic faith. The Convention on the Elimination of all forms of Racial

---

<sup>1</sup> Human Rights Committee, ‘Concluding observations on the fourth periodic report of Ireland’ (2014) UN Doc No. CCPR/C/IRL/CO/4 para. 21.

Discrimination (CERD) requires equality before the law in the enjoyment of the right to freedom of thought, conscience and religion (Article 5(d)(vii)) and of the right to education and training (Article 5(e)(v)). This equality is not being guaranteed under the current legislation. The Committee on the Elimination of all forms of Racial Discrimination has recognised the “intersectionality” of racial discrimination and religious discrimination and have therefore called on the Irish State “to amend the existing legislative framework so that no discrimination may take place as far as the admission of pupils (of all religions) to schools is concerned.”<sup>2</sup>

[2.9] It is submitted that the discriminatory nature of school admissions policies infringes the right to education under Article 13 of the International Covenant on Social Economic and Cultural Rights (ICESCR). Where unbaptised children are unable to find a school place, their attendance at school can be delayed by a year or they may have to travel inappropriately long distances to attend a school. The State is also failing in its obligation under Article 28 of the Convention on the Rights of the Child (CRC) to achieve the right to education on the basis of equal opportunity and to make primary education available (free) to all.

[2.10] During Ireland’s last examination under the UPR in 2011, the following recommendations were made with the agreement of the Irish State:

**107.47. Encourage diversity and tolerance of other faiths and beliefs in the education system by monitoring incidents of discrimination on the basis of belief (Turkey);**

**107.48. Eliminate religious discrimination in access to education (Egypt)<sup>3</sup>**

In its mid-term report the Irish government accepted the first of the above recommendations and stated that it is unlawful to discriminate against a child on the basis of religious belief and gave details of the complaints procedure in place if discrimination occurs. However it does not address the fact that the State itself sanctions discrimination in the enrolment process. The recommendation in para. 107.48 is not addressed in the mid-term report. Despite a new Bill being published on school admissions, this does not remove the permission for religious discrimination contained in s 7(3)(c).

### **3. Lack of non-denominational and multi-denominational schools**

[3.1] Education Equality is concerned at the lack of publicly-funded non-denominational and multi-denominational schools in Ireland. 97% of State-funded primary schools are run by a religious patron, and 90% are Roman Catholic. In many areas families of minority religions and no religion have no alternative to sending their children to the local Catholic school. The excess of demand over supply for multi-denominational schools means that in areas where they are available, run by the private organisation Educate Together, these schools are hugely over-subscribed. The majority who apply cannot be accommodated, again leaving them no

---

<sup>2</sup> Committee on the Elimination of Racial Discrimination, ‘Concluding observations of the Committee on the Elimination of Racial Discrimination’ (2005) UN Doc. No. CERD/C/IRL/CO/2; Committee on the Elimination of Racial Discrimination, ‘Concluding observations of the Committee on the Elimination of Racial Discrimination’ (2011) UN Doc. No. CERD/C/IRL/CO/3-4.

<sup>3</sup> Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Ireland’ (2011) UN Doc no. A/HRC/19/9 paras 107.47 and 107.48.

alternative to religious schools where they face discriminatory admissions policies (section 2 above).

[3.2] The lack of alternatives to religious, mainly Catholic, schooling means that non-religious and minority religion families are forced to send their children to schools which deliver education in accordance with an ethos/belief system that is incompatible with their own beliefs and/or conscience. It is submitted that this infringes the right to freedom of thought, conscience and religion protected by Article 18 ICCPR and Article 18 UDHR. The Irish Constitution, Article 42.3.1<sup>o</sup>, provides that “the State shall not oblige parents in violation of their conscience and lawful preference to send their children... to any particular type of school designated by the State”. However in reality the only alternative to Catholic schools for many parents is home-schooling. For the majority of families where economic necessity requires both parents to work, home-schooling is not a practical option. This is not a practical alternative sufficient to protect such families’ freedom of religion.

[3.3] All State-funded primary schools (national schools) are governed by the Rules for National Schools 1965. Rule 68 reads as follows:

“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.

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.”

Even schools run by non-religious/multi-denominational bodies and by religious bodies not based on a belief in a Christian god are required to comply with this Rule. Therefore even the limited number of multi-denominational/non-denominational schools that do exist are not entirely free from religious constraints. It is submitted that Rule 68 is arbitrary and constitutes an impermissible interference with religious freedom contrary to Article 18 ICCPR and Article 18 UDHR. 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 ought to provide for an appropriate educational environment for all children.

#### **4. Integrated curriculum and difficulties opting out of religious instruction**

[4.1] As a result of the patronage model and the shortage of non-religious or multi-denominational schools, most non-Catholic parents are obliged to send their children to religious (mainly Catholic) schools and seek to remove their children from religious instruction.

[4.2] We are concerned at the difficulties that many parents report in seeking to opt their children out of religious instruction and religious rites of passage such as First Communion and Confirmation. Parents have reported to us that children who opt out are given detention, cleaning duties and extra homework to complete. In addition, parents have reported that their children remain at the back of the class during religion periods with the result that they come home singing hymns and reciting prayers. It is our belief that the current opt-out system does not adequately protect children from indoctrination, and is therefore contrary to the right to freedom of religion (Art 18 ICCPR, Art 18 UDHR).

[4.3] Rule 68 of the Rules for National Schools 1965, quoted above, requires what is known as the “integrated curriculum”, whereby religious instruction is required to be incorporated into all aspects of the school day and in the teaching of all subjects (“a religious spirit should inform and vivify the whole work of the school”)<sup>4</sup>. This means that even where non-religious children are allowed to opt out of formal periods of religious instruction, it is impossible to opt out of continuous religious teaching which is woven into other teaching throughout the school day. Because of Rule 68, opting out is not a remedy capable of protecting religious freedom in the Irish school system. Education Equality wishes to recommend the removal of Rule 68 and the adoption of an opt-out system which guarantees real protection from indoctrination for non-religious and minority religion children.

## **5. Conclusion and recommendations**

[5.1] This report concludes that the Irish education system fails to respect the rights of non-religious and minority religion families in failing to provide adequate alternatives to religious schooling, in failing to protect all children and parents from discrimination on the grounds of religion in school admissions policies, and in failing to make adequate provision for children to opt out of religious sessions which are contrary to their beliefs and/or conscience.

[5.2] Education Equality therefore recommends that the following actions be called for by the Human Rights Council:

- (a) Immediate repeal of s 7(3)(c) of the Equal Status Act 2000;
- (b) Prohibition of all forms of religious discrimination in the education system, including in admissions and employment and within the school day;
- (c) Provision of adequate and appropriate alternatives to religious education and education in accordance with particular denominations;
- (d) Establishment of multi-denominational and non-denominational schools within a reasonable distance from all families;

---

<sup>4</sup> Rules for National Schools 1965 rule 68.

- (e) Provision for effective opt-out procedures from all elements of indoctrination currently incorporated in school life;
  
- (f) Repeal of Rule 68 of the Rules for National Schools and removal of the Integrated Curriculum.

**Author**

April Duff

Legal Officer, Education Equality start-up committee

aprilduff1@gmailcom

See also: Appendix 1 - Testimonies