

Questionnaire to States on Anti-Muslim Hatred and Discrimination

Submission of Ireland

November 2020

1. Muslims within the State

What part of the population within your jurisdiction identify as Muslim? Are there multiple Muslim groups within your State?

The last National Census carried out by Ireland's Central Statistics Office in April 2016 recorded 63,443 people in Ireland who identified as Muslim. This is approximately 1.3 per cent of the population.¹ The COVID-19 pandemic has postponed the scheduled census of 2021 until April 2022.

2. The Right to Freedom of Thought, Conscience and Religion or Belief

- a. *Does the State **recognise** the right to freedom of thought, conscience and religion or belief of all persons regardless of one's race, ethnicity, gender, language, nationality, religion or belief? What steps does the State take to promote respect for the right of all persons, including Muslims, to equal enjoyment of freedom of thought, conscience and religion or belief? What are the protections provided in law and practice against coercion in matters of faith and belief, including in the right to have, adopt or change one's religious or non-religious beliefs?*

The right to freedom of thought, conscience and religion or belief (more commonly referred to as freedom of religion or belief) is regarded as a fundamental freedom by Ireland.

The Irish Constitution, *Bunreacht na hÉireann*² (hereafter "the constitution"), guarantees the right to freedom of conscience and religious freedom and forbids discrimination on the ground of "religious profession, belief or status" (Article 2). This is underpinned by two pieces of domestic legislation, the Employment Equality Act, 1998 and the Equal Status Act, 2000, which prohibit discrimination on the basis of religion in employment, education, accommodation and the provision of goods and services.

¹ <https://www.cso.ie/en/releasesandpublications/ep/p-cp8iter/p8iter/p8rnc/>

² <http://www.irishstatutebook.ie/eli/cons/en/html>

b. Does the State *restrict* the rights of Muslims to manifest their freedom of religion or belief?

i. *Worship or assembly in connection with a religion or belief in public or in private, alone or in community with others;*

The Constitution ensures that all citizens have a right to freely express their convictions and opinions (Article 40.6.1.i) and freely profess and practice religion (Article 44.2.1). However, these rights can be limited in the interests of public order and morality.

ii. *Write, issue, disseminate publications offline and online material related to the rites, customs and teachings of Islam;*

The Constitution ensures that all citizens have a right to freely express their convictions and opinions (Article 40.6.1.i) and freely profess and practice religion (Article 44.2.1). However, these rights can be limited in the interests of public order and morality.

In June 2018, the Government announced its decision to hold a referendum to remove the offence of blasphemy from the Constitution. The referendum was held in October 2018 and passed with 64.8 per cent of vote in favour of its removal.

iii. *Observe practices related to the religious slaughter of animals; import halal meat or observe dietary requirements mandated by religious beliefs;*

Halal meats are produced and available to purchase throughout Ireland.

iv. *Display religious symbols, forms of dress and other personal representations of religious beliefs;*

Article 40.6.1.i of the Constitution establishes the right for citizens to “express freely their convictions and opinions.” This may be done through the use of religious symbols, forms of dress and other personal representations of religious beliefs.

v. *Establish and register religious organisations, charities or humanitarian institutions;*

According to Article 44.2.5 of the Constitution, “Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, movable and immovable, and maintain institutions for religious or charitable purposes.” Hence, all Muslim groups have the right to establish and maintain institutions, charities or humanitarian institutions. However, this is subject to regulation under the Charity Act, 2009.

vi. *Train and appoint clergy without intervention;*

The Constitution allows religious dominations to train and appoint clergy as Article 44.2.5 states that “every religious denomination shall have the right to manage its own affairs.” Therefore, the State cannot intervene in the training or appointment of clergy.

vii. *Exercise parental liberties regarding religious education of Muslim children;*

The State protects the right to exercise parental liberties regarding religious education of all religious dominations. This is protected through Article 42.1 of the Constitution which states that “the State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.”

viii. *Observe holidays or days of rest in accordance with the Islamic faith*

There are no restrictions in place in legislation that would prevent people of the Islamic faith to observe holidays or days of rest. However, all employees are afforded the same statutory rights regardless of religion or belief. Therefore, an employee seeking time off to observe holidays or days of rest would need to do so in compliance with the terms and conditions of their employment contract or Staff Handbook in relation to time off or annual leave entitlements.

ix. *Establish and maintain free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by religious ties;*

The right to form associations and unions is protected by Article 40.6.1.iii of the Constitution. This is supported by Article 40.6.2 which states that “Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.”

x. *Freedom of movement both within the country and across borders including for purposes of learning and pilgrimage.*

The Constitution guarantees that you have a right to liberty and freedom, except in accordance with the law (Article 40.4). There is a rights to move freely within Ireland as well as a broader right to travel and to get a passport for the purposes of travelling.

Ireland has introduced restrictions on movement as part of efforts to combat the COVID-19 pandemic which may have implications on the freedom of movement for purposes of learning and pilgrimage. There has been strict compliance with requirements for the limitation of rights- any restrictions on movement and gatherings have been provided for by law, are necessary, are explicitly in the interests of protection of public health and the rights of others, and are temporary in nature – with a sunset clause provided for in the legislation.

c. Are there restrictions on the construction, maintenance and use of places of worship by Muslims in your State? Have there been any attacks on Muslim places of worship within your jurisdiction?

Restrictions on the construction, maintenance and use of places of worship by any religious group in Ireland are prohibited by Article 44 of the Constitution.

d. Are there any Islamic cultural sites in your country? Does the State support the preservation of these sites?

There are several Islamic cultural sites in Ireland.

e. Are there any places of Islamic education (madrasas, schools or universities) in your country? If so, are they accredited, recognised or funded by the State? Are Quran classes allowed in places of Muslim worship or other religious institutions.

There are several Islamic primary schools in Ireland, two of which receive state funding.

Both under the Patronage of the Islamic Foundation of Ireland are:

The Muslim National School - Clonskeagh

The North Dublin Muslim School – Cabra.

There are also two madrasas in Ireland but no post-primary Islamic schools as of yet. However, there is currently an application in place for one in Blanchardstown, Dublin.

3. Equality and Non Discrimination

- a. Please provide information and data on the prevalence and types of inequality and discrimination, reportedly experienced by Muslims in your country, including from a gender perspective**
- b. Please provide information on domestic laws (including relevant domestically implemented international law), policies, and practices that protect against or respond to discrimination against Muslims. How do you ensure the deradicalization programme, counter-terrorism and/ preventing extremism measures or legislations do not target any specific religious or ethnic groups, including Muslims?**
- c. Please provide information on specific gaps and challenges with regard to the elimination of discrimination against Muslims. Are there recent examples where the State has amended or rescinded legislation in order to combat discrimination against Muslims? Do laws in your country guarantee equal rights, regardless of religion or belief, in terms of access to education, healthcare, housing and employment?**

The Equal Status Act, 2000 prohibits discrimination on the basis of religion in employment, education, accommodation and the provision of goods and services.

Under the provisions of the Health Act 1970 (as amended), eligibility for public health services in Ireland is based primarily on residency and means. All persons deemed ordinarily resident in the State are eligible for public health services, subject to certain charges. The Irish Public Health System provides for two categories of eligibility for all persons ordinarily resident in the country, i.e. full eligibility (medical card holders) and limited eligibility (all others). Full eligibility is determined primarily by reference to income limits. Determination of an individual's eligibility status is the responsibility of the Health Service Executive (HSE).

- d. Are Muslims treated differently in their application for asylum and citizenship?**

There is no difference in treatment for applicants for asylum or citizenship on the basis of religion or belief.

- e. How does the State protect Muslims in potentially vulnerable situations such as (i) refugees and migrants (ii) children (iii) girls, women, and LGBT+ persons (iv) persons with disabilities (v) members of recognised and unrecognised minority Muslim sets, Muslims perceived to be secular or Muslims who converted into other religions or become atheists and (v) Muslims in the context of the COVID-19 pandemic.**

All children who arrive as unaccompanied minors seeking asylum are received into the care of the State. They are placed with foster carers and in small group home residential care. Efforts are made to ensure that the care provided is culturally appropriate to the child's country of origin and religion, for example ensuring a culturally appropriate diet and opportunities to attend a suitable place of worship. If possible, the child will be placed with carers from the same cultural background however this is not always an option.

Children who arrive in Ireland seeking asylum with their parents have the option to attend school at primary and secondary level in the same manner as all other children in the State. Children who live with their families in State provided accommodation for people seeking asylum (known as Direct Provision) are entitled to a medical card to cover all medical expenses, including GP and hospital care, as are all adults living in Direct Provision.

In July 2018, the Education (Admissions to Schools) Act 2016 entered into force. This law delivers a number of broad ranging reforms making it easier for children to access their local school. In particular, it removes the role of religion in school admissions for virtually all primary schools and requires all schools to publish their admissions policies including details of their arrangements for pupils who decline to participate in religious instruction.

The HSE's Intercultural Health Strategy provides an integrated approach to addressing the many unique health and support needs experienced by service users of diverse ethnic and cultural backgrounds who live in Ireland.

- f. **Representation and participation in public life: Are there Muslims in the Government and the judiciary? Are Muslims represented in other public affairs or institutions, including legislative and equality bodies such as National Human Rights Institutions?**

There are no restrictions placed on Muslims' right to participation in public life in Ireland.

To date, there has been only one Muslim elected to government. He was elected in 1992 and served as a member of parliament, Teachta Dála (TD), until 1997.

- g. **Hate speech by politicians: Does the State have a parliamentary or legislative code of conduct to deter politicians from making anti-Muslim, anti-Semitic, xenophobic, racist, homophobic, or other hateful remarks from the floor or in public appearances? Is there qualified or parliamentary immunity for hate speech?**

Freedom of expression is afforded to all politicians. TDs and Senators may not be sued for defamation because of any speech in the House. This privilege protects Members both in the Houses and at Committee hearings. If a Member of either House acts in a way that amounts to an abuse of a privilege, the Committee on Procedure (Dáil Éireann) or the Committee on Procedure and Privileges (Seanad Éireann) may recommend disciplining the Member.

- h. Online hate speech: Does the State monitor and investigate incidents of anti-Muslim hatred and discrimination online, including perpetrators' tools and tactics (e.g. social media companies) to access their data on the incidence or effect of anti-Muslim hatred and discrimination online on those targeted?**
- i. Incitement to hatred or violence: How is the prohibition of incitement to national, racial or religious hatred in international human rights law incorporated into domestic legislation? Are there specific offences in law regarding to crimes of anti-Muslim hatred? Do the laws provide for imposition of enhanced penalties for crimes committed with anti-Muslim motivation? Is there a law on 'takfirism'?**

Ireland does not currently have specific legislation dealing with hate crime, however a hate motive is an aggravating factor that judges can take into account (on a non-statutory basis) at sentencing for any criminal offence. Legislative proposals on hate crime are being developed by the government as an urgent priority.

The Prohibition of Incitement to Hatred Act 1989 prohibits certain threatening, abusive or insulting conduct intended or likely to stir up hatred against a group of persons on account of their race, colour, nationality, religion, ethnic or national origins, membership of the travelling community or sexual orientation, however there is a clear need to deal in a more effective and targeted way with hate crime.

The government aims to introduce the new Hate Crime legislation within 12 months of its formation. This legislation will create specific offences to ensure that those who target victims because of their association with a particular identity characteristic are identified as perpetrators of hate crime. This legislation will be on the basis of an aggravated offences model. This legislation will be supported by training across the criminal justice system, as well as victim supports.

The Department of Justice has recently completed detailed research comparing the effectiveness of different approaches to hate crime legislation internationally. An extensive public consultation has also been completed, including an online survey and detailed

engagement with stakeholders including civil society groups, experts, professional organisations, community groups and members of the public as well as a series of independently facilitated workshops. [The Dept. received approx. 3,800 responses, including 175 detailed submissions]

The Minister for Justice will publish this research and a report on the outcome of public consultations in the coming weeks. There will be an opportunity for stakeholders to share views when the legislative proposals are published.

4. State practices to promote tolerance and understanding, including with private and public actors

- a. **Training/ awareness raising:** *What training on anti-Muslim hatred and discrimination issue does the State provide to (i) police (ii) security forces (iii) judiciary (iv) teachers and (v) local religious actors to support their roles as key actors in preventing incitement to hatred or violence? What form does the training take?*

Reflecting the changing nature of Irish society and the diversification of religious belief amongst our population, Ireland's National Integration Strategy, launched in 2017, includes a commitment to promote intercultural awareness across the public service.

The proposed new hate crime legislation will be supported by training across the criminal justice system, as well as victim supports. This work is complemented by the preparation of legislation in relation to the regulation of tech companies in respect of harmful content. The Online Safety and Media Regulation Bill is now at an advanced stage and is thought to be adopted in the coming year. This will provide for a regulator to oversee online safety as well as codes of conduct for tech companies to put measures in place to deal with harmful content.

- b. **Removing barriers:** *How does the State use public office to eliminate barriers between religious or belief communities and promote an inclusive society? Do such policies and practices include civil society and in particular, Muslims within those initiatives? Does the State have any initiatives (including non-legislative) in place to counter stigmatization and negative stereotyping of Muslims and incitement to religious hatred (e.g. facilitating exchange of information and resources on the 'Istanbul Process' and implementation of HRC Resolution 16/18, interfaith dialogues) and/or promote interfaith tolerance, understanding and public discussion?*

The Irish education system introduces Social, personal and health education (SPHE) at a post-primary level. This class does not address any one particular faith or religion. However, SPHE plays an important role in developing an understanding of the democratic way of life and individual and group rights and responsibilities. Through SPHE children can become aware of some of the prejudices and attitudes that fail to respect the dignity of others. Children are given opportunities to develop an understanding of their own culture and traditions and equally to acquire a growing appreciation of the positive contributions made by different groups in society. In learning about Human Rights in SPHE, children are given opportunities to learn about their own culture and traditions and are encouraged to respect the rights and contributions of culturally diverse people and groups.

Religious Education has also been introduced at a post-primary level for both the Junior and Senior Cycle syllabuses. In 2019, the Religious Education specification for Junior Cycle was introduced for students of all faith backgrounds and none. The content prescribed in the syllabuses is intended to ensure that students are exposed to a broad range of religious traditions and to the non-religious interpretation of life. They do not provide religious instruction in any particular religious or faith tradition.

It is important to note that students study five major world religions- Buddhism, Christianity, Hinduism, Islam and Judaism.

Schools can also provide non National Council for Curriculum and Assessment (NCCA). However, where a school provides NCCA approved religion classes, it must not be associated with or integrated to any degree with the NCCA-developed Religion Education syllabus so that parents (or students having reached the age of 18) may opt out of these classes.