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Religious Education and Human Rights in Europe: Focusing on the Cases of Belgium and the Netherlands*

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〈요 약〉

Although the European convention for the protection of human rights guarantees both the freedom of religion and the freedom of education, more and more people are claiming that the secular bias present in the education systems of most European countries puts constraints on the experience of religion by students in secondary education. The most notable example is the ban on the wearing of headscarves, which is seen as an infringement of religious freedom by some. While the “headscarves” issue is the most studied problem in connection with human rights and secondary education in Europe, it is in fact peripheral to the problem of “religious education” itself. This article argues that debates on human rights and religious education should take into consideration the historical development of “religious education” in Europe; Belgium and the Netherlands are taken as representative examples for the purposes of this study. Although most constitutions of European countries regard education as a secular matter to be organized by the state, in fact countries such as Belgium and the Netherlands allow religious institutions to organize education. These faith-based schools thus provide “religious education,” meaning the inculcation of a religion’s values. In Belgium, state schools also organize “religious education” classes aimed at children whose parents want their children to be educated in a particular tradition; any religious tradition, from Buddhism to Zoroastrianism, has to be catered for. Moreover, in Belgium Catholic schools can provide classes in Islam in case the schools are located in areas with many Muslim families. Thus

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there are not many problems as far as the provision of religious education is concerned, but problems do arise when religions are perceived to cross the established boundaries. As long as religions are taken to be a matter of personal faith, religious practice can be easily confined to the zone of “religious education,” but if they are seen as a way of life that is carried over into other parts of the curriculum or the school fabric, then problems do arise. While no major changes are on the horizon to the traditional “religious education” model, two trends are noted: one is the trend toward strengthening the religious character of faith-based schools; and one is towards breaking out of the “religious education” model in favor of “education about religions,” in which students do not learn only about their own faith but also about other’s.

Key words: Religious Education, Education about Religions, State Schools, Faith-Based Schools, Human Rights

I . Introduction

In principle, the matter of religious education in European primary and secondary education is straightforward: since both religious freedom and freedom of education are guaranteed by the European Convention for the Protection of Human Rights,¹⁾ any child resident in a EU country has the right to learn about his/her own religious tradition at school and is protected against discrimination on the basis of his/her faith and against indoctrination in other faiths or forced secularization.

In practice, however, the place of religious education in European schools is not merely the product of human rights and other legislation, but has been determined by a long historical process. Although generally based on the enlightenment principles of secular education and a strict separation of state and church, in which religions are seen as a matter of personal choice, in general the place of religious education

1) Article 2, protocol 1: “No Person shall be denied the right to education. In the exercise of any function which it assumes in relation to education and to teaching, the state shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.” Cited in Luce Pépin, *Teaching about Religions in European School Systems: Policy Issues and Trends* (London: Alliance Publishing Trust, 2009), p. 16. See Jan De Groof et al. “Reflecties op de omgang met religieus en levensbeschouwelijk verschil in het onderwijs in Vlaanderen en Nederland,” *Tijdschrift voor onderwijsrecht en onderwijsbeleid* jg. 2010-2011, no.1-2 (sep-dec. 2010), p. 14 for potential conflict with national laws.

in the school system is the result of a long process of negotiation and accommodation between the state and the church. Church-affiliated schools or schools based on a religious worldview do in fact thrive in many European countries, catering to the needs of Christian families, while state or public schools, in principle, cater to the needs of those not affiliated with a church or of religious minorities.

The ensuing status quo between the secular authority of the state on the one hand and traditional European religions on the other that was thus built up in the course of more than a century, has recently been challenged, however, by the upsurge of a religion that, it is argued, does not subscribe or accommodate to secularism, i.e., Islam. As a result, there have been claims of religious discrimination in the education system, which by extension are seen as an infringement of human rights. At the same time, there have been more and more calls to rethink the segregation between the secular and the religious in schools; some maintain that the state is not as neutral as it claims to be, and is in fact imposing its own agenda of secularization, while others claim that religious schools should either strengthen or weaken their religious agenda.

Thus to understand some of the current problems—the most attention-grabbing being the problem of the dress code for Muslim children and whether or not a ban on certain clothing constitutes a human rights violation—it is necessary to understand the background of religious education in Europe, as well as some of the recent evolutions in thinking about religious education. “Religious education” is a somewhat ambiguous term because it can refer both to the education of religious values *within* a tradition, or the education *about* religion from *outside* that tradition. To disambiguate, in this article I will use “religious education” for the inculcation of religious values, and “education about religion” for the objective education about various religions from a neutral standpoint.²⁾ Also, this article will focus on the cases of Belgium (mainly Flanders) and the Netherlands, chiefly because I am most familiar with the case of Belgium. Since Belgium shows interesting parallels with the Netherlands, however, it is useful to treat them together. Although there are of course some differences with religious education in other EU countries (which will be highlighted as needed), mostly the situation in these two countries is representative for the

2) The use of “Religious education” in the title of this paper is therefore appropriate: traditionally in Belgium and the Netherlands, religions have been taught not from a neutral perspective but as part of the forming of religious identity.

problems facing religious education/education about religions in Europe.

II. Background: Secularism as the Norm?

Since the rise of scientific thinking in the nineteenth century, the idea has taken hold that as human knowledge increases, “irrational” beliefs in religious truths will decrease. At the same time, following the implementation of enlightenment ideals in the wake of the French revolution, religious influence has been systematically excluded from the public realm of government. Although the idea that state and church are different entities with different spheres of influence has a history of almost 2,000 years (cf. the oft-invoked “Render Unto Caesar the things that are Caesar’s, and unto God the things that are God’s;” Matthew 22:21), since the assumption was that the religious realm represented by the church was superior, in practice the church held sway over much of the public realm too during much of that period.

During the nineteenth century this process was reversed; state and church became independent in both name and fact, with both sides respecting the other’s institutional autonomy and refraining from mutual interference. This process of removing religion from the public realm is usually referred to as secularization. Besides this retreat from the public realm, however, according to Charles Taylor two additional connotations can be discerned in the use of the term “secularization.” First, it is also frequently used to refer simply to the decline of religious belief and practice. Second, it refers to the changed circumstances in which religion finds itself in the modern West: from a position that was beyond dispute and challenge to the position of just one ideology among others, one option amongst many. The default option has changed from religion (viz. Christianity) to atheism; in other words secular humanist values have become the norm rather than transcendent values,³⁾ and hence the state as the locus of secular values now reigns supreme.

Taylor’s arguments are probably a reaction against previous secularization theories. Peter Berger in particular is famous for arguing in his 1967 *The Sacred Canopy* that modernization is a linear process that will end with the disappearance of religious belief. At the time the book was published the evidence, especially from Western

3) De Groof, op. cit., p. 6.

Europe, appeared to confirm that trend, but as religions have proved to be much more durable than thought, he later modified his position. In later works he posited that there was something called a de-secularization process as well, an abandoning of secularist values and a return to religious values. Arguably one of the best cases to prove that modernization and secularization (in the meaning of religious decline) are not mutually exclusive is South Korea: during its rapid modernization and industrialization from the 1960s to the 1980s, protestant Christianity increased exponentially. From merely a few percent of the population, by the time South Korea became recognized as an industrialized country in the 1980s, more than 20 percent of the population belonged to a protestant church.

But even in Western Europe, still the region with the most marked decline in institutional religious adherence, religions have resurfaced in many forms, notably as a kind of individual spiritualism in which it is up to the individual to create his or her own religious identity from the many sources available. It is also necessary to point out that, despite the active attempts by states to remove religious influence from the public realm, in fact most governments have continued to support churches in one way or another; either by allocating a religious tax to fund religious institutions (Germany) or by maintaining places of worship as state property but allowing their use by religious organizations (France). This pattern of tacit government support will also become apparent when we discuss the education system.

In any case, the question of whether secularization is an inevitable process is not merely academic: religious groups or people sympathetic to religions have appropriated some of the arguments to argue (as already suggested by Taylor) that the official policy of secularization, even though it is based on equal treatment of each and every religious group and the recognition of each individual's unique religious identity, implicitly favors the secular values. Although in principle secular and religious truth claims are treated as equally valid, in fact there is an implicit favoring of the secular.⁴⁾ Moreover, it is argued, the specific sensibilities of religious minorities sometimes require special treatment—a kind of “affirmative action”—rather than passive toleration.⁵⁾ Some even use the term “enlightenment fundamentalism” to

4) But compare with the U.S. case, which shows that a very secular orientation of the constitution, which painstakingly separates church and state, in fact has helped to foster a climate favorable to religious values. See Stephen Prothero, *Religious Literacy - What Every American Needs to Know - and Doesn't* (NewYork: HarperCollins, 2007), pp. 96 ff.

characterize the anti-religious assumptions that lurk behind an official policy of neutrality.⁶⁾

Ⅲ. Religious Education in the Dutch and Belgian School System

Belgium and The Netherlands are probably unique in that they have both a long tradition of faith-based schools and a so-called “vertical integration” (*verzuiling*, lit. ‘pillarization’) of the school system along confessional lines. In the Netherlands, since the 19th century a “school struggle” (*schoolstrijd*) had raged between secular schools on the one hand and faith-based schools on the other (Protestant and Catholic). The conflict was only resolved after a 1917 revision to the constitution guaranteed equal funding for all schools, both public schools and faith-based ones.⁷⁾ Ever since, the Dutch can send their children to a school belonging to the religious group they belong to, which is able to determine its own educational vision (*vrijheid van richting*).⁸⁾ Public schools on the other hand are to be ideologically neutral, but have to respect the religion or values of their students.

Belgium similarly has a long history of school conflict. Unlike the long protracted debates in the Dutch *schoolstrijd*, there were two fairly short, intense conflicts that erupted over the state’s educational policy, the first struggle lasting from 1878 to 1884 and the second one from 1950 to 1958. The roots of the conflict should be sought in the very founding of the country. One of the reasons for overthrowing Dutch rule in 1830 (following the Congress of Vienna of 1815, the territory of present-day Belgium was integrated into the “United Kingdom of the Netherlands”), was the Dutch attempt to monopolize education. The Catholic church took the side of the revolutionaries to ensure the “freedom of education,” i.e. to ensure that its own school system would be safeguarded. The constitution of the new kingdom of Belgium therefore guaranteed that “education is free; any preventive measure is forbidden ... public education, funded by the state, shall also be legislated.”⁹⁾ Thus

5) De Groof, op. cit., p. 8.

6) Lieven Boeve, “Levensbeschouwing, religie en onderwijs: enkele beschouwingen bij de reflectietekst.” *Tijdschrift voor onderwijsrecht en onderwijsbeleid* jg. 2010-2011, no.1-2 (sep-dec 2010), p. 52.

7) De Groof, op. cit., p. 10.

8) What exactly this entails is somewhat controversial; see the example of an orthodox Jewish school that refused to admit a boy from a liberal Jewish family. See De Groof, op. cit., p. 12.

the Catholic schools became known as “free schools”(*vrij onderwijs*), and were mainly fee-based, while state schools, funded by the state, did not require student fees.

In 1878 a new liberal government came to power, and sought to implement a more secular agenda for education. In 1879 it decreed that every city or village should have at least one public elementary school, and that the state should not fund any “free (Catholic) schools.” Similar legislation for middle schools followed in 1881. The Catholic church and the Catholic party vigorously opposed this law, and reacted by building more Catholic schools; because they represented the majority of the population, many pupils switched schools. Whereas at the start of the conflict only 13.1 % of pupils went to free schools, by the end that had risen to 63.5 %.¹⁰⁾ As a result, the liberals lost the 1884 elections, and when the Catholic party regained power, it reversed the laws; local councils were no longer forced to operate at least one state school, but could decide of their own accord which type of school they wanted to operate, while free schools were again funded in part by the state.

De second *schoolstrijd* (1950-1958) should be seen against the background of an increase in students pursuing secondary education. Whereas all elementary schooling was free by that time, Catholic middle schools were fee-based, and were struggling financially. A Catholic-led government therefore decided to subsidize these schools, but in 1955 a socialist minister of education tried to cut back these subsidies, prompting an escalation of the conflict. A compromise was finally reached in 1958 (*schoolpact*); all secondary schools were henceforth state-funded, to guarantee the “freedom of school choice”(*vrije schoolkeuze*).

Thus, as in most European countries, in spite of the principle of state-religious separation, the Belgian government funds faith-based schools. Since, in principle, the only religious teaching offered in free schools is Catholic religion, naturally students from another religious (or non-religious) background would feel alienated in such an environment. However, in a situation where about 80% of Flemish school children attend Catholic schools, yet church attendance is only about 7 %, it is obvious that strong religious motivation is no longer a prime factor in choosing these schools. Inculcation of Catholic doctrine is mostly no longer on the agenda; many people choose Catholic schools because they are thought to offer a more traditional (and hence better) education. Moreover, in areas with a big concentration of Muslim

9) De Groof, op. cit., p. 18.

10) [http://nl.wikipedia.org/wiki/Schoolstrijd_\(Belgi%C3%AB\)](http://nl.wikipedia.org/wiki/Schoolstrijd_(Belgi%C3%AB)) Accessed April 26, 2012.

families, Catholic schools have the option of instituting classes on Islam.¹¹⁾

Despite this flexibility, however, it is clear that people from other religions may find that there is still a religious bias in Catholic schools, and in most cases therefore turn to state schools. The Flemish state school network has adopted “pluralism” as its guiding strategy towards religious and ideological issues.¹²⁾ Thus students can choose to be educated in the religion or philosophy of their (parents’) choice, including ethics (for those who do not belong to any religious tradition), Catholicism, Protestantism, and Islam, to name just the most important ones. Plans are afoot though to introduce a general class on “worldviews” (*levensbeschouwingen*) for all students in the last two years of highschool.¹³⁾ This means that everybody, whether they identify themselves with a particular religion or not, would take this class, as a means to give students the opportunity to learn something about other religions and ways of life. This corresponds with the general trend of moving beyond the traditional identity blocs; religious education is no longer restricted to the faith community, but through changing the emphasis to “education about religion” is opened up to everyone.

There is currently a trend towards increasing cooperation between public and free schools,¹⁴⁾ which would lead to a weakening of the distinction between “secular” state schools and “Catholic” free schools. This coincides with the trend towards seeing religious education as part of the process of identity formation. Yet the traditional model of secular and religious “pillars” is still in place, and in the current situation it remains to be seen whether or not the calls for seeing religious education as a process of identity formation will reaffirm or subvert old structures. It is instructive to compare with the French model, where religious education in any form has traditionally been kept out of state schools (which reach 80% of students; most of the other 20% go to Catholic schools) altogether;¹⁵⁾ or the Netherlands, where

11) At the discretion of the bishop in whose jurisdiction the school is; there is thus no binding obligation to implement religious education in Islam, and it is not clear what the threshold is for deciding to implement classes on Islam.

12) http://www.g-o.be/sites/portaal_nieuw/IedereenVIP/Onsbeleid/AlgemeenStrategischPlan/Pages/Diversiteit.aspx (accessed April 28, 2012)

13) http://www.g-o.be/Net_Persberichten/Persberichten.aspx?Id=84cc8594-4bc7-46f3-9262-9163ba7da3d5 (accessed April 25, 2012)

14) See De Groof, op. cit., 13, 15 for the Netherlands; and Wikipedia for Belgium(http://nl.wikipedia.org/wiki/Onderwijsnet#Netoversnijdende_initiatieven_en_niet-traditionele_netten, accessed July 22, 2012).

15) See Luce Pépin, op. cit., p. 70.

there have traditionally been no classes on religions in public schools, though recently classes on world religions take place and Christian schools are urged to go in the same direction.¹⁶⁾ For Belgium, by contrast, there is no trend towards removing religious education from the curriculum of either state or free schools.

IV. The Challenge Posed by Islam

As mentioned, in secularized societies religions are reduced to a matter of “personal conviction” and limited to certain devotional acts (*eredienst*). However, not all religions subscribe to such a restricted view. Notably Sunni islam, since it does not recognize any separate church institution but is focused on society, cannot fit into this adaptation of religion to the secular paradigm. Yet in practice, there are many different ways of practicing Islam, from liberal and individualistic practitioners to fundamentalist and even extremist believers.¹⁷⁾

From the perspective of the traditional approach to religious education in Belgium as described above, there is no real problem: Islam can be taught as the “religious education” subject at state schools, and free schools, though not obliged to do so, have in fact organized Islam classes. In The Netherlands, by contrast, the normal school system does not provide for religious education, so Muslim parents either send their children to Islamic schools,¹⁸⁾ or try to have the schools arrange for extra classes on Islam.¹⁹⁾

Problems can and do arise in case Muslim parents do not agree with the secularizing tendencies of the Belgian or Dutch school systems. While it would

16) See Luce Pépin, op. cit., p. 28.

17) See Emilio Platti, “Onderwijs en religie. Welke Islam en welk onderwijs religie?” *Tijdschrift voor onderwijsrecht en onderwijsbeleid* jg.2010-2011, no.1-2 (sep-dec 2010): 67-71.

18) The Netherlands has about twenty Islamic schools; this means, as described above, that there is now an “Islamic pillar” in the Dutch education system. See the case study of an elementary Islam school by Hadassa Bergonje-Duinkerken, “Geef elkaar de hand...?! Een onderzoek naar de interculturele communicatie met moslimouders op een Islamitische basisschool,” *Afstudeeronderzoek Christelijke Hogeschool Ede*, 2010. In Belgium, by contrast, it is not possible to establish Islamic schools. De Groof, op. cit., p. 24.

19) As is the case for the elementary school Amsterdam-Sloterdijk in 2010. See <http://www.vosabb.nl/werkgevers-in-onderwijs/archief/item/artikel/moslimouders-voor-islamlessen-op-openbare-scholen/> (accessed April 28, 2012).

appear that by and large Muslim families try to accommodate to the existing school system,²⁰⁾ there have been complaints about customs such as non-gender-segregated physical education, teaching about values or morality that are considered too libertarian, etc. The main flashpoint however has been whether or not Muslim children can wear the *hijab* or other prescribed garments to cover the female body at school. Although these are worn in many countries with a dominant Muslim population, it appears that they became a problem in European education first when students started wearing them to make a political or cultural statement.²¹⁾ In other words, students started wearing them not because of parental pressure but to make a personal statement, often after conversion.²²⁾

The issue is complex and thorny, and cannot be adequately dealt with in this article. Although the wearing of *hijab* and other garments is seen as a religious statement, and as such forbidden especially in France because it is seen as a violation of the strict separation between state and religion (*laïcité*), this is in fact a moot point, since, as many point out,²³⁾ the clothing is not actually a generally accepted religious obligation within Islam, and thus wearing it is a political rather than religious statement.²⁴⁾ However, constitutionally, it has been pointed out, it is not possible for a court to decide on what a religious tradition prescribes or does not prescribe. Yet European courts have (mostly) ruled that forbidding the wearing of *hijab* by schools is constitutional.²⁵⁾ Despite article 9 of the European Convention for the Protection of Human Rights, which states that “everyone has the right to the freedom of thought, conscience and religion,” a clause allows for limitations to the freedom of religion where it is necessary to protect the social and legal order.²⁶⁾ Thus, there is a broad consensus among educational and political authorities that

20) A survey on the parents’ desire for Islamic education found that among those requesting Islam classes, three quarters were also in favor of learning about other religions. See also De Groof, op. cit., 25.

21) Paul De Hert en Stefan Somers, “Constitutioneel erfgoed in vraag gesteld in naam van mensenrechten. Welk kader voor religie en religieuze spanningen?” *Tijdschrift voor onderwijsrecht en onderwijsbeleid* jg. 2010-2011, no.1-2 (sep-dec 2010), p. 46.

22) De Groof, op. cit., p. 25.

23) A representative proponent of this view is Etienne Vermeersch.

24) De Groof, op. cit., p. 24.

25) See the case of Flemish public schools, where the hijab has been banned but a final ruling is still pending. <http://www.pascalsmet.be/article/gemeenschapsonderwijs-mag-hoofddoek-regelen/> (accessed April 28, 2012)

26) De Groof, op. cit., p. 24.

wearing the *hijab* is a religious statement that infringes on the secular aspects of education; i.e. it brings religion into spaces that are deemed “neutral.” However, it is clear that political considerations (including popular opinion) play a role in these decisions, and that human rights bodies provide insufficiently clear guidelines.²⁷⁾

Although those in favor of wearing the *hijab* have usually claimed that forbidding it is a violation of human rights, notably the right on the freedom of religion, in many ways this is a debate that is peripheral to religious education; although it clearly involves the rights of children, the focus on the debate is on how to reconstitute the differences between the secular and religious in society rather than on religious education itself.

More subtly, however, such overarching debates have contributed to a revision of the place of religion in the school curriculum, and the recognition that religious education remains important in the identity formation of the child. But as the religious values of the child’s family and those related to her/his personal identity quest are taken more and more into consideration, it is also inevitable that some of those values will clash with secular values, notably that of tolerance itself — for some religions the mere tolerance of another faith implies heresy. Here we can see that many conservative religious voices, Christian or Muslim, are critical of “enlightenment fundamentalism” and try to push back secular agendas in many subtle ways. As a consequence, the traditional “conflict-aversion” model in which each group, Protestant, Catholic or Atheist, remains within her/his own “pillar” and is unconcerned about the other, has been challenged, leading to calls for greater integration, cross-fertilization and a religious education that is not restricted to one tradition but tries to take on board many from a pluralist, non-judgmental position.

V. Conclusion

While it might be expected that Islam would challenge the secular model directly, apart from very fundamentalist voices this has not been the case. Rather, most religious groups work within the system to highlight restrictions on the practice of

27) Rhona K. Smith, “Religion and Education: A Human Rights Dilemma Illustrated by the Recent ‘Headscarf Cases.’” *Globalisation, Societies and Education* 5, no.3 (2007). p. 313.

their faith (or practices prescribed by their faith) as human rights violations. While on the whole this has been rejected by the EU governments and educational institutions, it has contributed to a rethinking of the role of religious education in the European school systems.

In general, it has also led to a weakening of the traditional division lines between secular and religious education: criticism of secularism itself has led to greater self-reflexivity on the part of the guardians of secularism, and a certain “tolerance for intolerance:” in other words, even though religions may be against secularism, it does not mean that they should be rejected outright. On the positive side, it has led to greater attention for the study of religion and religious values, but at the same time it could undermine some of the fundamentals of secularism and give rise to uncertainty as to how far particular religious or identity concerns can be tolerated. In both Belgium and The Netherlands the trend seems to be towards emphasizing *education about religion*, cutting across the traditional pillars and fostering more mutual understanding and pluralism. Whereas human rights education and religious education/education about religions used to be seen as anti-thetical, there is now a growing recognition that knowledge about religion is an essential part of building a civil society that embraces different value systems.²⁸⁾

But how things will evolve exactly is not yet clear; in some ways traditional structures may be strengthened. An interesting case in this respect is the recent proposal by René Stockman (Algemeen overste, Broeders van Liefde) to subdivide the traditionally Catholic free school system into three streams: one retaining a strong Catholic identity, one pluralist, and one with religious education for Muslims.²⁹⁾ This proposal (it is not clear whether it has wide support) is interesting because it both incorporates this recognition of the changing religious situation yet also serves to strengthen the religious dimension within the school’s educational philosophy.

28) See Frederick W. Guyette, “Human Rights Education and Religious Education: From Mutual Suspicion to Elective Affinity,” *British Journal of Religious Education* 31, no. 2 (2009): 129-139.

29) See René Stockman, “Katholiek onderwijs, hoe het ook anders kan,” *Katholiek Nieuwsblad*, 8 juli 2010. See http://www.vcd-vl.be/source_persberichten/authentiek_godsdiensonderwijs.html; and also “Waarom geen islamitische godsdienst in katholieke scholen?” *De Morgen*, 16 juni 2010. <http://www.demorgen.be/dm/nl/1344/Onderwijs/article/detail/1119544/2010/06/16/Waarom-geen-islamitische-godsdiens-in-katholieke-scholen,dhtml> (both accessed April 28, 2012)

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