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Universal Periodic Review

Written statement* submitted by Atheist Alliance International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Atheist Alliance International Written Statement Regarding Ireland's Universal Periodic Review

An Atheist Alliance International affiliate, Atheist Ireland, campaigns in Ireland for an ethical secular State. Atheist Ireland supports this statement by Atheist Alliance International. Our priority issues for Ireland's UPR are:

1. Freedom of Religion and Belief Overview
2. Repealing the Irish Blasphemy Law
3. Ending Religious Discrimination in Irish Schools
4. Repealing the Irish Ban on Abortion

1. Freedom of Religion and Belief Overview

All of our priority issues are influenced by Ireland's overall argument that the State is constitutionally obliged to buttress religious discrimination, including in publicly funded schools.

1.1 Analysis

- (a) At Ireland's first UPR, Ireland reiterated that it was never acceptable for any government to treat national or religious or ethnic minorities as inferior. Ireland also said the Constitution contains a provision guaranteeing freedom of religion.
- (b) Since then, the chairs of both major UN Human Rights Committees have since strongly criticised Ireland's lack of separation of church and state.
- (c) The State has passed various laws that tackle discrimination on other grounds, but that retain the right to discriminate on the ground of religion.
- (d) As well as specific issues detailed in this statement, the State also obliges the President, Judges, Prime Minister and other high office holders to swear a religious oath.
- (e) The State now claims that it is constitutionally obliged (not merely permitted, but obliged) to allow religious discrimination to continue in order to buttress religion.

1.2 Requirements

Urgently hold a Religious Equality Referendum to bring about any Constitutional changes required to meet its UN human rights obligations.

2. Repealing the Irish Blasphemy Law

Ireland said that it would examine the following recommendations:

136.53. Repeal the constitutional and legislative provisions criminalising the offence of blasphemy, these provisions could constitute an excessive limitation to the freedom of expression (France).

136.54. Take necessary steps to amend its legislation on freedom of expression and remove prohibition of blasphemy in line with ICCPR article 19 and Human Rights Committee's General Comment 34, and the Venice Commission's recommendation (Sweden).

2.1 Analysis

- (a) The outgoing Government agreed to hold a referendum to remove the blasphemy clause, then put it off for the incoming Government to deal with. The incoming Government has repeated that it will hold a referendum, but has set no timetable to do so.

- (b) Islamic States at the United Nations have been campaigning to have laws against blasphemy, or defamation of religion, implemented internationally. They make political use of laws against blasphemy passed in western states such as Ireland.
- (c) Islamic states have used the Irish blasphemy law at the United Nations to promote universal blasphemy laws. Pakistan has used the language of Ireland's law in its proposals to the Ad Hoc Committee on the Elaboration of Complementary Standards in its call for an international instrument preventing the defamation of religion.
- (d) Many legal authorities have argued that a universal law against defamation or blasphemy would subvert the principles of human rights and free expression legitimising a range of unacceptable actions taken by governments.
- (e) Heiner Bielefeldt, United Nations Special Rapporteur on Freedom of Religion, shares this concern, and has advised us: "Of course you are right that the major damage done by this legislation is the international one. I wouldn't expect any harsh verdicts being handed down in Ireland, but those countries that continue to have an intimidating anti-blasphemy practice like to quote European countries to unmask Western hypocrisy. So I hope things will be moving in the right direction. One can also cite General Comment no. 34 of the Human Rights Committee and the Rabat Plan of Action. Both documents call upon States to move away from criminalising so called blasphemy."

2.2 Requirements

- (a) Ireland should amend Article 40.6.1 of the Constitution, and repeal Sections 36 and 37 of the Defamation Act 2009, to remove the offence of blasphemy from Irish law.
- (b) Ireland should either repeal the blasphemy clause without replacing it, or else replace it with a positive clause enshrining freedom of expression.
- (c) Ireland should not replace the blasphemy clause with a Constitutional prohibition on incitement to religious hatred. Instead it should address incitement to hatred through legislation.

3. Ending Religious Discrimination in Irish Schools

Ireland said that it supports the following recommendations:

- 135.138. Wider availability of multi-denominational and non-denominational schools (India).
- 135.139. The real opportunity to choose from among religious, multi-denominational or non-denominational types of schooling and curricula (Czech Republic).
- 135.140. Ensure all children have the option to attend a non-denominational school at no extra cost (Slovenia).
- 135.141. Ensure equal opportunities for all children to quality education (Philippines).

However, Ireland said only that it would examine the following recommendations:

- 136.29. ...abolish religious discrimination in the schools (Saudi Arabia).
- 136.80. Review and amend laws, as appropriate, to ensure publicly-funded schools provide equal access to education for all, irrespective of faith or religious affiliation (USA).

3.1 Analysis

- (a) Nine different sets of United Nations and Council of Europe committee conclusions have now told Ireland that religious discrimination is breaching the human rights of atheist and minority faith children, families and teachers in Irish schools.
- (b) The State is asking the Catholic Church to divest some schools to multi-denominational Patron bodies. This has not happened. Also, if divestment was to happen, the Catholic Church is seeking a stronger Catholic ethos in the vast majority of schools that they would retain, so most secular families would be in an even worse position.
- (c) The State has passed or introduced new laws that claim to tackle discrimination in schools admissions and employment of teachers, but these laws retain the right of publicly-funded schools to discriminate on the ground of religion.

- (d) The State is preparing a new curriculum on teaching about religions beliefs and ethics, but under the current laws they cannot ensure that it will be delivered in an objective, critical and pluralistic manner.
- (e) Atheist Alliance International supports in particular recommendation 136.80 by the USA, which gets to the core of the problem.

3.2 Requirements

- (a) Overall, provide a State system of secular schools as the default option for all families. Immediately, amend or repeal Section 15 of the Education Act 1998, Section 7(3)(c) of the Equal Status Act 2000, and Section 37(1) of the Employment Equality Act 1998, to oblige publicly funded schools to deliver educational services, including employment, state curriculum and enrolment, in an objective, critical and pluralistic manner, and with no religious discrimination of any kind.
- (b) Replace the patronage system (in which most schools are publicly funded private schools, each with their own ethos) with an inclusive secular system, in which the foundation is State-run schools that are neutral between religions and atheism, and in which private ethos schools are an add-on alternative as opposed to being the basis of the school system.
- (c) As an interim measure for some families, and only as that, ensure the widest possible availability of multi and non-denominational schools. In areas where there is only one standalone school, enforce divestment or change of ethos in order that everybody in that area has access to a school with an ethos that is neutral between religions and atheism and does not discriminate.
- (d) Ensure that there are workable policies in place to accommodate children who have opted out of formal religious education. Ensure that such children are not subject to religion being integrated throughout the remainder of the curriculum, even in denominational schools.
- (e) Ensure that there is an effective complaints mechanism and an effective remedy, in practice and in law, to vindicate breaches of human rights in schools.

4. Repealing the Irish Ban on Abortion

Ireland said that it supports the following recommendation:

135.136. Conduct consultations involving all stakeholders, including civil society organisations, in order to examine whether Article 40.3.3 of the Constitution could be revised and the legal framework related to abortion broadened (Switzerland).

However, Ireland said only that it would examine a series of stronger recommendations to strengthen women's right to abortion, including recommendations 6.15 (Germany), 6.16 (Netherlands), 6.17 (Norway), 6.18 (Iceland), 6.19 (Denmark), 6.64 (Iceland), 6.65 (India), 6.66 (Lithuania), 6.67 (Republic of Korea), 6.68 (Czech Republic), 6.69 (The former Yugoslav Republic of Macedonia), 6.70 (Slovakia), 6.71 (Sweden), 6.72 (Slovenia), 6.73 (Uruguay), 6.77 (United States of America), 6.78 (France), and 6.79 (Canada).

4.1 Analysis and Requirements

Atheist Alliance International affiliate, Atheist Ireland, is a member of the Campaign to repeal the Eighth Amendment of the Irish Constitution, to enable the Oireachtas to legislate for the right to abortion. Atheist Ireland supports the analysis and recommendations of the States seeking to strengthen women's right to abortion in Ireland, and of the Irish civil society groups who are advocating for this right.
