



JOINT SUBMISSION BY

Catholic Education Partnership (CEP)

OIDEL – International Organisation for the Right to Education and Freedom of Education

**CEEC – Comité Européen pour l'Enseignement Catholique / European Committee for
Catholic Education**

OIEC – International Office of Catholic Education

Submission to the Universal Periodic Review of Ireland

Fourth Cycle

Issue	Right to Education
Topic	The right of minorities to quality education that respects their cultural identity
Concern	Discriminatory legislation on admissions to Catholic schools

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I. Introduction

- 1.** This joint submission is made by the Catholic Education Partnership (CEP), OIDEL – International Organisation for the Right to Education and Freedom of Education, CEEC – Comité Européen pour l’Enseignement Catholique / European Committee for Catholic Education, and OIEC – International Office of Catholic Education. The submission is made as a third-party stakeholder intervention concerned with the protection of parental rights, freedom of religion or belief, the cultural rights of children, and the contribution of educational pluralism to the common good in Ireland.
- 2.** CEP is an umbrella body for Catholic education on the island of Ireland. It works in close partnership with the Catholic Primary Schools Management Association, representing over 2,700 boards of management of primary schools; the Association of Patrons and Trustees of Catholic Schools, representing more than 25 trusts of post-primary schools; the Joint Managerial Body, representing over 300 boards of management of post-primary schools; and the Northern Ireland Council of Catholic Education, representing the interests of Catholic education within Northern Ireland.
- 3.** OIDEL is an international non-governmental organisation dedicated to the right to education and freedom of education, with consultative status and longstanding engagement in international human rights processes.
- 4.** CEEC is the European Committee for Catholic Education and represents Catholic education at European level, supporting the freedom of education and the rights of families and educational communities.

Governing Principles

5. The governing international principles are clear. Article 26(3) of the Universal Declaration of Human Rights provides that parents have a prior right to choose the kind of education that shall be given to their children. Article 13(3) of the International Covenant on Economic, Social and Cultural Rights requires States to respect the liberty of parents to choose schools other than those established by public authorities and to ensure the religious and moral education of their children in conformity with their own convictions. Article 13(4) of the same Covenant protects the liberty of individuals and bodies to establish and direct educational institutions, subject to minimum standards. Article 18(4) of the International Covenant on Civil and Political Rights contains a parallel protection. Article 18 of the Convention on the Rights of the Child recognises that parents have the primary responsibility for the upbringing and development of the child. Article 14(2) CRC requires States Parties to respect the rights and duties of parents to provide direction to the child in the exercise of his or her rights. Article 8 CRC protects the child’s identity. Article 29(1)(c) CRC requires education to develop respect for the child’s parents, cultural identity, language and values. Article 30 CRC protects the right of children belonging to religious or linguistic minorities to enjoy their own culture and practise their own religion. Article 5(1)(b) of the UNESCO Convention against Discrimination in Education is also directly relevant.

Irish Constitutional Framework

6. These international standards are not alien to Ireland’s own constitutional tradition. Bunreacht na hÉireann (Constitution of Ireland) recognises the Family as the primary and natural educator of the child, affirms the freedom of parents to provide for the education of their children in the home, in private schools, or in schools recognised or established by the State, and provides that the State shall not oblige parents, in violation of 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. It further requires the State, in providing for free primary education and in supporting educational initiative, to have due regard to the rights of parents, especially in the matter of religious and moral formation. The present difficulty, therefore, is not simply that aspects of Irish educational policy sit uneasily with international human rights law, but that they also sit uneasily with the State's own constitutional understanding of education as a sphere in which the family is primary and the role of the State is supportive rather than monopolistic.

7. That constitutional settlement is reflected in an education system that is not, in the main, a uniform State school system, but rather a State-funded plural system of recognised schools under different forms of patronage.

8. The Constitution also protects freedom of conscience and religion and reflects a pluralist settlement in education. However, this submission is not concerned with the separate question of withdrawal from religious instruction as such. Its concern is more fundamental: whether the State is giving genuine practical effect to parental freedom of educational choice, to the cultural and religious identity of children, and to a genuinely pluralist model of publicly funded schooling.

9. For the purposes of this submission, "divestment" refers to the transfer of a school's patronage from one patron to another, ordinarily in order to widen the plurality of school provision available to families in a particular area. In the Irish context, this has most often meant proposals for the transfer of schools from Catholic patronage to a multi-denominational or other patronage model.

10. Ireland often presents its school system as pluralist. In legal theory, there is some basis for that description. In practice, however, State policy has become internally contradictory, conceptually unstable, and in important respects incompatible with the human rights principles to which the State itself appeals. It narrows the practical exercise of parental choice while claiming to expand choice. It presses denominational patrons, especially Catholic patrons, to facilitate divestment while leaving largely untouched schools under direct ministerial patronage. It uses the designation "multi-denominational" as if it denoted a settled and enforceable concept, while providing no stable public definition capable of holding schools to account. The result is not coherent pluralism, but a narrowing of rights under the rhetoric of diversity.

II. The Education (Admission to Schools) Act 2018 is discriminatory in effect and has become an obstacle to divestment

11. The discriminatory feature of the Education (Admission to Schools) Act 2018 should be stated precisely. In cases of oversubscription, Catholic primary schools may not prioritise children from families seeking a Catholic education, whereas minority-faith schools may prioritise children from families seeking education in their own religious ethos. The result is not a neutral equality regime, but direct and selective discrimination in the practical exercise of parental liberty.

12. In some circumstances, the anomaly is starker still. A minority-faith school may in practice be able to prioritise Catholic children alongside those of its own faith tradition, while a Catholic primary school may be in a position to prioritise a child from a minority-faith background yet may not prioritise a Catholic child. The regime is therefore not simply imbalanced. It is conceptually incoherent.

13. The incoherence is manifested again in that the amendment to Equal Status Act 2000 of section 7A(2), made under the Act of 2018, opens up the remarkable scenario in which the board of

management of a Catholic primary school could approve an admissions policy that prioritises, at a minimum, children from every other Christian denomination except Catholic children where that school is oversubscribed. This interpretation of the legislation would require the courts to agree that the *raison d'être* of one Christian denomination ethos, Catholic, is similar to that of other Christian denominations in that it is surely to make Jesus known. While media analysis at the time of the passing of the 2018 Act reported on provision being made for schools established by a minority faith to preference students of that faith, that is not, somewhat bizarrely, what is provided for in the legislation.

14. This has direct human rights implications. The liberty protected by Article 26(3) UDHR, Article 13(3) and (4) ICESCR, Article 18(4) ICCPR, and Article 5(1)(b) of the UNESCO Convention against Discrimination in Education is not merely theoretical. It must be capable of practical exercise. Where the State allows parents, in principle, to seek an education in conformity with their convictions, but strips faith-based schools of any meaningful capacity to recognise such demand in oversubscribed circumstances, the right is weakened in practice. The effect is not neutral equality. It is a selective narrowing of the practical conditions under which one community may exercise a protected liberty.

15. The discriminatory effect of section 11 of the Act is also difficult to reconcile with the constitutional position that parents are free to provide for the education of their children in accordance with conscience and lawful preference, and that the State must have due regard to parental rights in religious and moral formation.

Implications for Divestment

16. The contradiction becomes more acute when divestment is considered. Government policy, consistent with the recommendations of previous periodic reviews¹, remains committed to increasing the number of multi-denominational primary schools. Official reconfiguration guidance places the mechanism for change in the transfer of patronage process, with the existing patron expected to request a voluntary transfer under section 8 of the Education Act 1998. At the same time, the State has weakened the practical conditions under which Catholic families can access Catholic education in the schools that remain.

17. The contradiction is plain. The State urges Catholic patrons to surrender schools in the interests of diversity while simultaneously reducing the practical conditions under which Catholic families can access Catholic education in the schools that remain. This is not serious pluralism. It is a structurally self-defeating policy that generates defensiveness at local level and impedes the co-operative reconfiguration of patronage that the State claims to seek, thereby impeding both the rights of parents who desire a Catholic education for their children and those of parents who desire secular alternatives.

Practical Obstacle to Divestment

18. The Catholic patrons of primary schools, through the Irish Episcopal Conference, have repeatedly expressed support for divestment and have supported several State initiatives aimed at increasing plurality of provision within the Irish education system. However, the discriminatory provisions of the Education (Admission to Schools) Act 2018 have become a practical obstacle to divestment. A community is less likely to consent to the transfer of a local school where it has no assurance that the remaining Catholic school or schools will be free to prioritise children from Catholic families. In such

¹ Second Cycle, recommendations 135.138, 135.139, 135.140; these were accepted by Ireland

cases, communities have often chosen instead to retain all schools under Catholic patronage. A measure presented as promoting inclusion has, in practice, reduced the conditions for consensual patronage reform.

19. It is also an example of a broader state-centric tendency in Irish education policy, in which rights of choice are affirmed in principle but narrowed in the practical arrangements that determine whether families can exercise them at all.

Model schools under direct ministerial patronage expose the State's lack of seriousness on divestment

20. The State's lack of seriousness on divestment is further exposed by the continued existence of model schools² directly under the patronage of the Minister for Education and Youth. A number of such schools remain in existence, including some operating with a Protestant or Catholic ethos.

21. These schools matter because they expose the inconsistency at the heart of State policy. If the Government were serious about patronage diversification as a matter of principle, it would have begun by examining schools already under direct ministerial patronage and asking whether, in areas lacking plurality, some of those schools might be reconfigured to widen choice. Instead, the practical and political burden of change has been directed outward, especially towards Catholic patrons. The State has demanded that others change while declining to begin with schools under its own control.

22. One such example arose in 2019-2020 as part of a State-led pilot divestment project in which 60 areas were identified as requiring a primary school operating under a multi-denominational ethos. The State identified a particular area of Limerick city as a priority. The Model School, Limerick, operating under a Catholic ethos and directly under ministerial patronage, was present in the area. Yet the State declined to consider that school for reconfiguration to a multi-denominational ethos.

23. The existence of denominational model schools under direct ministerial patronage further sharpens the constitutional inconsistency. A State that is itself a patron of schools with a denominational ethos yet places the burden of diversification overwhelmingly on non-State patrons cannot easily present its policy as a neutral implementation of constitutional pluralism.

24. This point should not be understated. A State that presents denominational patronage as a diversity problem, while leaving denominational model schools under direct ministerial patronage largely unexamined, cannot plausibly claim that its policy is grounded in principled even-handedness. Divestment has too often functioned as a political narrative applied to non-State patrons rather than as a genuinely reciprocal policy of State-led pluralism.

III. The State's use of the term "multi-denominational" is conceptually unstable and risks misleading families

25. Current Department guidance describes a multi-denominational school as a school under a non-religious patron where children learn about all faiths and belief systems through a multi-denominational programme. It also states that in such schools, faith formation classes do not take place during the school day.

² Model Schools are historical anomalies in some respects. They were established, in part at least, as places where new teachers (monitors) could be trained.

26. That definition is politically convenient but legally and educationally insufficient. It does not answer the deeper question: what stable and enforceable ethos does the State believe the term “multi-denominational” actually denotes in practice? The State appears to use the term as though it were self-defining. It is not. The lived reality of such schools has been more varied than the official label suggests. In some instances, the designation risks obscuring a school culture that is in practice secular or non-confessional rather than meaningfully multi-denominational.

27. This matters because the right protected in Article 26(3) UDHR, Article 13(3) ICESCR, Article 18(4) ICCPR, Article 14(2) CRC and Article 5(1)(b) of the UNESCO Convention is a right to choose a kind of education, not merely a label. If parents are told that a school is “multi-denominational” and therefore appropriate for all, but the school does not, in practice, respect or facilitate the religious and cultural formation of families of faith, then the State is not delivering transparency in school choice. It is licensing ambiguity.

28. The implications also extend to children’s rights. Article 8 CRC protects the child’s identity. Article 29(1)(c) CRC requires education to be directed to respect for the child’s parents and cultural identity. Article 30 CRC protects the child’s right to enjoy his or her own culture and to profess and practise religion in community with others. A school system that obscures the operative ethos of schools or treats a secular practical model as normatively suitable for all risks undermining those protections. Educational pluralism is linked not only to parental choice but also to identity, culture and the protection of minorities in democratic society.

29. A system in which school designation is vague or misleading does not sit easily with a constitutional order that presupposes meaningful parental freedom to choose among different forms of education rather than merely nominal access to schools carrying public labels.

State School Transport Scheme

30. There is also a practical consequence in the school transport scheme, under which the State provides funded or subsidised transport in certain circumstances, ordinarily by reference to distance and to the nearest appropriate school. For present purposes, the concern is not with every complexity of that scheme, but with the way in which ethos has operated within it. The State has historically recognised transport entitlement where parents choose the nearest minority-faith school on grounds of ethos, and has also extended transport support to the nearest multi- or inter-denominational primary school in certain circumstances. Yet families who choose a Catholic school on the basis of ethos may, depending on the local configuration of schools, find that comparable support is unavailable.

31. The effect is that educational choice by reference to Protestant or multi-denominational ethos has been recognised in practice, while equivalent choice by reference to Catholic ethos has not always been treated in the same way. This is not the core of the present submission, but it is a concrete example of the wider inconsistency identified here: the State professes pluralism while structuring educational choice in a manner that can disadvantage Catholic families.

IV. Faith-based, publicly funded schools contribute to the common good

32. The deeper problem in Irish educational policy is philosophical as much as administrative. Faith-based schools are too often spoken of as if they were a residue to be managed down, rather than a legitimate and valuable component of democratic pluralism. International human rights law does not

support that assumption. The relevant instruments protect plurality in educational provision, the rights of families, and the freedom of individuals and bodies to establish and direct educational institutions, subject to minimum standards.

33. The joint submitters propose that a distinction be drawn between a “public good” approach and a richer “common good” approach. Education as a common good is a shared social endeavour that goes beyond a simple public-private divide and presupposes participation, shared governance and respect for diverse conceptions of the good life. Education is a common good precisely because it involves the family, the State and civil society, rather than being monopolised by any one of them.

34. There is no such thing as ethos-free education. Every school embodies assumptions about the person, freedom, responsibility, truth and the common good. The real question is not whether schools will have an ethos, but whether families are free to choose among legitimate educational visions within a framework of public accountability and minimum standards.

35. Catholic schools contribute to the common good by educating children from a coherent moral and anthropological vision while serving the wider public. They do not exist for Catholics alone, nor are they reducible to indoctrination. Properly understood, they seek the formation of persons capable of truthfulness, solidarity, freedom, service and responsibility. A genuinely plural State does not flatten such institutions into a single model. It makes principled room for them.

V. Summary of principal concerns

- The Irish State presents its education system as pluralist, but in practice its policy has become internally contradictory and has narrowed the real exercise of parental choice while claiming to promote diversity.
- The Education (Admission to Schools) Act 2018 operates in a discriminatory manner by preventing Catholic primary schools, in cases of oversubscription, from prioritising children from families seeking a Catholic education, while permitting minority-faith schools to prioritise children from families seeking education in their own religious ethos.
- That admissions asymmetry has also become a practical obstacle to the consensual divestment of Catholic schools, since communities are less likely to agree to a transfer of patronage where the remaining Catholic school or schools cannot prioritise children from Catholic families.
- The State’s use of the designation “multi-denominational” lacks sufficient conceptual and operational clarity. In the absence of a stable and enforceable definition, families may be misled as to the actual ethos of schools carrying that label.
- This ambiguity has implications not only for parental freedom of choice, but also for the cultural and religious identity of children, including the protections recognised in international human rights law.
- The operation of the school transport scheme provides a concrete example of the wider inconsistency in State policy, insofar as educational choice by reference to Protestant or multi-denominational ethos has been recognised in practice, while equivalent choice by reference to Catholic ethos has not always been treated in the same way.
- The continued existence of denominational model schools under direct ministerial patronage exposes a further inconsistency in the State’s approach to divestment. The State has pressed non-State patrons, especially Catholic patrons, to carry the burden of diversification while leaving schools under its own patronage largely untouched.

- Faith-based, publicly funded schools are a legitimate and valuable part of democratic pluralism and contribute to the common good. The central question is not whether schools should have an ethos, but whether families are free to choose among legitimate educational visions within a framework of public accountability and minimum standards.

VI. Recommendations

36. In light of the foregoing, the joint submitters respectfully recommend that reviewing States call on Ireland to:

- 1.** Amend the Education (Admission to Schools) Act 2018 so that the admissions framework respects parity between faith communities and gives practical effect to the parental liberties protected by Article 26(3) UDHR, Article 13(3) and (4) ICESCR, Article 18(4) ICCPR and Article 5(1)(b) of the UNESCO Convention against Discrimination in Education.
- 2.** Adopt a coherent and even-handed policy on patronage diversification, including a review of schools already under direct ministerial patronage, rather than placing the burden of divestment almost entirely on non-State patrons.
- 3.** Publish a clear and enforceable public definition of “multi-denominational” ethos so that school designation corresponds to educational reality and parents are able to make informed choices consistent with their rights and convictions.
- 4.** Revise school transport policy so that the “nearest appropriate school” test reflects the actual operative ethos of schools and does not disadvantage families of faith.
- 5.** Affirm in law, policy and administrative practice that parents are the primary educators of their children and that the State’s role in education is supportive and facilitative rather than monopolistic, in accordance with Article 42 of the Constitution as well as Ireland’s obligations under the relevant international instruments.

VII. Conclusion

37. Ireland has the constitutional inheritance that is grounded in a respect for human rights. The Constitution of 1937, when addressing education, clearly anticipates and respects principles later enunciated in the Universal Declaration of Human Rights and later human rights instruments and conventions. Ireland still retains the institutional basis to sustain a genuinely pluralist school system. But that requires honesty and coherence from the State. It requires the State to stop narrowing rights while speaking the language of inclusion. It requires the State to stop demanding sacrifice from non-State patrons while leaving unexamined schools under its own patronage. It requires the State to stop relying on vague designations such as “multi-denominational” without corresponding legal and operational clarity. And it requires the State to recognise that faith-based schools, far from being a problem to be managed away, can be an important expression of parental freedom, children’s cultural rights, and the common good.

38. The joint submitters respectfully submit that these issues merit specific attention in Ireland’s review and that the recommendations above would assist the State in bringing its educational policy into closer conformity with its international human rights obligations.