Introduction

Educational freedom is consistent with rival social policies, those seeking to promote individual development (liberalism) as well as those concerned about the perpetuation of freely-chosen communities within the civil society (communitarianism). What it cannot be reconciled with is a state monopoly on the formation of the loyalties of youth and their perspective on how and to what ends to live their lives. Totalitarian regimes seek to achieve such a monopoly;[1] but pluralistic democracies recognize that there is no freedom more basic than that of seeking to shape the beliefs and convictions of one's children. On the other hand, as Montesquieu pointed out in *The Spirit of the Laws*,

> It is in republican government that the full power of education is needed.
> . . . One can define this virtue as love of the laws and the homeland. This love, requiring a continual preference of the public interest over one's own, produces all the individual virtues; they are only that preference….in a republic, everything depends on establishing this love, and education should attend to inspiring it.[2]

Thus, education for citizenship is a crucial concern for free societies, even as their

1

commitment to freedom places restraints on what they may legitimately do to control and direct such education. Some of the variations on this theme are discussed in the chapter, in this volume, "Teaching values in schools?"

The focus of the present chapter is on one of the dimensions along which political tensions and attempted policy solutions are most likely to fall, religious differences within a society and the demands which they make upon the educational system. The following chapter will deal with the parallel and often overlapping dimension of culture. It is important to note that there is a third and very significant dimension, that of social class and educational outcomes, but to discuss this would be beyond the scope of the information brought together in these volumes.[3]

Brief historical overview

Conflicts over the place of religion in education characterized the period from 1790 to 1914 when modern educational systems took shape, and have occasionally resurfaced in more recent decades. A notable feature of contemporary educational policy in most Western democracies, however, is that religious differences have generally been accommodated. Beginning in the 1970s for three decades, conflicts over education in Europe were more likely to arise from cultural than from religious differences, or from religious differences understood by elites to be essentially cultural. This perception was no doubt related to the secularist conviction that religion was essentially a phenomenon of the past, combined with the stark contrast between the customs of many of the families who followed the labor immigration of the post-war period and those prevalent in the host societies. It was only, as we will see, as the second and third generations deriving from that immigration came to maturity, largely abandoning their ancestral cultures but turning to Islam in ways that, for many of them, was more fervent than the practice of their parents, that religion re-emerged as the predominant source of conflict.

The great exception to the temporary eclipse of religion as a source of conflict, of course, was the massive mobilization of parents of pupils in Catholic schools, in 1984, against governmental attempts in France and Spain to increase controls over these schools; it is hard to know to what extent religious motivations played a role in this widespread resistance. For a brief account, and references, see the chapter: "State and Schools: An Historical Overview."

The general armistice in conflicts over religion and education did not mean that the rights of religious minorities were over the course of the twentieth century in all cases adequately protected in the education sphere. In some countries, notably the United States, those parents who wish to ensure that their children receive an education informed by their religious convictions must pay for private schooling in addition to the taxes that they pay to support unused public schools; parents with insufficient resources are as a result unable to exercise educational freedom. In other countries, government supports some religious alternatives but not others. In some cases, religious instruction – usually

voluntary – is provided within the context of the public school program, but may be available only to one or two faith-communities in an increasingly-diverse society. For these variations, see the country profiles, and "Teaching Values in Schools."

Countries with written constitutions, at least among Western democracies, commonly provide an explicit commitment to freedom of religion within an essentially secular state. Modern states, aside from those still under Communist rule, are seldom defined as "atheist" or in any sense hostile to religion. On the other hand, apart from the Islamic world, it is unusual for a state to have a religious character or to extend official recognition to a single religion; among the largely symbolic exceptions are the United Kingdom and the Scandinavian countries. Characteristically, a modern state is *secular* without being secularizing, supporting and interacting with all religions which are represented among its citizens without extending preferential treatment to any.

The State plays only a limited role in the religious sphere, in Western societies, but creates space for religious groups such as churches to be active in accordance with their own self-defined aims and aspirations and to advance and promote their values and beliefs in a spirit of respect for the rights of others. Although it seems likely that this owes more to historical developments and the balance of political forces than to the working out of a theory, it is often justified in the name of "subsidiarity," which has recently become one of the founding principles of the European Union.[4]

The classic articulation of this principle is that of Pope Pius XI in 1931: "just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do… those in command should be sure that the more perfectly a graduated order is preserved among the various associations, in observance of the principle of 'subsidiary function,' the stronger social authority and effectiveness will be, and the happier and more prosperous the condition of the State."[5] Or, expressed as a program of institutional reform in the words of Catholic philosopher Jacques Maritain, "in order both to maintain and make fruitful the movement for social improvement supported by the State, and to bring the State back to its true nature, it is necessary that many functions now exercised by the State should be distributed among the various autonomous organs of a pluralistically structured body politic."[6]

Dutch Protestant political thinking has developed the more radical concept of "sphere sovereignty" (*souvereiniteit in eigen kring*), usually associated with statesman/theologian Abraham Kuyper (1837-1920). The associations and institutions that make up civil society, Kuyper insisted, should not be considered subordinate divisions of the state, enjoying only those rights and that scope which the state chooses to entrust to them, but possess their own fundamental rights that derive from the purposes for which they exist. The role of the state is to mediate among these "spheres," ensuring that justice is done, the rights of individuals are protected, and tasks that can only be undertaken by the whole society are carried out. The state must not, however, seek to take over the functions of the family, to define the canons of art or of science, to prescribe the

3

teachings or practices of religious organizations, to tell business where to invest or how to produce, or to interfere in what occurs between teacher and pupils. Government touches upon all of those spheres of activity, of course, as it carried out its own mission, but it does so as it were from the outside, preventing abuses. The relationship between government and the other spheres of social life is thus of an entirely different nature than the relationship among levels of government.[7] Sphere sovereignty insists upon the right of the school–for example–to function by its own rationality and in accordance with its own purposes, not those of government or of any other sphere, including that of the family or of a religious institution.[8]

To the extent that citizens are motivated by religious considerations, they have a right to have these considerations taken seriously as having profound normative significance, indeed as offering a personal identity which deserves respect.[9] Religion is not, for most people, however, an exclusively private matter; it is exercised through association with fellow-believers, and in the "public square".[10]

> Basic rights are not limited to the rights of individuals in relation to the state. People exercise their rights through their participation in the activities of *collective bodies*, often in the context of a philosophy which has been provided with an institutionalised setting. Because of their activities, these collective bodies may be considered to be working in *the public interest*, because they assume a role that would otherwise have to be filled by the state and its various services. . . . In this respect, the time-honored borderline between the public and private fields of competence seems to have become blurred. The rights of these collective groups and the "socialisation of fundamental rights" have been described in a legal context as the "third-generation" of human rights, subsequent to the principles of *freedom* and *equality*.[11]

Legal scholar Stephen Carter has pointed out the importance of such a "community of meaning: a group of people, voluntarily associated with each other, struggling to make sense of the world."[12]

European countries have made different choices about how to manage the relationship between religious organizations and the State, including strict separation, a concordat with the Vatican, or a national church as in England. In other countries the specific technique of recognition of religion and state support of churches is used. These historically-determined arrangements are facing new tests as they seek to come to terms with Islam. As Olivier Roy points out, "in every Western country, Islam is being integrated and not following its own traditions but according to the place that each society has defined for religion, from Anglo- Saxon indulgence to Gallic suspicion, although the former needs to be less naive and the latter less pathological."[13]

The equality principle would be violated if material support were awarded to one religious confession only, whatever the historical circumstances that produced such an arrangement. Some support was originally justified as compensation for the earlier confiscation or destruction of the property of religious organizations (notably the Catholic

4

Church), but there has been a growing recognition that religious organizations can play a valuable role in meeting a variety of human needs that are not strictly religious. Perhaps the most striking evidence of this is the position taken recently by philosopher Jürgen Habermas, that

> [t]he neutrality of the state authority on questions of world views guarantees the same ethical freedom to every citizen. This is incompatible with the political universalization of a secularist world view. When secularized citizens act in their role as citizens of the state, they must not deny in principle that religious images of the world have the potential to express truth. Nor must they refuse their believing fellow citizens the right to make contributions in a religious language in public debates.[14]

The starting point for such recognition is the social and moral influence of religion on citizens and on the society in general. "The ultimate basis for the church's legal status vis-à-vis the state," said a German Catholic leader in 1969, "rests on the fact that the pluralistic state has to turn to social groups that establish and preserve values, and this the churches are better able to do than other social groups."[15]

With some exceptions, in fact, governments rely upon schools with a religious character to help to meet the demand for education, and the specific demand of some parents for faith-based schooling.

It is the freedom of the human person, not only as a civil liberty but also as a social-cultural right, that serves as a 'hinge' between ecclesiastical doctrine and social politics. This liberty is not limited to that religious confession which forms the majority in a country, but applies to every group of persons who wish to rally around a specified project that is set up ideologically, philosophically, or otherwise, limited only by protection of public order and the rights of individuals.

Religious rights are not exercised exclusively in private, however, nor can their exercise claim complete immunity from public accountability. It is possible to distinguish several distinct dimensions in the relationship of government to religious groups:

a) at the *individual* level: the neutral (impartial) attitude of the state towards its citizens, who are free to profess the religion they prefer;

b) at the *collective* level: there exist, within the public sector, domains where organizations can enjoy preferential treatment on the basis of their religious character. For example, most legal systems allow religious associations to use religious criteria in making employment decisions, even though in other circumstances discrimination on the basis of religion is forbidden;

c) at *both levels*: the state has the right to interfere with religious organizations to the extent that their practices come into conflict with public order and to require that they abide by requirements that are imposed upon other recognized

associations, and–under parallel conditions–with the exercise of religion by individuals.

The fundamental obligation of government in relation to religious organizations and individuals is one of neutrality. Thus the United States Supreme Court has forbidden government to engage in "viewpoint discrimination" against religious expression in circumstances in which secular expression is allowed, provided that government cannot be taken to be the sponsor of the religious expression. The most important cases in this domain have arisen within the context of public education at all levels.

Three positions may be distinguished in the relationship between the secular State and religion: *strict separation*, *strict neutrality*, and *positive neutrality*; subsidiarity and sphere sovereignty are most consistent with the third.

Strict separation seeks to exclude religious themes, motivations, and organizations from everything which government touches upon. Since government has extended its helping hand (or its grasp, if the reader prefers) into more and more spheres of social and cultural life over recent decades, the logic of strict separation is to drive religion into the corner of aspects of private life which have no public consequences.[16] Underlying this objective, as reflected in the reasons advanced by many of its advocates, is a belief that religion is a dangerous and divisive force. Militant secular humanist Paul Blanshard wrote, approvingly, "Our schools may not teach Johnny to read properly, but the fact that Johnny is in school until he is sixteen tends toward the elimination of religious superstition."[17]

For some strict separationists, the solution is not so much a "naked public square" as one in which an alternative belief-system– "secularism" (*laïcisme*)–is established. A characteristic articulation of this goal is John Dewey's little book *A Common Faith* (1934) or, more recently, Louis Legrand's *L'école unique: à quelles conditions?* (1981) and Paul Kurtz's *Living Without Religion: Eupraxophy* (1994). In contrast with Dewey, Kurtz takes pains to insist that humanism is not religious; the changing legal situation since Dewey's proposal that schools teach a non- supernatural religion has given secularism the upper hand. Whereas for Dewey there were rhetorical and tactical advantages to claiming that his educational objectives were in some sense religious, there is now much more to be gained by claiming to be resolutely secular.

Nevertheless, "secular perspectives and belief structures represent a point of view, a worldview as much as various religious perspectives and beliefs do." Given the force and coherence of the secularist perspective, government policies which accord it a privileged position through funding institutions and programs which promote this perspective while handicapping faith-based perspectives by excluding them from the ever-enlarging sphere of government activity are scarcely neutral.[18]

While it seeks to appear under the guise of neutrality, the strict separationist position is hostile to revealed religion, either intentionally or through lack of reflection. For example, it supports freedom of speech in public settings like schools, so long as the content of that speech is not religious. Government officials like school principals are placed in the

position of censoring what teachers say in order to ensure that it remains safely secular.

But exclusion of religious speech and motivations, of religious organizations and programs from equal participation in the "public square" and in public funding is not neutral in its effects. "If, to receive the normal benefits of public policies that similar, secularly-based organizations are receiving, a religious nonprofit organization must downplay or give up certain of its religious practices, public policy is interfering with its free exercise of religion."[19]

Strict neutrality, by contrast, insists that government should not be in the business of making distinctions between religious and secular speech and other activities, and should confine itself to ensuring that neutral rules are enforced upon each. Strict neutrality seeks not to influence either positively or negatively the choices that people make "for or against any particular religious or secular system of belief. It should neither advantage nor burden religion."[20] A government committed to strict neutrality would fund equally-qualified day-care providers or youth programs without regard to their religious character, and would be concerned to be strictly fair by favoring neither religion nor secular ideologies . . . nor the lack of all convictions, though what this could mean in practice is hard to imagine! We could call this position "secularity," in distinction from the secularism that lurks behind the strict separationist position. While secularism is an ideology which seeks to make converts, secularity is a posture that promises even-handedness.

Applying this principle consistently to education would require, as legal scholar Stephen Carter put it, that "if neutrality means that the government cannot take steps to treat religious schools better than other schools, it surely means as well that the government cannot take steps to treat religious schools worse."[21]

Positive neutrality takes the position that government should under some circumstances give its support to religious activities and motivations, when they serve a purpose whose benefits are primarily social rather than religious in nature and can do so especially well or in a way which responds to the desires and respects the consciences of those involved. There are, Monsma points out, a variety of public policy advantages to government partnership with faith-based organizations. "The first is that the government can make use of and build on the sense of dedication, empathy, and closeness to the people being served that tends to mark the workers in religiously based programs... A second advantage... is that religious associations have a basis on which to build a bond or sense of trust and to motivate persons with whom they are working that governmental and other secularly based agencies lack... A third advantage... is the flexibility thereby given public policy."[22]

In Germany the contribution of religion – or at least of the State-recognized Protestant and Catholic churches – is so highly valued that the government collects church taxes and gives preference to church-sponsored social welfare activities over its own in some cases, such as in the provision of kindergartens. The understanding behind such policies is that "the state must... have a holistic view of human beings. People are religious, ideological

beings. The state should not favor any one religion or ideology, but it must make room for the religious, ideological nature of humankind" in the provisions that it makes for social welfare and education.[23]

Although jurisprudence in the United States since World War II has tended–until recent years–to hold to a strict separationist position, it seems to have been the intention of the framers of the *Bill of Rights* (the first ten amendments to the *Constitution*) to establish positive neutrality toward religion, requiring government to act in such a way that it does not influence individuals or organizations to be or not to be religious. Reichley points out that "the First Amendment is no more neutral on the general value of religion than it is on the general value of the free exchange of ideas or an independent press."[24]

In fact, "the Free Exercise Clause, on its face, prefers religion, favoring it as no other activity is favored. There is no parallel constitutional protection for free exercise of tourism, boating, hiking, beer drinking, or environmentalism.... The Establishment Clause [as applied in a strict-separationist manner] may be seen as a discrimination against religion and a burden upon religion, and therefore, arguably, a Free Exercise Clause violation. There are no parallel clauses preventing the establishment of science, philosophy or speech."[25]

In the case of the Netherlands, the recent report of the Onderwijsraad seems to indicate a retreat from positive to strict neutrality, by recommending that parental choices motivated by religion no longer have a privileged status in comparison with those motivated by pedagogical and other concerns.[26]

Positive neutrality rests upon a pluralist understanding of the political and social order which recognizes the important role of faith communities and associations alongside other forms of voluntary organization in maintaining society and in transmitting the habits and values which sustain it. A pluralist political order integrated such communities and associations "into the life of the body politic." Neutrality toward religion is not, from this perspective, an end in itself but a means to ensure fair play among individuals and groups, whatever their views, so long as they abide by the ground rules which make society possible.[27]

An underlying issue is what is meant by the *neutrality of the state school*. To employ the categories introduced above, *strict separation* would exclude all mention or acknowledgment of religion from state schools, *strict neutrality* would have the curriculum include, as appropriate, a neutral description of different religious traditions and their role in history and contemporary society, while *positive neutrality* would make room within the curriculum for the presentation of religious beliefs to willing participants as "assumptions that are, for the time being, unquestioned."[28]

There is yet another possibility, however: that the state school itself take on an ideological character, expressing and communicating a specific view of the world.[29] Is it conceivable, in fact, that a real education, worthy of the name, could fail to be based upon, and to convey, such a worldview? Can we conceive of the neutrality of the state school as simply

a vacuum of perspective and commitments, or is the reality that there is always a 'message" which is being communicated to pupils, even if it is a message of relativism and indifference, the "imposition of a specific form of materialism"?[30] Is there not a danger that, as a thoroughly-secular legal scholar put it:

> the prevailing orthodoxy in most public schools is a negative one. There is order, but there is no community. Many schools are not simply moral vacuums, they are culturally confusing and devoid of significant shared values. . . . . For many students, acculturation in public schools is learning to abandon home or subculture values; to relate to others through roles and rules rather than as whole persons and community members; and to deny meanings, feelings, and intellect.[31]

There have, of course, been periodic efforts to define a secular faith that could serve in place of traditional religion as the guiding principle of an education. In the United States, Horace Mann thought he could do that; so did John Dewey. Ferdinand Buisson in France, and more recently Louis Legrand sought to identify "a new unifying ethic, acceptable to all."[32] These efforts, it is fair to conclude, had only limited success when first made, and have even less credibility today.

What has taken their place in elite discourse about education is the need to help pupils become autonomous, "reflective critical thinkers," and this has become (often without much reflection) one of the assumptions of many teachers and those who train them. Making this a primary goal of a freely-chosen school is admirable; making it a public policy imposed on all schools and pupils is profoundly undemocratic. Political philosophers like Amy Gutmann,

> see the demands of civic virtue as requiring a form of autonomous deliberation about matters relating to the common good which include the capacity to evaluate values, commitments, and ways of life. Once developed, however, this capacity cannot be confined to the political realm and its development leads to a form of autonomy which is exercised across wider aspects of the life of the person, including those which fall into the "nonpublic" domain.[33]

William Galston has provided an eloquent refutation, from a liberal perspective, of such liberal overreach.

> At the heart of much modern liberal democratic thought is a (sometimes tacit) commitment to the Socratic proposition that the unexamined life is an unworthy life, that individual freedom is incompatible with ways of life guided by unquestioned authority or unswerving faith. As philosophical conclusions, these commitments have much to recommend them. The question, though, is whether the liberal state is justified in building them into its system of public education. The answer is that it cannot do so without throwing its weight behind a conception of the human good unrelated to the functional needs of its sociopolitical institutions and at odds with the deep beliefs of many of its loyal citizens. As a political matter, liberal freedom entails the right to live unexamined as well as

examined lives–a right the effective exercise of which may require parental bulwarks against the corrosive influence of modernist skepticism.[34]

As K. Anthony Appiah points out, the continued health of alternative frameworks of belief and life-orientation is essential if personal freedom itself is to be meaningful.

> We believe that children should be raised primarily in families and that those families should be able to shape their children into the culture, identity, and traditions that the adult members of the family take as their own. One liberal reason for believing this is that this is one way to guarantee the rich plurality of identities whose availability is, as I have said, one of the resources for self-construction. . . . But once we have left the raising of children to families, we are bound to acknowledge that parental love includes the desire to shape children into identities one cares about, and to teach them identity related values, in particular, along with the other ethical truths that the child will need to live her life well. A state that actively undermined parental choices in this regard in the name of the child's future autonomy would be a state constantly at odds with the parents: and that would be unlikely to be good for the children.[35]

Martha Nussbaum has reminded us recently that, in their exercise of freedom in post-traditional societies like Western Europe and North America, "some people do actually choose lives involving authority and constraint."[36] Nor is this choice necessarily an indication of a lack of the moral courage which liberals claim to admire; this courage can be learned "from parents who set themselves against the dictates of popular culture" and thus in turn give youth "the emotional capacity necessary to act on concerns they may have about the life they are being raised to endorse."[37] According to Olivier Roy, what he calls "neo-fundamentalist Islam"– like evangelical Christianity–is by no means a passive acceptance of cultural traditions; it is, rather, a sphere where autonomy is exercised through

> the importance of self-achievement, attempts to reconstruct a religious community based on the individual commitment of the believers in a secular environment (hence the blossoming of sects), a personal quest for an immediately accessible knowledge in defiance of the established religious authority, the juxtaposition of a fundamentalist approach to the law (to obey God in every facet of one's daily life) with syncretism and spiritual nomadism, the success of gurus and self-appointed religious leaders, and so on. Islam cannot escape the New Age of religions or choose the form of its own modernity.[38]

In short, any attempt to promote a secular worldview based upon the ideal of unconstrained choice among values and life-direction is inconsistent with liberal democracy; it is a misguided effort "to protect the values associated with liberalism by being illiberal."[39]

Nor have attempts to take a comparative approach to teaching about religion in schools been notably successful in meeting the demands of parents for schooling informed by

their *own* convictions. After all, "for religious adherents, multi-faith programs cannot help but trivialize religious commitments. Instead of treating them as serious life-consuming commitments, 'rival creeds are cast together in a common educational environment, and religious scruples and practices are celebrated as so many charming ornaments of ethnicity'."[40] As the chapter in this volume on government-prescribed values in curriculum points out, teaching about religion seems to have little effect on religious commitment.

There has been a long history of controversy in Europe concerning the place of religion in schools. The right to participate in religious teaching is protected by Article 9 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (ECHR 1950) and by its *Protocol* 1(1952). The latter stipulates that "the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions." These provisions were conceived initially as a shield for religious beliefs against totalitarian indoctrination of children by States in schooling and other education. The term "philosophical" was added, it seems, to include protection for the parental convictions of non-believing or agnostic parents. It may be deduced from Protocol 1(2), that where compulsory religious instruction is provided in State schools, parents must be permitted, if they so desire, to make alternative arrangements, a provision which is also part of explicit legislation.

The common practice of subsidizing independent schools with a religious character does not absolve the State from the obligation to respect in its own schools the religious and philosophical convictions of parents. Although in the state schools the 'transmission of ideas' should take place in an 'objective, critical, and pluralistic way', this does not prevent the establishment of religious instruction as part of the program, In that case, however, an alternative choice must be offered to parents and pupils. The country profiles in volumes 2, 3, and 4 offer dozens of examples of different arrangements to provide religious instruction while respecting individual conscience.

The problem of integrated religious instruction is mostly more complex in public secondary schools whose special religious character has been recognized in Canadian, New Zealand, English and Irish law. These schools strive, as part of their educational mission to convey a specific religious ethos to their pupils, who are enrolled voluntarily. However, the European Court of Human Rights has held that compulsory education in only one religion would violate Article 2 of the First Protocol to the European Convention for the Protection of Human Rights. If these schools accept children of other faiths or none, they must implement a "*conscience clause*" allowing their withdrawal from religious instruction as is also required by several national laws. But the *Kjelsden* decision recognized the impossibility of a perfect separation of religious and philosophical and secular subjects:

> In fact, it seems very difficult for many subjects taught at school not to have, to a greater or lesser extent, some philosophical complexion or implications. The same is true of religious affinities if one remembers the existence of religions forming, a very broad dogmatic and moral entity which has or may have answers to every

question of a philosophical, cosmological or moral nature.[41]

What the ECHR and Protocol 1(2) appear to prohibit is the integration of religious and philosophical concepts in the secular curriculum of state schools to the extent that it amounts to an "aim of indoctrination." Teachers must also refrain from "indoctrination" while teaching secular subjects. This seems to prohibit formal religious instruction during the secular curriculum but would not preclude some informal religious or philosophical concepts from impinging on secular education.

The situation in the United States with respect to religion and public schools has been much less influenced by international law than has that in Europe. Dozens of decisions by the United States Supreme Court, and by lower federal and state courts, in recent decades have resulted in a tangle of legal precedents with little real consistency. Religion continues to be a source of conflict over American schools. Ironically, despite the relatively high level of religious practice compared with other Western democracies, the American public education system is less accommodating of religion than are its counterparts in most other countries. Religious instruction may not take place in public school buildings except under narrowly-defined circumstances in which an external organization rents the facility in the evening, and many public school teachers believe– incorrectly–that they should not discuss religion in class or allow their pupils to do so.

Nonpublic schools with a religious character in the United States were, until recently, denied public funding for their instructional programs. While services for small children and for adolescents, and university-level education receive public funding without discrimination based on the religious character of the institutions that provide them, faith-based schools have been denied such assistance. This situation is changing in a kaleidoscope of state legislation and court decisions that either provide public funding in the form of vouchers for eligible families to use to pay tuition, or allow tax credits for those who contribute to programs that provide vouchers.[42] See the supplemental chapter by Paul DiPerna in volume 3 for a summary as of August 2012.

Challenges to such programs on the basis of state constitutional prohibitions against public funds supporting religious activities lead in turn to challenges of those prohibitions as arising out of discrimination on the basis of religion during a period of hostility to Catholic immigrants during the nineteenth century.[43]

Is religion reviving?

While conventional wisdom has it that Western societies have become less "religious" in recent decades, as measured by declining church attendance,[44] there has also been a movement in the opposite direction, both in the form of rapidly-growing Islamic and Protestant Pentecostal movements[45] and also in a diminution of the mutual mistrust between secular and religious leaders which marked much of the nineteenth and twentieth centuries.[46] The renewed visibility of religion was a worldwide

phenomenon, seen in the explosive growth of Pentecostalism in Latin America, Africa, and Asia, and revivals–not to be confused with Islamism–in countries with a Muslim majority. "In the 1970s and 1980s, Muslim societies were swept by a resurgence of personal piety and public observance. Attendance at Friday mosque services swelled . . . women donned head coverings (*hijab*) and men sported facial hair."[47] Olivier Roy describes "the sudden emergence in all Western monotheistic religions of new forms of religiosity, all of them communitarian (but of a purely religious community), exclusive (a clear dividing line separates the saved from the damned), and inclusive (all aspects of life must be placed by the believer under the aegis of religion)."[48]

What is emerging in Western Europe at present, because of the growing visibility and activity of Islam, is a renewed focus on religion as an issue for educational systems. In the United States, by contrast, conflicts over the accommodation of religion in public schools and over whether non-public schools with a religious character can benefit from public funding have been constant since the 1950s. It is more true than ever that there is "a notable similarity between Europe and the United States: educational institutions serve as a major battlefield for the negotiation of religious differences."[49]

What is interesting about this similarity is that it exists despite a very different relationship with Islam. "Islam has quickly become a part of the accommodating religious landscape in the USA, and Muslims were added to the already-existing 'rainbow-coalition' of religions. In Europe, religious pluralism is a new social fact that yet has to be fitted into legal frameworks and public practices."[50] In fact, Muslim Americans are remarkably like other Americans of other religious traditions:

> By a margin of nearly two to one (63 to 32 percent) they saw no conflict between being a devout Muslim and living in a modern society. . . . American Muslims are a little more likely than Christians to say religion is "very important" in their lives (72 versus 60 percent). But they are a little less likely to say that they pray every day (61 versus 70 percent). The two communities are about equally likely to attend religious services at least once a week (40 percent of Muslims versus 45 percent of Christians). Muslims are thus mainstream members of a pluralist religious society.[51]

An important factor is that Muslim Americans are successfully integrated in American society with respect to education, income, and other factors; many in fact came as graduate students or professionals, rather than as manual laborers as was the case in Europe. In addition, however, they came to a society that takes religious belief and practice as normal, even reassuring, rather than as a source of alienation from societal norms.

The conflict over religion and education in the United States, then, does not in most cases have to do with Islam but with religiously-conservative Catholics and evangelical Protestants who object to aspects of the public school curriculum or

presentations that are offensive to their beliefs.

The situation of culture and religion, especially in Western Europe, has undergone significant changes over the past two decades, as the generation of immigrants tied to their cultures of origin is replaced by their children and grandchildren, who do not necessarily identify with that culture or speak the language associated with it. For many of the second and third generations, forms of trans-cultural religious belief and practice (what Olivier Roy calls neo-fundamentalist Islam in Europe, Pentecostalism in North America and elsewhere) create new identities that cannot be addressed by any sort of multicultural curriculum.

> The neo-fundamentalist enterprise, by defining the community of believers not in sociological and cultural terms but as a voluntary association, has de facto constructed a space "other" than that of the surrounding society, thereby separating the religious from the social. The rule applies to only the believer.... The believer lives his religion in a space shared with the nonbeliever, but he inhabits that space in a different way.[52]

Among both evangelical Protestants in the United States, Canada, and England, and Muslims in both Europe and North America there is a significant (though probably not a majority) interest in faith-based schools, and demands, as a matter of equity, for public funding of such schools. This reflects dissatisfaction not only with the secular message delivered by public schools, but also with the various efforts to provide teaching about religion within those schools. Spokesmen commonly insist – as Catholic school advocates have long insisted–that religion should be not a curriculum topic but the underlying ethos of a school.

One sign of the new self-confidence of Muslims in Western Europe is the demand for Islamic schools, which has been accommodated with public funding in the Netherlands, England and other countries where there is already provision of schools of other religious traditions. These schools have been funded on the basis of religious freedom, rather than of ethnic separatism. Despite the reluctance of Dutch authorities, a publicly-funded Islamic school was able to get off the ground with a hundred pupils in late 1988. The leaders insisted that it was "a Dutch elementary school on an Islamic basis," and noted that all five teachers were Dutch, supplemented by a Moroccan and a Turkish teacher to provide supplemental language and culture lessons. The lesson plan was that of other Dutch schools, except that the required periods of religious (or humanistic) instruction were devoted to Islam. Dutch was the language of instruction except for the periods of religion and of supplemental language and culture. The Moroccan chairman of the school's trustees pointed out that non-Muslim pupils were welcome and would be treated with the same respect that Muslim pupils have experienced in Catholic and Protestant schools; apparently no irony was intended.

In 1988 the Islamitic Foundation for Education in The Netherlands (ISNO) was founded, in part as a less highly traditional alternative, and in 1989 it opened schools

in Amsterdam, The Hague and Rotterdam. The chairman said "our children will become more Dutch all the time, but they need to know where they stand, they need to have their own *zuil* [sector of society] and not be counted in with the Catholics or Protestants." Another board member said, "It is precisely our policy to make sure that our children can make good progress in the society right away. We are trying to convey Islam in a Dutch form."[53]

About fifty Islamic schools are functioning at present in the Netherlands and, despite serious concerns about the quality of the instruction and management of some,[54] there is no evidence that they are tending to alienate their pupils from Dutch society.

In the United States, there are about two hundred Islamic schools, none of which receive public funding.

Whether or not public funding is provided, government oversight must balance between the need to avoid promotion of racial segregation and the desire to encourage initiatives by minority communities. In practice, institutional autonomy must be seen as a condition which is capable of being modified, redefined and having new requirements enforced as a price of its continuation. It is conditioned by the principles of accountability, performance assessment, and financial audit.

The emergence of new religiously-separate schools is a considerable shock for those secularists who had confidently assumed that they were a phenomenon of a less enlightened age and would soon pass from the scene. A thoughtful account of the new political activism of Muslims in Western Europe notes how "European debates revert to the same syllogism, again and again. If they have not abandoned their faith, Muslims are religious fundamentalists. Since choice is meaningless among fundamentalists, only victims or bullies are Muslims."[55] This is clearly not an appropriate basis for respect toward or the integration into European society of millions of individuals of the second and third generations deriving from immigration whose primary identity is not as Moroccans or Turks but as Muslims, whether they attend the mosque or not.[56]

Legitimate concerns are expressed about whether religiously-separate schools will prevent integration into the host society; this is precisely the charge that was brought against Catholic schools in the United States during the nineteenth century, only to be disproved by the salient role that such schools played in the transition of language, culture, and loyalty. Of course one cannot guarantee that the same process will occur with Islamic schools in Western societies, but there is no intrinsic reason to believe that it will not. After all, most Muslim parents want their children to learn what they need to be successful in the host society, without surrendering to aspects of popular culture that they find offensive . . . and who can say that they are wrong?

Christopher Shannon has pointed out that the "path to meaningful diversity lies not in the refinement of abstract, neutral, universal principles that affirm the dignity of all faiths and value systems, but in the fostering of alternative local institutions rooted

in very particular faith and value systems…. The public school system remains in the vanguard of promoting false universalisms." The goal of secular liberalism was to segregate religion into the private sphere, a sphere which shrinks all the time as government takes on more and more functions previously carried out by families and voluntary associations, including religious communities. But it can be argued that the

> alternative to the present segregation of religion is not integration but separation. Such separation marks a retreat only from the Enlightenment ideology of liberal universalism, not from participation in the political institutions that are, admittedly, the legacy of this ideology. . . . The fostering of local institutions, rooted in distinct, particular traditions, promises the most meaningful alternative to both the religious intolerance of the past and the secular intolerance of the present.[57]

Policy-makers are challenged with finding the right balance between respecting the right of voluntary communities formed around shared religious convictions to nurture their children in those convictions, and ensuring that those children grow into citizens capable of functioning cooperating and deliberating with fellow-citizens nurtured in other convictions, or none.

Endnotes

[1] See Glenn (1995a) for a discussion of schooling under communist regimes.

[2] Montesquieu, 35-6.

[3] This third dimension was in fact been the primary focus of the author's career as a government official, and of several of his books

[4] Lenaerts, 33.

[5] *Catholic ChurchQuadragesimo AnnoQuadragesimo Anno* (On Reconstructing the Social Order), excerpted in Skillen and McCarthy, 166-7.

[6] Maritain, 27; for contemporary applications to a variety of social domains, see Colombo and the chapter therein on education in Lombardy by Glenn.

[7] Herman Dooyeweerd, *Roots of Western Culture* (1979), excerpted in Skillen and McCarthy, 289-90.

[8] See Heslam; Lugo.

[9] Modood, 79..

[10] Neuhaus.

[11] De Groof, 33.

[12] Carter (1998), 27.

[13] Roy (2007), 94.

[14] Habermas, 51.

[15] Spotts, 284.

[16] Neuhaus.

[17] Blanshard.

[18] Monsma and Soper, 46.

[19] Monsma (1996), 126.

[20] Monsma and Soper, 10.

[21] Carter (1993), 200.

[22] Monsma (1993), 257-8.

[23] Monsma and Soper, 190.4

[24] Reichley, 166.

[25] Pepper quoted by Monsma (1993), 52.

[26] Onderwijsraad

[27] Monsma (1993), 176, 200.

[28] Thiessen, 130.

[29] Braster.

[30] Coleman and White, ix.

[31] Arons, 71.

[32] Legrand, 78.

[33] McLaughlin, 131.

[34] Galston, 253-4.

[35] Appiah, 71-2.

[36] Nussbaum, 128.

[37] Burtt, 190.

[38] Roy (2004), 6.

[39] Berger, Davie, and Fokas, 105.

[40] Thiessen (2001), 232.

[41] *Kjeldsen, Busk Madsen and Pedersen*, paragraph 53. Downloaded from http://www. minorityrights.org.

[42] See http://www.edchoice.org/ for the constantly-changing situation around the

United States.

[43] See chapter 9 of Glenn (2012), which is expert testimony in one such case.

[44] Becker and Vink.

[45] Kepel (1987) (1991) (1994); Martin.

[46] See McLeod.

[47] Hefner, 32.

[48] Roy (2007), 6.

[49] Berger, Davie, and Fokas, 81.

[50] Klausen, 107.

[51] Micklethwait and Wooldridge, 295.

[52] Roy (2007), 82.

[53] Teunissen.

[54] Onderwijsraad, Table 7: Percentage scholen primair onderwijs zwak en zeer zwak, 2009- 2011, and Table 8: Percentage scholen voortgezet onderwijs zwak en zeer zwak, 2009-2011.

[55] Klausen, 209.

[56] Laurence and Vaisse, 95, 167.

[57] Shannon, 134, 136.

References

Appiah, K. Anthony . 2003. "Liberal Education: The United States Example." In *Citizenship and Education in Liberal-Democratic Societies*. Edited by Kevin McDonough and Walter Feinberg. Oxford University Press. Pp. 56-74.

Arons, Stephen. 1986. *Compelling Belief: The Culture of American Schooling*. Amherst, MA: University of Massachusetts Press.

Berger, Peter, Grace Davie, and Effie Fokas. 2008. *Religious America, Secular Europe?* Farnham, Surrey: Ashgate Publishing.

Blanshard, Paul. 1976. "Three Cheers for Our Secular State," *The Humanist*, March-April 1976, 17-25.

Braster, J.F.A. 1996. *De identiteit van het openbaar onderwijs*, Groningen: Wolters-Noordhoff.

Burtt, Shelley. 2003. "Comprehensive Education and the Liberal Understanding of Autonomy." In *Citizenship and Education in Liberal-Democratic Societies*. Edited by Kevin McDonough and Walter Feinberg. Oxford University Press. Pp. 179-207.

Carter, Stephen L. 1993. *The Culture of Disbelief: How American Law and Politics Trivialize Religious Devotion*. New York: Basic Books.

--------. 1998. *The Dissent of the Governed: A Meditation on Law, Religion, and Loyalty*, Cambridge: Harvard University Press.

Coleman, Elizabeth Burns and Kevin White. 2011. "Introduction." In *Religious Tolerance, Education and the Curriculum*. Rotterdam: Sense Publishers.

Colombo, Alessandro, editor. 2012. *Subsidiarity Governance. Theoretical and Empirical Models*. London: Palgrave Macmillan, 2012.

Galston, William A. 1991. *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State*, Cambridge University Press.

Glenn, Charles L. 1995a. *Educational Freedom in Eastern Europe*. Washington, DC: Cato Institution Press.

--------. 2012. *The American Model of State and School: An Historical Inquiry*, New York and London, Continuum.

Habermas, Jürgen. 2006. "Pre-political Foundations of the Democratic Constitutional State?" In Joseph Cardinal Ratzinger and Jürgen Habermas. *Dialectics of Secularization: On Reason and Religion*. Edited by Brian McNeil. San Francisco: Ignatius Press.

Hefner, Robert W. 2007. "Introduction: The Culture, Politics, and Future of Muslim Education." In *Schooling Islam: The Culture and Politics of Modern Muslim Education*. Edited by Robert Hefner and Muhammad Qasim Zaman. Princeton University Press.

Heslam, Peter S. 1998. *Creating a Christian Worldview: Abraham Kuyper's Lectures on Calvinism*. Grand Rapids: Eerdmans.

Kepel, Gilles. 1987. *Les banlieues de l'Islam*. Paris: Éditions du Seuil.

--------. 1991. *La revanche de Dieu*. Paris: Éditions du Seuil.

--------. 1994. *A l'ouest d'Allah*. Paris: Éditions du Seuil.

Klausen, Jytte. 2005. *The Islamic Challenge: Politics and Religion in Western Europe*. Oxford University Press.

Laurence, Jonathan and Justin Vaisse. 2006. *Integrating Islam: Political and Religious Challenges in Contemporary France*. Washington, DC: Brookings Institution.

Legrand, Louis. 1981. *L'école unique: à quelles conditions?* Paris: Scarabée. Lenaerts, Koen. 1994. "Subsidiarity and Community Competence in the Field of Education." In *Subsidiarity and education. Aspects of comparative educational law*, edited by Jan De Groof. Leuven: Acco.

Lugo, Luis E. Editor. 2000. *Religion, Pluralism, and Public Life: Abraham Kuyper's Legacy for the Twenty-First Century*.Grand Rapids: Eerdmans.

Maritain, Jacques. 1998. *Man and the State*, Catholic University of America Press.

McLaughlin, Terence H. 2003. "The Burdens and Dilemmas of Common Schooling." In *Citizenship and Education in Liberal-Democratic Societies*. Edited by Kevin McDonough and Walter Feinberg. Oxford University Press. Pp. 121-156.

Micklethwait, John and Adrian Wooldridge. 2009. *God Is Back: How the Global Revival Of Faith Is Changing the World*. New York: Penguin Press.

Monsma, Stephen V. 1993. *Positive Neutrality: Letting Religious Freedom Ring*, Westport, CT: Greenwood Press.

--------. 1996. *When Sacred and Secular Mix*, Lanham (MD): Rowman and Littlefield.

-------- and J. Christopher Soper. 1997 *The Challenge of Pluralism: Church and State in Five Democracies*, Lanham, MD: Rowan and Littlefield.

Montesquieu. 1989. *The Spirit of the Laws*. Translated and edited by Anne M. Cohler

Basia Carolyn Miller and Harold Samuel Stone. Cambridge University Press.

Neuhaus, Richard J. 1984. *The Naked Public Square: Religion and Democracy in America*. Grand Rapids, MI: Eerdmans.

Nussbaum, Martha C. 2012. *The New Religious Intolerance*. Cambridge, MA: Harvard University Press.

Onderwijsraad. 2012. *Artikel 23 Grondwet in maatschappelijk perspectief: Nieuwe richtingen aan de vrijheid van onderwijs*. Den Haag.

Reichley, A. James. 1985. *Religion in American public life,* Washington, D.C. The Brookings Institution.

Roy, Olivier. 2004. *Globalized Islam: The Search for as New Ummah*. New York: Columbia University Press.

--------. 2007. *Secularism Confronts Islam*. Translated by George Holoch. New York: Columbia University Press.

Shannon, Christopher. 2001. *A World Made Safe for Differences: Cold War Intellectuals and the Politics of Identity*. Lanham, MD: Rowman & Littlefield.

Skillen, James W. and Rockne M. McCarthy, editors. 1991. *Political Order and the Plural Structure of Society*. Atlanta, Georgia: Scholars Press.

Spotts, Frederic. 1973. *The Churches and Politics in Germany*. Middletown, Connecticut: Wesleyan University Press.

Teunissen, Joop. 1990. "Basisscholen op islamitische en hindoeïstische grondslag." *Migrantenstudies* 6, 2.

Thiessen, Elmer John. 1993. *Teaching for Commitment: Liberal Education, Indoctrination, and Christian Nurture*. Montreal: McGill-Queen's University Press.

--------. 2001. *In Defense of Religious Schools and Colleges*, Montreal: McGill-Queen's University Press.