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The Patronage of National Schools.

(Article submitted by Áine Hyland, Emeritus Professor of Education, University College Cork to the Education Matters Yearbook: June 2010.)

There are currently about three thousand primary (national) schools in Ireland. About 94% are under the patronage of the Roman Catholic Church; about 3% are under the patronage of the Church of Ireland; a very small number of schools are under the patronage of the Presbyterian or Methodist Churches; two schools are under Muslim patronage; there is one school under Jewish patronage; there are 56 schools in the Educate Together network; and about the same number under the patronage of An Foras Gaelscolaiochta. A small number of special schools for intellectually and physically challenged children are under the patronage of a variety of organisations and bodies, including St. Michael's House and other corporate bodies.

The patronage structure of the Irish National School system is well summarised in the following quotation from the 1996 Report of the Constitution Review Group:

> *All national schools are privately owned but publicly funded. In the case of the vast majority of schools, their owners are diocesan trustees (Roman Catholic, Church of Ireland, trustees nominated by other churches, or in the case of multi-denominational schools, a limited company or trust). Every national school is ultimately controlled by a patron. In the case of Catholic and Church of Ireland schools, the bishop is the patron; in the case of multi-denominational schools, the patron is a limited company. Most Gaelscoileanna are under the patronage of the local Catholic bishop but within the past three years Gaelscoileanna have set up their own patronage body which is a limited company and new Gaelscoileanna may now opt to be under the patronage of the local bishop or under the patronage of the new limited company.*

The role of the patron is also succinctly described in the same report:

> *The patron of a national school is responsible for the nomination of the board of management of that school although parents and teachers have a role in electing representatives to the board – the names to be subject to the formal approval of the patron. The patron also plays an important role in setting up the selection board for a school principalship and for approving all appointments to a school. The patron also has the powers to assume management of a school in the event of unsatisfactory performance by a board of management.*

Section 8 of the 1998 Education Act defines the patron of a school as follows:

(i) The person who at the commencement of this section is recognised by the Minister as patron of a primary school, and

(ii) The persons who, at the commencement of this section, stand appointed as trustees or as the board of governors of a post-primary school and, where there are no such trustees or such board, the owner of the school.

The 1998 Education Act requires that the Minister for Education maintain a register of school patrons and the Act requires that *"the Minister enter the name of every patron in the register"*. In the case of schools recognised after the commencement of the act, the patron shall be "*the person who requested recognition of the school or a nominee of such person"*.

The Act bestows considerable powers on the school patron. The patron not only nominates the members of the board of management; he/she/they can also remove any member of the board for unspecified reasons, or dissolve the board. Section 14(4) states that *"the members of a board (of management) shall … be appointed by the patron of the school"*. Under Section 16 of the Act, and subject to the consent of the Minister, the patron may

a) for good and valid reasons stated in writing to a member of a board of management remove that member from that office, or

b) If satisfied that the functions of a board are not being effectively discharged, dissolve that board.

The 1998 Act states that it shall be the duty of a board "*to manage the school on behalf of the patron and for the benefit of the students and their parents*". In carrying out its functions, the board shall

- *uphold and **be accountable to the patron** for so 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 of the school …*

- ***Consult with and keep the patron** informed of decisions and proposals of the board*

- *publish, in such a manner as the board **with the agreement of the patron** considers appropriate, the policy of the school concerning admission to and participation in the school ….*

Although the act (Section 15 (e) recognises the distinct ethos and philosophy of individual schools, it nevertheless requires these schools to "*have regard to the principles and requirements of a democratic society and have respect and promote respect for the diversity of values, beliefs, traditions, languages and ways of life in society"*.

The provisions of the 1998 Act in relation to the role of the Patrons and the Boards of Management should be read in the context of the little publicised Deeds of Variation which were agreed in the late 1990s between the Minister for Education, school patrons, the National Parents Council (Primary) and the INTO. These Deeds were effectively a "variation" on the old leases or deeds of trust of national schools which

had been built with the aid of a state grant (usually between 80% and 90% of building costs) and vested in trustees (usually diocesan trustees). The old lease or deed of trust did not refer to the ethos or philosophy of the school patron or trustees but merely required that the building be used for national school purposes for a period of 99 years. The more recent Deeds of Variation, on the other hand, set out the ethos or philosophy of the school patron and trustees and gave legal effect to this philosophy. For example, the Deeds of Variation of schools under the patronage of the Roman Catholic Church include the following statement:

" the present Trustees, their successors and assigns, shall take all reasonable steps to ensure that any board of management which may, from time to time, be appointed in accordance with the Instrument of Management to manage the school, shall

- *firstly, manage the school in accordance with the doctrines, practices and traditions of the Roman Catholic Church and*
- *secondly, shall make and keep themselves familiar with the ethos of the Roman Catholic Church and the Roman Catholic Faith insofar as the same relates to education and schools, and*
- *thirdly, shall manage and cause the School to be managed in a manner which will uphold and foster such ethos, and*
- *fourthly, shall not do anything or permit anything to be done in relation to the School, or the management thereof, which would have or would be likely to have a detrimental effect on the Roman Catholic Ethos of the School".*

In a similar vein, the ethos of the Church of Ireland is protected in the Deeds of Variation agreed for schools under the patronage of the Church of Ireland, as is the ethos of other patrons in the case of schools under the various patrons. While it is understandable that school patrons would have sought to protect the ethos of their schools – an issue which they had been quite vocal about during the debate on school patronage and ownership leading up to the passing of the 1998 Education Act - it is surprising that in drafting the act and in drawing up the Deeds of Variation, the State did not act to protect the rights of those who did not belong to a group which owned and managed schools.

This was an issue which arose on many occasions in the nineteenth century, when the Rules for national school specifically precluded the recognition of denominational schools. One of the main difficulties faced by the Government at that time was devising a formula which would recognise denominational schools, while at the same time ensuring that children who did not belong to one of the main Christian churches (who were patrons of national schools) would not be discriminated against. In the 19th century, the Nonconformists were particularly vocal in objecting to any change in the national school system which might, as they saw it, effectively disenfranchise children who did not belong to a Church which owned and managed national schools.

It is ironic that Ireland's current system of primary schooling is virtually 100% denominational – given the conditions under which the national school system was set up in 1831. The issue of patronage in the Irish primary or national school system was formally enshrined that year, when under the terms of the Stanley letter, applications for grant aid for schooling for the poor of Ireland were invited from patrons who would be willing to take responsibility for setting up and managing national schools. These patrons could be groups or individuals, landlords or Church leaders, but priority

would be given to applications signed by individuals of different religious persuasions i.e. to applications jointly signed by Catholics and Protestants. In the early years of the national school system, applicants generally abided by the rules and included the requisite number and mix of signatures. In theory at least, the early national schools were religiously mixed or multi-denominational. However, as time went on and Irish religious divisions resulted in a growing number of denominational applications, the Commissioners of National Education turned a blind eye to their own rules and regulations, and approved the granting of aid to single-denomination schools. Whereas in the middle of the nineteenth century the majority of national schools were mixed (i.e. their enrolment included both Protestant and Catholic children), by the end of the 19th century the number of mixed schools was in decline. After 1922, the leaders of the new Free State were content to allow the Churches to maintain and strengthen their control of Irish national schools, and by the middle of the twentieth century, less than 5% of the 5,000 or so national schools in the Republic of Ireland, were religiously mixed. Moreover, by the mid 1960s, the Rules for National Schools explicitly recognised the denominational nature of the national school system and made no provision to protect the rights of those who did not belong to the main Churches who were patrons of national schools.

Around the same time, the State discontinued the practice of requiring schools to return statistics on the religious background of children enrolled, so that ironically, to-day - at a time when the population of Ireland is becoming more diverse - it is not possible to state how many of our schools enrol children of different religions. However, anecdotally, it would appear that most of our urban and many of our rural schools currently enrol children from a diversity of religious backgrounds. Many of these are children from the new accession countries of the EU or from other Eastern European and African and Asian countries. They include refugees and asylum-seekers who come from a wide rage of ethnic, religious and linguistic backgrounds. The Irish education system was not designed to cater for the unplanned influx of such immigrants and although in practice many schools have responded admirably to the new demands and have welcomed such children, there are fundamental issues arising from the private nature of school patronage and ownership, which remain unresolved.

In 1996, the Report of the Constitution Review Group adverted to the failure of the State since 1922 to take a pro-active role in the establishment of primary schools, although the Irish Constitution clearly allowed for this option. The report quoted Article 42.2 which states that *"parents shall be free to provide this education in their homes or in private schools or in schools recognised* ***or established by the State***" and pointed out that *"no national schools have been established by the State since 1922".*

The report also referred to the failure of the 1937 Irish Constitution to guarantee free education for Irish citizens although such a guarantee had been included in the 1922 Constitution of the Free State. The report adverted to the "potentially important difference" between the wording of the 1922 Constitution and the 1937 Constitution in relation to education. The 1922 Constitution of the Irish Free State contained the following provision (Article 10): "*All citizens of the Irish Free State have the right to free elementary education".* The 1937 Constitution on the other hand highlights the subsidiary role of the State in education in Article 42.4 which reads: *"The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and when the public*

good requires it, provide other educational facilities or institutions with due regard however, for the rights of parents, especially in the matter of religious and moral formation".

As has been indicated above, over 98% of primary schools in Ireland are controlled by the Churches and their ethos reflects the ethos of their patron. The church-controlled or parish school in Ireland has a long tradition and is so much part of our culture and heritage that most families are oblivious of the ownership or patronage issue. While education and issues of schooling are high on the agenda of families with school-going children, these families give little or no thought to the implications of church control of education, except when they fail to get a place in their school of choice if it happens to be owned by a patron whose philosophy and ethos does not coincide with theirs. The implications of a system where all schools are privately controlled; where there are no publicly owned and controlled schools and where access even to primary schooling is not guaranteed to all residents of the State, are profound.

Up to 10% of the school-going population of Ireland to-day either subscribe to a religion which does not own or control primary schools or do not subscribe to any religion. This means that if the nearest Church run school does not have space to admit all applicants, and if there is no religiously mixed (e.g. an Educate Together) school in the vicinity (or if such a school is full), families in this category could in practice be denied access to primary schooling. The state has divested itself of any responsibility to provide schooling for them, falling back on the subsidiary role of the state in the provision of primary schooling which was written into the 1937 Constitution.

The passive role of the State in the provision of primary schooling in Ireland since Independence is in stark contrast to the actions of other democracies throughout the western world during the same period. In other OECD countries, the norm is a system where privately owned schools exist in parallel with schools which are publicly owned, controlled and managed. The extent to which privately owned schools exist and receive public funding, varies from country to country. In the US, for example, privately owned Church schools are constitutionally precluded from benefiting from public funding although some concessions in his regard have been made in recent years. In some European countries on the other hand, subsidies to Church controlled schools are generous. The proportion of the school-going population who attend privately run primary schools in OECD countries other than Ireland, varies from less than 5% to over 50%. However, in Ireland which has no public primary schools and which relies entirely on private or corporate patrons to provide such schooling, 100% of the primary school population attend privately-owned schools, most of which are national schools. Only a very small number of primary schools in Ireland are now fee-paying private schools. This category has almost disappeared.

This approach worked satisfactorily in the past when the people of Ireland were content to allow their Church leaders to speak and act on their behalf. The situation however has changed in recent decades. Many parents are no longer happy to allow the churches to be the only patrons of primary education, and they want to play a more direct role in the education of their children. The growth of Gaelscoileanna and

Educate Together schools since the late 1970s is indicative of this development. This trend was adverted to during the debate of the National Education Convention in 1993 where the issue of patronage, management and ownership of schools was a matter of major public debate. It was pointed out at that time that whereas the Irish education system in theory allowed parents or other groups to establish schools independently of the Churches, the practical obstacles encountered were considerable. School patrons had to provide temporary premises, and once the school had proven its viability, they had to provide a site for a permanent school building and contribute about 20% of the costs of the building. In a city or suburban area, these costs were very considerable.

The Commission on School Accommodation was set up by the Minister for Education in the mid 1990s to address some of these issues, and as a result of the recommendations of this Commission, a number of changes have been made which have reduced to some extent the demands on school patrons in the past decade. The Department of Education and Skills can now purchase sites for new school buildings and lease them to school patrons, thus removing the financial burden of site purchase from patrons. However, there is a perception among the public that the State is still not sufficiently pro-active in planning for and establishing schools in areas which are experiencing rapid population growth. This has become particularly apparent in the Dublin commuter belt – e.g. in towns and villages in Cos. Meath and Kildare – and more recently in the inner suburbs of Dublin (e.g. Dublin 6 and Dublin 8) – where the media have highlighted the inadequacy of primary school accommodation to cater for the changing needs of the population in those areas.

In 2008, Co. Dublin VEC was recognised as patron of two "community national schools" – Scoil Ghráinne and Scoil Choilm in west Dublin. However, it would appear that boards of management have not yet been appointed to these schools (after three years) in spite of the requirement in the Education Act of 1998 that such boards should exist, and should include representatives of parents and teachers. Unfortunately, this author has still not had a reply to her request for information about the Religious Education curriculum of these schools, a request sent in March 2009 (see Education Matters Yearbook 2009). Even though the phrase "multi-denominational" is used to describe these schools, the State has promised that Roman Catholic children attending these schools will be prepared for the Sacraments of First Communion and Confirmation within school hours by state-paid teachers. (The Catholic Church has denied that it put any pressure on the State to make this promise). During the past year, the issue of Religious Education in these so-called community national schools has led to unease and controversy, but attempts to address the issue in an open and transparent way, have been blocked by the VEC and the Department of Education and Skills, as have calls for a full and open discussion on the issue of national school patronage.

How realistic is it in this day and age to assume that the national school patronage system will continue? To the surprise of many, support for school patronage was a theme which unified the otherwise diverse education partners during the debate at the National Education Convention in the early 1990s. Such support was not unexpected from the Churches and other patron bodies, but it was more surprising to hear it voiced by parents and teachers. However, things have changed in the past few years. There is growing disillusionment by the electorate with the role and power of the Churches in Irish society, and there have been calls by various partners – the INTO,

some Bishops, Parent Associations, and Educate Together, for a full and open debate about the control and governance of national schools. To date, the State has refused to accede to these calls, but the pressure is mounting and it may be politically unfeasible to refuse a debate on the issue for much longer.

From the perspective of someone like myself who has been involved on a voluntary, pro bono basis (along with tens of thousands of parents and teachers) in managing and supporting the national school system for the past 35 years, it is disappointing to be find oneself regarded by the Department of Education and Skills as foe rather than friend, when discussing issues relating to primary education. The Irish primary education system is unique in the western world in the extent to which it depends on volunteersm to run the system – and yet there seems to be no appreciation within the Department of this extraordinary commitment.

As those involved in national school boards of management are aware, the demands of the national school patronage and management system are considerable. Apart from the specific difficulties encountered in rapidly growing areas of population, and the financial responsibilities undertaken in the establishment and running of a school, the legal responsibility of patrons and members of boards of management are daunting. Recent legislation such as the equality acts, employment legislation, public liability legislation, health and safety legislation, bullying and harassment legislation etc. impose serious responsibilities on school boards of management and ultimately on patrons and trustees. Recent judgments by employment tribunals and courts have found a small number of school boards of management guilty of breaches of various aspects of legislation and some boards have had to pay dearly for these breaches.

There remain a number of issues in relation to primary education which need to be tackled, while recognising the legal ownership by the Churches of almost all our primary schools. The most obvious issue is that of religious education. School patrons determine the form of religious education offered in their schools, and Church schools, particularly those under the patronage of the Catholic Church schools provide denominational religious education. In these schools, it has been traditional to ensure that a Catholic ethos "permeates" the school day. This means, for example, that religious emblems are displayed in the school building and Saints' names are used to identify schools, classrooms etc. Prayers and religious services are often routinely introduced during the school day and preparation for the sacraments of First Holy Communion and Confirmation is undertaken as part of the school curriculum. This can create difficulties for families who do not subscribe to the religion of the school and optional provision is seldom made for children whose parents do not want them to be present during denominational religious classes. Some provision needs to be formally made, as a matter of right, for the growing number of children whose parents have no option but to send them to the local Catholic school, but who do not wish them to attend Catholic religious classes.

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Points System which reported in 1999 and the Statutory Educational Disadvantage Committee which reported in 2005).