

**Submission to the Irish Human Rights Commission on
Education and Religion from the Humanist Association of
Ireland**

January 2011



Executive Summary

The HAI promotes the development of an open and inclusive society, based on a commitment to equality, human rights and social cohesion. We are concerned with the proven institutional and structural discrimination against people of no religion. State institutions should ensure differences of belief or philosophy are fully and equitably respected in the Constitution, laws, policy and practice.

A range of human rights obligations demand the Irish state respect parent rights to have their children educated in accordance with their beliefs. However, the lack of plurality of school types means many non-religious or minority belief parents are obliged to send their children to denominational schools run according to a Catholic ethos.

Schools adopting an Educate Together (ET) approach respect religious and non-religious beliefs, without affecting the human rights and educational entitlements of all. Religious instruction can be provided outside school hours. The case for an 'educate together' approach is supported by international human rights covenants ratified by Ireland.

The HAI has serious concerns about the opt-out option, as practiced in the new VEC community primary schools. Minority belief students risk being seen as different, feeling excluded and experiencing reduced self-esteem. It is morally wrong to separate children on the grounds of religious or non-religious beliefs. A religious curriculum concerned with learning about religions and alternatives to religion should be developed and introduced.

4. Recommendations

1. Parents of minority beliefs and no belief should be able to choose a school that respects their right for their child to be educated according to their beliefs.
2. Schools adopting an 'Educate Together' (ET) approach should be available in every locality to enable pupils learn together on an equal basis.
3. In the long term there should be no patronage of schools. The state should establish and run secular schools using an ET approach.
4. Religious education should not be religious instruction. Pupils should study comparative religions and non-religious philosophies.
5. The state should provide teacher training through non-religious institutions. Teachers should not undergo religious instruction as part of their training.
6. The State should stop the current patronage system in teacher training institutions.
7. There should be no legal entitlement for schools to discriminate against teachers or pupils to preserve their religious ethos

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1 HAI, Education and Religion

1.1 Introduction

8. The Humanist Association of Ireland (HAI) values, respects and is a strong supporter of the Irish democratic process and structure. Through our activities we aim to support the further improvement and strengthening of Irish democracy and ensure all the citizens of Ireland are able to fully participate and benefit from it. The HAI wishes to promote the common good and development of an open and inclusive society, based on a commitment to equality, human rights and social cohesion. We campaign and consult with a range of partners including the government on issues that affect the interests of our members
9. The HAI is concerned with the proven institutional and structural discrimination against people of no religion, which occurs both directly and indirectly in many significant areas of daily life. To date, there has been a lack of political will to tackle this discrimination. Consequently many Irish citizens have found themselves marginalised and/or regarded as a 'second-class' citizen.
10. The HAI wishes to cooperate with State institutions to ensure non-religious people should not experience such problems in the future. State institutions should not be biased towards any particular belief group and differences of belief or philosophy must be fully and equitably respected in policy and practice. The Constitution, laws and practices of the State should reflect this approach.
11. These principles should apply in any truly democratic republic regardless of the size or growth of various belief groups. However, it is worth pointing out that in the 2006 Irish census 2006, the second largest group after Roman Catholics were those of "No religion" (186,000). A further 70,000 individuals were 'not stated'. Ireland has become a far more diverse society ethnically, culturally and in terms of religious and philosophical beliefs. These factors emphasize the need for the State to respect diversity in its Constitution, laws and its practices.

1.2 HAI and Education

12. Education is a principle concern for the HAI. As humanists, we see children as people with rights and responsibilities accruing progressively as they grow and mature. They are not the possessions of their parents or the state. However, parents and the state (notably through its schools) have duties to help prepare them for life as autonomous adults, making their own decisions, including about fundamental beliefs, accepting the freedom of others to differ, and both contributing to and benefiting from the community.
13. The state, through the school system, should not come between parent and child, compromise the child's autonomy or bias their judgment on essentially individual issues of fundamental belief. The community should provide education that helps children develop knowledge, judgment and skills – including those of moral thinking and citizenship. Schools should be impartial, fair and balanced in dealing with controversial subjects, religion no less than politics.
14. In the good society, religious belief would be a purely private matter and the public arena, including schools, would be strictly neutral in this area. Schools should promote social cohesion and an open society, based on shared human values, and genuinely inclusive and accommodating towards religious and non-religious requirements of those they serve, including tiny minorities. Otherwise, we risk a tyranny of the majority, where powerful or well organised minorities can insist on their needs being accommodated and disregarding those of others.

2 Relevant Human Rights Obligations – Education and Religion

15. There are a number of international human rights obligations incumbent upon the Irish state to respect the rights of parents to have their children educated in a manner consistent with their beliefs.

16. Of particular relevance is Article 18(4) of the International Covenant on Civil and Political Rights (ICCPR):

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.ⁱ

17. Article 13(1) of the International Covenant on Economic, Social and Cultural rights (ICESCR) emphasises the right of everyone to an education and that it should “enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups.”ⁱⁱ

18. Article 29 (1) of the Convention on the Rights of the Child (CROC) building on Article 13(1) of the ICESCR. It establishes objectives for education that advocate the development of an educational system based on encouraging understanding between people of different belief systems. Para. (d) is of particular significance here:

The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin,ⁱⁱⁱ

19. Religious instruction as part of the compulsory educational curriculum has been noted as a significant issue by the Committee on the Rights of the Child. The Committee’s first General Comment on the aims of education stressed “children do not lose their human rights by virtue of passing through the school gates” and the importance of schools respecting the participation rights of children.

20. Article 9 of the European Convention of Human Rights (ECHR) establishes the right of the citizens of Europe to “freedom of thought, conscience and religion.”

21. Article 2 – Right to Education - of the First Protocol to the ECHR – emphasizes the State’s responsibility to respect parents’ rights to ensure their children’s education does not contravene their religious or non-religious convictions.^{iv}

3. Education and Religion in Ireland

3.1 Lack of Choice

22. The central problem of rights protection in Irish education is the lack of plurality of school types. The State has created a system of education which, in the absence of adequate human rights measures, violates the rights of a minority.

23. 98% of national schools are denominational with almost 92% (3,027 of 3,302) of these being Catholic. These schools are legally permitted to have a religious ethos, including integrating religion into all school subjects and the general school day. The Equal Status Act 2000 [Section 7-3(c)] legally entitles discrimination in pupil entry to uphold their particular religious ethos.

24. The majority of parents have to send their children to a denominational primary school. This discriminates against parents of a minority religion or no religion who have no local option. This situation is financed by taxpayers of all religions and none.

25. The UN Human Rights Committee (July 2008) held that the Irish government, in line with its obligations under the ICCPR "should increase its efforts to ensure that nondenominational primary education is widely available in all regions."^v
26. The Committee on the Elimination of Racial Discrimination (CERD) in its concluding remarks on Ireland (2005) encouraged the State to "promote the establishment of non-denominational or multi-denominational schools".
27. The State must establish a system of education that neither infringes the rights of the minority nor casts religious believers and organisations in the role of human rights offenders.

3.2 Schools Adopting an Inclusive 'Educate Together' Approach

28. The HAI strongly believes that schools that educate together (ET) provide the optimal solution to ensuring the human rights of Irish pupils to receive an education respecting their beliefs. Inclusive ET type schools provide an opportunity for people of all faiths, and none, to co-exist peacefully and fruitfully in an environment where their rights to their own beliefs and philosophies are respected. Schools that adopt an ET model respect the requirements of the religious and non-religious, without affecting the human rights and educational entitlements of all. Schools using an ET approach also allow for the provision of religious instruction outside school hours.
29. The argument in favour of an ET model is well supported by international human rights covenants, which Ireland has ratified. The proposal by the Department of Education and Skills to fund a pilot programme to develop modules for training teachers to deliver the ET "Learn Together" programme is welcome.
30. Although the Irish State recognises ET schools, only 58 such schools have been established in 35 years. This illustrates the inadequacy of the current system, which requires local 'self-start' of ET schools by parents with limited time and resources. In short, the ET type school is the right concept but its development has been seriously impeded given the current national education structure. However, the current ET approach is only a first step and much remains to be done to ensure Irish pupils have their right to an education, consistent with their values and irrespective of their religious or non-religious beliefs, respected.
31. The Irish state should make ET model schools a primary objective and ensure they are made available throughout Ireland. At the very least there should be an ET school within every locality to provide true choice for parents.

3.3 Opt-Out Option

32. The guarantee under Article 44.2.4 of the Irish Constitution ensures that no legislation should "affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction in that school." the Education Act contains a provision stating that no student shall be required to attend instruction in any subject contrary to the conscience of the pupil's parent.^{vi} Every national school must respect and facilitate this entitlement.^{vii}
33. In its General Comment on Article 18 of the ICCPR, the Human Rights Committee noted that public education including "instruction in a particular religion or belief is inconsistent with Article 18(4) of the ICCPR unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians."

34. The new VEC community primary schools allow separation of pupils during the school day for religious instruction. The HAI has serious concerns about this opt-out option. Minority belief students, risk being seen as different, feeling excluded and experiencing reduced self-esteem as their beliefs are not recognized or are seen as less important than those of the majority.
35. These human rights concerns and limitations of the opt-out system have been increasingly recognised – by the ECtHR (*Folgerø v. Norway*^{viii}) and the United Nations Human Rights Committee (UNHRC) (*Leirvåg v Norway*^{ix}). Concerns highlighted include potential inadequate and insufficient protection for parents' right to respect for their convictions, minorities feeling too nervous to apply for exemptions from religious courses and that pupils should not have to explain their religious beliefs as this could breach their religious freedom.

3.4 Religion and the Educational Curriculum

36. The educational curriculum should not be used to provide religious indoctrination. It is also wrong that teachers in national schools are required to spend half an hour a day teaching religious instruction on an unpaid basis. The situation is further aggravated in denominational schools, particularly those adhering to a Catholic ethos, where classes can be given over for weeks in preparation for religious ceremonies such as 'First Communion'.
37. The HAI believes that it is morally wrong that children should be separated at a young age on the grounds of religious or non-religious beliefs. Such segregation prevents children from learning about their peers who happen – merely through the accident of birth – to belong to a different belief system, whether religious or non-religious. It also risks increasing sectarian division and distance between different religious and non-religious groups.
38. A genuine religious education curriculum should be developed that educates pupils about religions and alternatives to religion. Furthermore, teachers should not be expected to deliver religious education without remuneration.
39. The National Council for Curriculum and Assessment (NCCA) should restructure the religious education curriculum (REC) to ensure students study religions and philosophies other than their own. The non-religious community and multi-denominational educational sector must be adequately represented on the NCCA to ensure the REC is restructured in such a way that all religious and non-religious beliefs are treated in an appropriate and balanced manner.

3.5 Teacher Training and Recruitment

40. To qualify as a primary school teacher, trainees have to attend a college run by a religious denomination. Teacher training should be delivered by the state in a belief neutral environment. The State should prioritise this issue. In the meantime, at the very least, teachers in training should not be obliged to undergo religious instruction.
41. The HAI believes it is wrong for the State to publicly fund teacher training colleges but then cede control to independent boards, reporting to religious authorities. According to a recent teacher council report on Mary Immaculate college, too much time was spent on religious studies insufficient was devoted to core subjects such as science, modern languages and civic education. Therefore, not only are teachers being obliged to study religious subjects, irrespective of their particular beliefs, but time that should be spent preparing them so they might fulfil their future teaching responsibilities in an optimal manner, is wasted on religious indoctrination. This practice should be stopped immediately as it is wrong for public funding to be used in such a manner.

42. Just as there should be no patronage of schools, there should be no patronage of teacher training colleges. These institutions should be run on a secular basis by the State.
43. Denominational schools are, to some extent, exempt from certain employment equality laws. Teachers whose lifestyles do not conform to the Catholic ethos of the majority of schools (divorced persons, LGBT teachers, non-religious and so on) are in a vulnerable position. This issue needs to be addressed by the State.

4. Recommendations

44. Parents of minority and no belief should be able to choose a school that respects their right to have their child educated according to their beliefs.
45. The opt-out approach has several weaknesses and the State should instead prioritise ET schools. These should be made available in every locality where people of religion and no religion can learn together on an equal basis.
46. In the long term, there should be no patronage of schools. The HAI believes the state should abolish the patronage system and instead establish schools itself, which should be run as secular schools. The religious ethos in denominational schools discriminates against those of minority religions or no religion whereas the ethos of ET schools promotes inclusiveness and mutual respect for the rights and beliefs of all pupils.
47. Religious education classes should not take the form of religious instruction or favour any particular belief. They should study comparative religions and non-religious philosophies such as humanism, atheism and so forth. If certain parents want their children to have religious instruction this could be facilitated on the school premises outside of school hours.
48. The state should provide teacher training through non-religious institutions. Teachers should not be obliged to undergo religious instruction as part of their training. Instead, teacher training colleges should concentrate on ensuring trainees are optimally prepared by instructing them solely on the core curriculum subjects they will be required to teach in the future. No public finances should be used to provide religious instruction to teachers.
49. The HAI believes that just in the same way as there should be no patronage of schools, there should also be no patronage of teacher training institutions.
50. There should be no legal entitlement for schools to discriminate against teachers or pupils to preserve their religious ethos.

ⁱ International Covenant on Civil and Political Rights (ICCPR). (1976) <http://www2.ohchr.org/english/law/ccpr.htm>.

ⁱⁱ International Covenant on Economic, Social and Cultural Rights (ICESCR). (1976) <http://www2.ohchr.org/english/law/cescr.htm>

ⁱⁱⁱ Convention on the Rights of the Child (CROC) (1990) <http://www2.ohchr.org/english/law/crc.htm>,

^{iv} Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11 (1952) <http://conventions.coe.int/Treaty/en/Treaties/Html/009.htm>,

^v Human Rights Committee Ninety-third session (2008) *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Concluding observations of the Human Rights Committee*. Geneva: 30 July 2008

^{vi} Irish Constitution (1937) http://www.taoiseach.gov.ie/attached_files/Pdf%20files/Constitution%20of%20Ireland.pdf,

^{vii} IHRC (2010) *Religion and Education: A Human Rights Perspective* (Discussion Paper). http://www.ihrc.ie/download/pdf/ihrc_discussion_paper_religion_and_education_final_6_dec_2010.pdf,

^{viii} Folgerø v Norway (2008) 46 EHRR 47

^{ix} Leirvåg et al. v Norway (1155/2003), CCPR/C/82/D/1155/2003 (2004)