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1. Introduction

1.1 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. This policy is based on international human rights law and we welcome the opportunity to make this Submission to the Forum on Education.

2. The Patronage System

2.1 In considering the demand for diversity the Human Right to respect for the religious and philosophical convictions of **ALL** parents should not only be considered but guaranteed without discrimination in the Irish education system. 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.

2.2 In theory, it could be possible to respect everybody's rights by having different schools for parents and pupils of every religion, plus schools for parents and pupils of no religion, and to have enough of each of these schools built and operating in every part of the country to make it possible to vindicate all parents' rights in practice. However, in reality, this is financially and logistically impossible. In a pluralist society, the only way for a state education system to vindicate everybody's rights to freedom of conscience, religion and belief and to respect **ALL** parents' convictions is for a state education system to be run on a secular basis.

2.3 It is simply not feasible for the State to financially support the funding of various types of schools in every area. Delivering the education system through private bodies where the state funds education on the basis of a particular majority in a given area instead of protecting the human rights of individuals can only result in segregation, discrimination and the denial of basic human rights.

2.4 The European Court of Human Rights has stated in *Kjeldsen, Busk Madsen and Pedersen v Denmark* 1976 that: "the 'travaux préparatoires' of Article II of Protocol 1 (the Right to Education) of the European Convention aims in short at safeguarding the possibility of pluralism in education which possibility is essential for the preservation of the "democratic society" as conceived by the Convention.

2.5 Plurality of patronage (as far as possible) will never achieve pluralism in education as no state can guarantee provision of education in accordance with the religious affiliation of every child's parents. Therefore the patronage system cannot safeguard the preservation of the "democratic society" as conceived by the European Convention. Respect for the religious and philosophical convictions of **ALL** parents is realistically impossible to achieve under the patronage system as 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. The patronage system 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.

2.6 In their Report to Government the Irish Human Rights Commission has Recommended the following:-

"The overarching recommendation of the IHRC, in order to achieve human rights compliance, is that the State should ensure that there is a diversity of provision of school type within educational catchment areas throughout the State which reflects the diversity of religious and non-religious convictions now represented in the State. Diversity of provision will ensure the needs of faith (including minority faith) or non faith children in schools can be met.

While the State has a choice of models in education, if it chooses to retain the current patronage mode with a majority of patrons being religious denominations, significant modifications will be required in order to meet human rights standards."

2.7 The funding of different types of schools throughout the state cannot be financially achieved. So the state either 'provides education' in order to protect the human rights of **ALL** parents and children or otherwise significant modifications to the present patronage system will be needed in order to protect the fundamental human rights of non-religious parents and children.

3. Opting out of Religious Instruction/Education and Formation.

3.1 The UN Human Rights Committee in its concluding observations in 2008ⁱ (CCPR/C/IRL/CO/3) stated:-

“22. The Committee notes with concern that the vast majority of Ireland’s primary schools are privately run denominational schools that have adopted a religious integrated curriculum thus depriving many parents and children who so wish to have access to secular primary education. (arts. 2, 18, 24, 26).

The State party should increase its efforts to ensure that non-denominational primary education is widely available in all regions of the State party, in view of the increasingly diverse and multi-ethnic composition of the population of the State party.”

3.2 Article 2 of the Covenant is Freedom from Discrimination, Article 18 Freedom of Conscience, Article 24 the Rights of the Child and Article 26 Equality before the Law.

3.3 A religious ethos is 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 2009ⁱⁱ). It is also part of Catholic Church teaching that Religious Education cannot be delivered in a neutral and objective manner.

3.4 Because of this teaching, which is protected by legislation, Section 15(2) (b) of the Education Act 1998, non-religious parents cannot exempt their child from the elements of religion that is integrated into all the various subjects under the curriculum. Because of the integrated curriculum there are potential areas of all subjects that they could legitimately consider likely to give rise in their children to a conflict of allegiance between the school and their own values and therefore non-religious 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, non-religious parents are denied basic human rights in the Irish Education System.

3.5 The Primary School Curriculum leaves it to each individual school to design and deliver its own religious curriculum and this subjects non-religious parents to a heavy burden. They must identify the areas of each particular subject and lesson that is not delivered in an objective, critical and pluralistic manner and then try to seek exemptions for their children. This can only result in the necessity of disclosing details of their philosophical convictions in order to try to opt their children out of the elements of religion that is integrated into all subjects. Not only does this breach their human right to respect for their private life under Article 8 of the European Convention but it simply cannot be achieved in practice.

3.6 Article 14 of the European Convention forbids Discrimination and obliges the State to secure the rights and freedoms set forth in the Convention without discrimination on any ground such as sex, **race**, colour, language, **religion**, political or other opinion, national or social origin, association with a national minority, property birth or other status. Any opt-out system should be non-discriminatory and satisfy the wishes of parents. The inordinate time given over to sacrament preparation in schools denies minorities the right to an effective education. There should be no prayers during school hours or indoctrinating religious songs. Some schools have a religious symbol as part of their school uniform. Religious minorities and the children of non-religious parents are then obliged to wear a specific religious symbol as the wearing of the school uniform is compulsory. This cannot be regarded as respect.

3.7 In this regard the Recommendation of the IHRC which Atheist Ireland supports reads as follows:-

“Section 15 of the Education Act should be amended to provide for modifications to the integrated curriculum to ensure that the rights of minority faith or non faith children are also recognised therein. In this regard, the State must take sufficient care that information and knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner with the aim of enabling pupils to develop a critical mind with regard to religion in a calm atmosphere which is free of any misplaced proselytism.”

3.8 Rule 68 of the Rules for National Schools and the integrating of religion into the curriculum cannot be described as the Irish State taking a neutral stance on religion. In this regard the Recommendation of the IHRC reads as follows and which Atheist Ireland supports:-

“The Minister for Education and Skills should codify and review the Rules for National Schools, to ensure that the human rights standards set out in this paper are upheld. This can further be reviewed in the future in the context of increased diversity in school provision.”

3.9 There are no appropriate provisions in the Irish education system to ensure that non-religious parents’ philosophical convictions are respected. The internal complaints system in place under the Education Act 1998 does not and cannot protect the human rights of non-religious parents. Nothing obliges Patrons and Boards of Management to interpret ‘respect’ in a manner consistent with the ECHR and the various UN Conventions that Ireland has ratified. The State does not even recognise that a religious integrated curriculum violates the conscience of non-religious parents and children.

3.10 Taking a case under the Equal Status Act is a huge undertaking for parents as it puts them in direct conflict with the school. In the cases that Atheist Ireland is familiar with the schools and patrons failed to respond within the time limits set out under the Act. In one particular case that related to a VEC school even the Dept of Education failed to issue a final response within the time limits of the Act. In their initial response to the complaint the Department of Education stated:-

“Section 30 of the Education Act 1998 prohibits the Minister, in prescribing the curriculum, from requiring a student to attend a subject of instruction against the lawful preference of the student’s parents or, if the student is over 18, the student. Therefore, in delivering the curriculum, a school cannot override this and require a student to attend religious instruction. However, this would not prevent the school from taking a position that it was not a matter of delivering the curriculum but one relating to upholding the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school.

The roles of the Minister under section 7 and 36 of the Education Act 1998 and that of the Board of Management under section 15(2)(b) of the Act are such that it would not be for the Minister to intervene in a matter which is one for resolution at school management level.”

3.11 This response from the legal services section of the Dept of Education leaves us to believe that the Equal Status Act provides no protection. In balancing the competing interests the rights of the patron takes precedence over the human rights of minorities who are coerced by force of circumstance to attend the school. The European Court has found that the duty of the State to “*respect*” was an absolute right rather than one that had to be balanced against the rights of others or which could be gradually achieved. (*Campbell and Cosans v the United Kingdom* [1982] 4 EHRR 293.). The fact that the majority of schools in Ireland can discriminate on entry in order to uphold their religious ethos leads most parents to believe that the Equal Status Act provides no protection for their human rights. This discrimination leads non-religious parents to believe that they are less worthy of recognition and value as members of Irish society, equally deserving of concern, respect and consideration.

3.12 The European Court has indicated that the term “**respect**” in relation to the rights of parents denotes not only a negative undertaking not to interfere with the right but also incorporates a positive obligation on the State to vindicate that right. “Article II of Protocol 1 does not distinguish between State and private teaching”. Therefore the right is the same irrespective of how, or by whom, the right to education is satisfied. Article II of Protocol 1 of the European Convention does not permit a distinction to be drawn between religious instruction and other subjects, it requires the State to **respect** parents’ convictions, be they religious or philosophical, throughout the entire State education programme (Folgero v Norway 29.06.07 ECHR).

3.13 Article 13 of the European Convention gives individuals a right to an effective remedy. This right applies when an individual has an “arguable claim” that he or she has been the victim of a violation of a Convention right. There is most certainly an arguable claim that non-religious parents and children are denied their rights under the European Convention as otherwise there would be no need for this Forum on Education.

3.14 In this regard the IHRC’s Recommendation which Atheist Ireland supports states:-

“There should be an expanded Ombudsman body with a remit to consider complaints concerning exemption procedures or any unwanted exposure to indoctrination or proselytism. Further, it is recommended that the remit of schools Inspectors should include inspection of how religion classes are conducted in schools, regard being had to the effectiveness of exemption procedure being put in place by schools further to the recommendations in this report.”

“In ensuring the rights of school children in accordance with maturity, the views of most second-level students and arguably some older primary school students in relation to the exemption procures or any perceived encroachment on their personal religious or philosophical convictions, should be taken into consideration, in addition to the views of their parents.”

4. The Teaching about Religions and Beliefs / Toledo Guiding Principles

4.1 Atheist Ireland supports Recommendation 1720 of the Council of Europe on Religion and Democracyⁱⁱⁱ. The Parliamentary Assembly of the Council of Europe have forcefully reaffirmed that each person’s religion, including the option of having no religion, is a strictly personal matter. However, this is not inconsistent with the view that a good general knowledge of religions and the resulting sense of tolerance are essential to the exercise of democratic citizenship.

4.2 Atheist Ireland also supports the Toledo Guiding Principles on teaching ABOUT Religions and beliefs in schools^{iv}. The OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) have issued guidelines called the Toledo Guiding Principles that provide an overview of the human rights framework and legal issues to consider when developing curricula about religions in order to ensure that the freedom of thought, conscience and religion of all those touched by the process are respected.

4.3 Out of the 56 participating States in the OSCE the Holy See is the only one that has rejected the Toledo Guiding Principles. Two United Nations experts and one from the Council of Europe contributed to this project^v.

4.4 No other Church has rejected these Human Rights Guidelines on teaching ABOUT Religions and Beliefs. The issue according to the Holy See with the teaching ABOUT Religious and Beliefs is that if religious education is limited to a presentation of the different religions, in a comparative and “neutral” way, it creates confusion or generates religious relativism or indifferentism^{vi}. The Catholic

Church believes that delivering Religious Education in a neutral and objective manner is denying the existence of God.

4.5 Catholic Church teaching and human rights law are incompatible as it is Catholic Church teaching that Religious Education must be integrated into all subjects even in state schools and not delivered in a neutral and objective manner. This cannot be considered as pluralism and respect for diversity and it is no wonder that non-religious parents feel like second class citizens.

4.6 In this regard the IHRC's Recommendations state the following which Atheist Ireland supports:-

“The State should continue to seek to promote religious harmony and understanding between groups, including those of a secular viewpoint. Further, it should ensure that indoctrination and proselytism does not take place in State funded schools, possibly through reviewing the remit of Departmental Inspectors to take account of issues concerning religion and education.”

5. New VEC Community Primary Schools

5.1 A Change of patron does not necessarily mean a change of ethos. There are nine Model Schools under the patronage of the Dept of Education. In 2008 the State informed the UN Human Rights Committee that five of these were Catholic and four Protestant^{vii}. At second-level the courts have described VEC Community Schools as denominational in character. Despite this they are referred to in Ireland as multi-denominational when they like VEC Designated Community Colleges operate a specific religious ethos. Once they operate a religious ethos they are religious school where non-religious parents are denied their human rights.

5.2 The Irish State in their Report to the United Nations CERD Committee in 2010 stated that “Two Community National Schools opened in 2008 both in Dublin. The new schools are interdenominational and fully inclusive. Despite the objections of Atheist Ireland and the Humanist Assoc of Ireland the Irish State again informed the UN on 22nd February last that this type of school was suitable for parents seeking non-denominational education^{viii}”.

5.3 In 2009 in their reply to the Concluding Observations of the UN under the International Covenant on Civil & Political Rights the Government stated that these new VEC Community schools will be interdenominational in nature (CCPR.C.IRL.CO.3.Add.1 para 50). Interdenominational schools are known internationally as Christian Schools and are therefore religious schools.

5.4 It was reported in the Irish Independent on Thursday November 13th 2008 that a statement from the Catholic Bishops said that Mr O’Keeffe, the then Minister for Education, had reaffirmed the policy on religious education in these new VEC Community schools as announced by the previous Minister for Education Mary Hanafin on December 13, 2007. “This announcement stated that the new schools would be “aiming to provide for religious education and faith formation during the school day for each of the main faith groups represented”. “Minister O’Keeffe gave an assurance that the commitment to provide religious instruction and faith formation during the school day on a denominational basis for the pupils whose parents request it stands.” On a denominational basis for the Catholic Church means integrating religion into all subjects and not delivering the curriculum in an objective, critical and pluralistic manner. It is against Catholic Church teaching on education to deliver teaching about religions and beliefs in a manner consistent with human rights law.

5.5 The Government have not made clear how they propose to guarantee human rights based education for parents and children who so wish in these VEC Primary Community Schools when they have given an assurance to the Catholic Church to provide religious instruction and faith formation on a denominational basis for the pupils whose parents request it.

5.6 As it stands now there is nothing in place that will guarantee human rights based education for non-religious parents and children in these new VEC Community Schools. There is nothing in the proposed Education (Amendment) Bill that would explain how the Minister proposes to get over this dilemma. The only conclusion is that the welcome on offer in these new VEC Community Schools is not based on the principles of human rights and is simply a theoretically illusion with no practical application given to these rights.

5.7 We are also concerned about any multi-belief programme or ethics programme that is put in place in the new VEC Schools as it will not be based on the Toledo Guiding Principles on teaching about religions and beliefs in schools as the Holy See has rejected these principles. There are elements of this multi-belief course that are faith formation and the plan is to segregate children on the basis of the religion of their parents. Despite all the assurances about pluralism and diversity non-religious parents will still be in the same position and especially when all teachers are trained in denominational colleges. Teachers are not trained on how to deliver the curriculum in an objective, critical and pluralistic manner. In their Submission to the Irish Human Rights Commission the Community National Schools did not refer to the Toledo Guiding Principles.

5.8 There is an argument put forward by those that support religious instruction/formation during the school day that children are segregated all the time in the school system and therefore, segregating children on religious grounds will have no consequence. Segregating children on the grounds of religion can lead to religious discrimination. Putting forward an argument that the segregation of children on religious grounds will have no consequence as they are routinely segregated on other grounds is simply not an argument as there is no evidence that the other reasons for segregating children in the Irish education system causes discrimination. We believe it is fundamentally wrong to segregate children because of their parents' religious affiliation.

5.9 Religion is one of the grounds on which discrimination can take place and unless the argument is being made that there is a certain status involved in taking various secular subjects then segregating children on the grounds of what subjects they take does not cause discrimination. Consequently this view is a non-argument and cannot lend its support to segregating children on religious grounds.

5.10 Rule 68 of the Rules for National Schools is still in place which obliges Boards of Management to integrate religion into all subjects. Rule 68 cannot be regarded as the State taking a neutral position in relation to religion. There are no new Statutory Guidelines planned with regard to opting out of Religious Instruction or Religious Education.

5.11 In their Submission to the Irish Human Rights Commission the Community National Schools stated that:-

“Furthermore the template seems to place undue emphasis on the rights of those who want to opt out of denominational education. It is noted that the Constitution underpins freedom of religion and not freedom from religion. Therefore in any consideration of rights, due attention must be paid to both perspectives”.

5.12 From our perspective this can only be considered as insensitive and a total lack of understanding of the human rights of non-religious parents. The only reason that the IHRC's template placed emphasis on the rights of those who want to opt out of denominational education is because denominational education breaches their human rights and in particular the human right to freedom of conscience and the right to be free from discrimination. The United Nations are not urging the State to set up non-Denominational schools for nothing. It seems that these New Vec Community Schools will again put non-Religious parents in the position that they must opt their children out instead of opting in to an education in an objective, critical and pluralistic manner.

5.13 In this regard the Human Rights Commission's Recommendations states the following which Atheist Ireland supports:-

“Where diverse provision of education does not exist in a school's catchment area, consideration should be given to move formal religion classes to the start or end of the school day. While not ideal in terms of separating children, this might provide greater accommodation to parents of minority faith or non faith children seeking exemption. If sufficient numbers of students sought the exemption, provision could be made for a parallel class in ethics and philosophy, or other minority religions as demand dictates at the same time.”

“The State should seek to ensure that all patrons in schools funded by the State are sensitive to the impact that manifestation of religious beliefs in the school may have on children of other faith or non faith backgrounds, In this regard those children should never experience exclusion or segregation in the school or in any way be undermined in their own faith or other philosophical convictions. Guidelines and examples of good practice, together with the allocation of necessary resources to implement such good practice should be developed in tandem with the enhanced complaints mechanism being recommended to Government. For their part, those denominational schools who have other faith or non faith children as pupils should take steps to guard against any inadvertent indoctrination or proselytism of those children by teachers.”

6. Teacher Training

6.1 There are five teacher-training colleges in Ireland and all of them are Christian. In these colleges all students have no choice but to learn and take exams in Christian doctrine in order to take up a position as a teacher. As 97% of the schools in the country are denominational, the non-religious simply have no choice but to attend one of the colleges if they wish to become a teacher. The reality for the non-religious is that they must pretend to be Christian and Catholic in order to become a teacher.

6.2 Section 37 of the Employment Equality Act provides for an exemption from equality for religious, educational or medical institutions under the control of a religious body. The exemption permits a religious body to discriminate on grounds of religion regarding its employees and prospective employees. This legislation permits religious bodies to take any action which is “reasonably necessary” to prevent an employee from undermining its ethos.

6.3 This part of the Act is wide-ranging and not limited to discrimination on the grounds of religion. This part of the Act can be applied to a teacher who does not conduct his/her private life in accordance with the teaching of a particular religion or as the Catholic Church put it: “6. Catholic schools are characterised by the institutional link they keep with the Church hierarchy, which guarantees that the instruction and education be grounded in the principles of the Catholic faith and imparted by teachers of right doctrine and probity of life. (Circular letter from the Vatican 2009)

6.4 What exactly does ‘probity of life’ mean to the patron body of over 90% of schools in the State? This section of the Employment Equality Legislation cannot be in conformity with Article 8 (the Right to Private and Family Life) of the European Convention on Human Rights.

6.5 To train as a teacher and subsequently get employed the non-religious must pretend to be Christian. Unless they behave in this manner the teaching profession in Ireland is severely restricted for them.

6.6 Non-religious parents are coerced by force of circumstance to send their children to schools that can legally discriminate against teachers and deny their human right to freedom of conscience and the right to private and family life. The very conscience of these parents objects on fundamental grounds to that discrimination.

6.7 The Recommendations of the Irish Human Rights Commission which Atheist Ireland supports is:-

“It should be ensured that the education of teachers does not include compulsory content that conflicts with the rights of such teachers. Any improper encroachment on the right to freedom of thought, conscience and religion of teachers should thus be avoided.”

“There should be an appropriate amendment to the Employment Equality Acts to ensure respect for the private life of teachers where their private life does not improperly encroach on the rights and freedoms of others.”

7. Conclusion

7.1 There are no appropriate provisions in the Irish education system to ensure that non-religious parents’ philosophical convictions are respected. The internal complaints system in place under the Education Act 1998 does not and cannot protect the human rights of non-religious parents. Nothing obliges Patrons and Boards of Management to interpret ‘**respect**’ in a manner consistent with the European Convention on Human Rights and the various UN Conventions that Ireland has ratified. The State does not even recognise that a religious integrated curriculum violates the conscience of non-religious parents and children. Non-religious parents have no access to an effective remedy to vindicate their human rights.

7.2 The patronage system is not a balanced system that ensures the fair and proper treatment of minorities. Non-religious parent do not enjoy the liberty to ensure that their children enjoy their basic fundamental human rights as they are coerced by force of circumstances to send their children to schools where their basic human rights are disregarded. It is simply not an option for the majority of parents to educate their children at home. Despite the European Convention on Human Rights and the various UN Conventions that Ireland has ratified, the Irish State has failed to guarantee and protect these human rights.

7.3 Article 42.3.1 of the Irish Constitution states that “The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.” Despite Article 42.3.1 of the Irish Constitution, parents seeking human rights based education for their children are obliged to send their children to schools in violation of their conscience and lawful preference as they simply have nowhere else to go.

7.4 The Constitutional Review Group Report in 1995 stated that:-

“if Article 44.2.4 did not provide these safeguards, the State might well be in breach of its international obligations, inasmuch as it might mean that a significant number of children of minority religions (or those with no religion) might be coerced by force of circumstances to attend a school which did not cater for their particular religious views or their conscientious objections. If this were to occur, it would also mean that the State would be in breach of its obligations under Article 42.3.1”

7.5 The Irish State is in breach of its international obligations and consequently is failing in its obligation under Article 42.3.1. Any future policies and legislation must take into account the fact that

non-religious parents and children are denied basic human rights in the Irish Education system and the fact that the Constitution has failed to protect these rights in schools. The Report from the Irish Human Rights Commission says that *“Ultimately the State bears responsibility to provide for the education of children, and therefore also bears an obligation to respect the human rights of those receiving such education and those of their parents, be they of religious or non-religious beliefs”*^{ix}.

ⁱ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/433/49/PDF/G0843349.pdf?OpenElement>

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http://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20090505_circ-insegn-relig_en.html

ⁱⁱⁱ <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta05/EREC1720.htm>

^{iv} <http://www.osce.org/odihr/29154>

^v <http://www.neurope.eu/articles/95548.php>

^{vi}

http://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20090505_circ-insegn-relig_en.html para 12

^{vii} <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/441/12/PDF/G0944112.pdf?OpenElement>

^{viii} <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/411/26/PDF/G1141126.pdf?OpenElement>

^{ix} Irish Human Rights Commission – Report and Recommendations – Page 10 – para 12.