

Dublin Declaration on Religion in Public Life

The following is a copy of the draft declaration, circulated in April 2011, to which numbering (omitted from the original¹) has been added to enable reference and critique. The numbering hierarchy is:-

1, 2, 3: headed sections;

(1), (2), (3): bulleted paragraphs;

(a), (b): sentences, when a bulleted paragraph contains more than one.

1. Personal Freedoms

(1)

(a) Freedom of conscience, religion and belief are unlimited.

(b) Freedom to practice religion should be limited only by the need to respect the rights of others.

(2) All people should be free to participate equally in public life, and should be treated equally before the law and in the democratic process.

(3)

(a) Freedom of expression should be limited only as prescribed in international law.

(b) All blasphemy laws should be repealed.

2. Secular Democracy

(1)

(a) Society should be based on democracy, human rights and the rule of law.

(b) Public policy should be formed by applying reason to evidence.

(2)

(a) Government should be secular.

(b) The state should be strictly neutral in matters of religion, favouring none and discriminating against none.

(3) Religions should have no special financial consideration in public life, such as tax-free status for religious activities, or grants to promote religion or run faith schools.

3. Secular Education

(1)

(a) State education should be secular.

(b) Children should be taught about the diversity of religious beliefs in an objective manner, with no faith formation in school hours.

(2)

¹ The omission from a document of a numbering hierarchy (for which bullets are not an adequate substitute) makes reference so cumbersome as to be practically impossible. For example, "3(2)(b)" has to be referred to as "third section, second paragraph, second sentence". Worse, all the sentences, in the entire document, have to be counted every time reference is made to a single sentence.

- (a) Children should be educated in critical thinking and the distinction between faith and reason as a guide to knowledge.
- (b) Science should be taught free from religious interference.

4. One Law for All

- (1) There should be one law for all, democratically decided and evenly enforced, with no jurisdiction for religious courts to settle civil matters or family disputes.
- (2) The law should not criminalize private conduct that respects the rights of others because the doctrine of any religion deems such conduct to be immoral.
- (3) Employers or social service providers, with religious beliefs should not be allowed to discriminate on any grounds not essential to the job in question.

DRAFT

Critique

1(1)(a) Freedom of conscience, religion and belief are unlimited.

This is a statement that the right, secured by Article 9(1) of the European Declaration on Human Rights ("EDHR"):-

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

is (apart from the limitation in Article 9(2), imperfectly covered in 1(1)(b)) unlimited. It might be asked, given that Article 9(1) already exists, what is the point of such a statement anyway.

1(1)(b) Freedom to practice religion should be limited only by the need to respect the rights of others.

This (although framed as a "should") appears to be an attempt to précis Article 9(2) of EDHR:-

Freedom, [either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance], shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society:-

- (a) in the interests of public safety,
- (b) for the protection of public order, health or morals, or
- (c) for the protection of the rights and freedoms of others.

However, it captures only (c) (and then only just, since "necessary for the protection of" is replaced by "need to respect") and fails to capture (a) or (b). The "should" implies that the Declaration is calling for the abolition of (a) and (b). Furthermore, "to manifest" covers not only "practice" but also "worship", "teaching" and "observance", but the statement does not mention them.

1(2) All people should be free to participate equally in public life, and should be treated equally before the law and in the democratic process.

This is a general political proposition which has nothing specifically to do with religion or belief, or the lack of them. The intention, presumably, is that religion or belief should not affect such matters one way or the other, and the proposition should say that. It is not incompatible with atheism to hold that factors, other than religion or belief, should affect such matters.

1(3)(a) Freedom of expression should be limited only as prescribed in international law.

"Prescribed in international law" refers, presumably, to Article 10(2) of EDHR and appears to be a cop-out, since the article is too complex to précis:-

The exercise of [freedom of expression], since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society:-

- (a) in the interests of national security, territorial integrity or public safety,

- (b) for the prevention of disorder or crime,
- (c) for the protection of health or morals,
- (d) for the protection of the reputation or rights of others,
- (e) for preventing the disclosure of information received in confidence, or
- (f) for maintaining the authority and impartiality of the judiciary.

Again, this is a general proposition which has nothing specifically to do with religion or belief, or the lack of them. Furthermore, it is framed as a “should”, but the EDHR already exists. The underlying point, however, is that limitation, on freedom of expression, should be no more than permitted by the EDHR and limitations, on grounds of religion or belief, should not be permitted. The Declaration should say this.

1(3)(b) All blasphemy laws should be repealed.

This is, presumably, derived from 1(3)(a) (as interpreted above), and correctly so. However, that is not the only (and not the most basic) rationale for the abolition of blasphemy laws. The underlying rationale for blasphemy laws, which obtained in England until 1917, was that “Christianity was part and parcel of the law of the land”. Therefore, a scurrilous denial of Christianity was a breach of the law, blasphemy. However, in the landmark case of *Bowman et al v. Secular Society Limited* (1917), it was held:-

The phrase “Christianity is part of the law of England” is really not law; it is rhetoric ...

Thereby, the rational for blasphemy (and much else besides) collapsed (although blasphemy remained on the UK statute book until 2008). The Declaration should state that no religion is part of the law.

Another rational for blasphemy, within EDHR, is that there is a **right not to be caused offence**. Therefore, a law, limiting freedom of expression to protect such right, is permissible. There is no such right, and the Declaration should say so.

2(1)(a) Society should be based on democracy, human rights and the rule of law.

Again, this is a general political proposition which has nothing specifically to do with religion or belief, or the lack of them. Democracy, human rights and the rule of law are all about the relationship between the individual and the state, rather than the relationship between one individual and another. The aggregate of the former comprises government; the aggregate of the latter comprises society. Therefore, “government”, rather than “society”, is the appropriate word. However, it is not incompatible with atheism to hold that government (or, indeed, society) should not be based on democracy, human rights and the rule of law.

In any case, the intention is not to say what government (or society) **should** be based on but what it **should not** be based on: religion or belief. This is what the Declaration should say.

2(1)(b) Public policy should be formed by applying reason to evidence.

Yet again, this is a general political proposition which has nothing specifically to do with religion or belief, or the lack of them. The proposition cannot possibly be correct, because, if it were, there would be only one public policy and no scope for political debate or even democracy. Public policy is invariably and necessarily formed by **opinion**. The intention is not to say how public policy should be formed; it is to say how it should **not** be formed: by religion or belief. This is what the Declaration should say.

2(2)(a) Government should be secular.

The word “government” here is ambiguous; it could mean: “the group of people with the authority to govern a country or state”, “the system by which a state or community is governed”, or “the action or manner of controlling or regulating a state or people”². In any case, it tends to refer to (or to the system or actions of) the executive branch of the state, whereas the principle applies to the legislative and judicial branches as well. Therefore, it is “the state”, rather than merely “government”, which should be secular.

“Secular” means “not connected with religious or spiritual matters”³. Therefore, the proposition becomes: “The state should not be connected with religious or spiritual matters”.

2(3) Religions should have no special financial consideration in public life, such as tax-free status for religious activities, or grants to promote religion or run faith schools.

The underlying principle is that state funding should not be used, directly or indirectly, for the promotion of religion.

3(1)(a) State education should be secular.

“State education” refers to the provision of education which is funded by the state and provided free of charge to pupils. The underlying principle is, again, that state funding should not be used for the promotion of religion.

In addition, there may be **compulsion** on state-funded schools, either by law or as a condition of funding, to provide religious education and hold acts of collective worship. This should be abolished.

3(1)(b) Children should be taught about the diversity of religious beliefs in an objective manner, with no faith formation in school hours.

This surely does not mean that Children should be taught about the diversity of religious beliefs. If it did, it would be proposing religious education. Rather, it surely means that, **if** children are taught about the diversity of religious beliefs, it should be in an objective manner.

With regard to “faith formation”, the objection, surely, is to it being state funded, irrespective of whether or not it is in school hours.

² All Oxford English Dictionary.

³ Ibid.

3(2)(a) Children should be educated in critical thinking and the distinction between faith and reason as a guide to knowledge.

This appears to be proposing a mandatory curriculum subject. This would be incompatible with the policy of *Atheism UK* on Religious Education⁴.

4(1) There should be one law for all, democratically decided and evenly enforced, with no jurisdiction for religious courts to settle civil matters or family disputes.

“There should be one law for all, democratically decided and evenly enforced” is yet another general political proposition which has nothing specifically to do with either religion or belief, or the lack of them. “With no jurisdiction for religious courts to settle civil matters or family disputes” is a *non sequitur*.

The “One Law for All” principle is a “straw man” argument, which is in no way based upon atheism⁵. It is far from uncontroversial and a contrary view is not incompatible with atheism. Such “multi-law” view is, indeed, widespread and is enshrined in the UK Arbitration Act 1996⁶, which provides:-

the parties should be free to agree how their disputes are resolved, subject only to such safeguards as are necessary in the public interest ... **in accordance with the law chosen by the parties** as applicable to the substance of the dispute ... the court should not intervene

The issue is not whether there is one law or several; it is whether or not a law (whether sole or one of several) is based upon religion or belief. The rationale for it is the principle in *Bowman et al v. Secular Society Limited*⁷ that no religion is part of the law.

4(2) The law should not criminalize private conduct that respects the rights of others because the doctrine of any religion deems such conduct to be immoral.

The statement might be more comprehensible if it read:-

The law should not criminalize private conduct because the doctrine of any religion deems such conduct to be immoral, provided such conduct respects the rights of others.

Yet again, however, this contains a general political proposition which has nothing specifically to do with religion or belief, or the lack of them, namely:-

The law should not criminalize private conduct, provided such conduct respects the rights of others.

This is trivially true because conduct is criminal if it entails the breach of one person’s duty owed to another, and that person’s duty is correlative to the other person’s right. The true point is better expressed by:-

⁴ The policy opposes the compulsory giving of religious education in state schools; it does not propose the compulsory giving of some substitute subject. However, it does not propose that the giving of either religious education or a substitute subject should be **prohibited**.

⁵ The argument is essentially: there should be one law for all and none other; Sharia Law is another law; therefore, there should be no Sharia Law. The true argument is: Sharia Law is based upon the claim “God exists”; therefore, there should be no Sharia Law.

⁶ But not in the Republic of Ireland’s equivalent legislation, the Arbitration Act 2010.

⁷ See 1(3)(b).

The law should not criminalize private conduct **only** because the doctrine of any religion deems such conduct to be immoral.

4(3) Employers or social service providers, with religious beliefs should not be allowed to discriminate on any grounds not essential to the job in question.

Although the statement specifies “employers ...⁸, with religious beliefs”, it then refers to “discriminate on any grounds”. Anti-discrimination legislation in the field of employment (specifically, the European Union Council Directive 2000/78/EC) does not prohibit discrimination generally, but only on specified grounds, namely: religion or belief, disability, age or sexual orientation. Of these, the first and last are relevant to “employers with religious beliefs”.

The statement appears to be an attempt to précis the above directive, the full relevant provisions of which are:-

The ‘principle of equal treatment’ shall mean that there shall be no direct or indirect discrimination whatsoever [on the grounds of religion or belief].

a difference of treatment which is based on a characteristic related to [on the grounds of religion or belief] shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.

in the case of occupational activities within churches and other public or private organisations the ethos of which is based on religion or belief, a difference of treatment based on a person’s religion or belief shall not constitute discrimination where, by reason of the nature of these activities or of the context in which they are carried out, a person’s religion or belief constitute a genuine, legitimate and justified occupational requirement, having regard to the organisation’s ethos.

The phrase “not essential to the job in question” does not capture the complexity of the above exceptions. It might be asked, given that Directive 2000/78/already exists, what is the point of such a statement anyway.

Social services falls within the wider set of fields: goods and services, housing, education, social protection, social security and social advantage (it is not clear why the Declaration covers social services but not the others). These are not covered by the above directive or, at present, any other EU legislation. However, a draft directive, covering such matters, is in the course of negotiation and, if enacted, will, presumably, contain equivalent exemptions.

⁸ See below as to social service providers.