



Own education institutions as an option for minority groups

H.J. Steyn & A. Weggeman¹
School of Teacher Education
Potchefstroom University for CHE
POTCHEFSTROOM
E-mail: dophjs@puknet.puk.ac.za

Abstract

Own education institutions as an option for minority groups

In this article the introductory part deals with Christian guidelines regarding the rights of minority groups. In the ensuing part the provision of education according to the unique educational needs of minority groups is discussed within the context of the presented guidelines. It is indicated that own education is internationally accepted as one of the major rights of minority groups. Within the international context, for example in the treaties of Unesco and in the educational provision of several countries, it is accepted that minority groups also prefer their own education institutions in order to effectively provide in their unique educational needs. In this article the more general requirements, regarding the characteristics of the education institution needed to meet the unique educational needs of a particular minority group are also identified. The impending problems in South Africa regarding own education schools for minorities are discussed briefly. In order to find possible solutions the situation in the Netherlands regarding "bijzondere scholen" to provide in the unique educational needs of particular interest groups and particularly religious groups is analysed. The conclusion arrived at is that the mentioned situation does not oppose Christian guidelines if minorities need each other to influence educational change, that the acknowledgement of the educational rights of minority groups promotes national unity, that the educational rights of minorities should imply freedom of establishment, denomination and institution and that the educational rights of minorities are fully realised if their education is financially supported by government on an equal basis to that of the majority.

¹ A Weggeman is a lawyer in the Legislative Division of the Council of State in the Netherlands.

1. Introduction

The provision of education according to the unique educational needs of minority groups is internationally accepted as one of their major rights. Within the international context it is also accepted that minority groups prefer their own education institutions in order to effectively provide in their unique educational needs. Therefore, this article aims, in the first part, to provide some Christian guidelines regarding the educational rights of minority groups. Within the context of these guidelines the internationally accepted educational rights of minority groups and especially the preference for own educational institutions are discussed in the second part of the article.

2. Christian guidelines regarding the educational rights of minority groups

In this article educational rights are focused upon, and in particular the right of minority groups to their own education institutions. It is, therefore, important to provide a short explanation of Christian views regarding the educational rights of minority groups as well as the role of all the stakeholders, especially the parents, educational interest groups and the state in the provision of education.

Although very little has been written by Christians on the subject of the rights of minority groups, some guidelines can be found from the Christian world and lifeworld about the place and rights of minority groups within the larger society. An analysis of the Christian point of departure reveals that the uniqueness of man is recognised and that ontic structural guidelines exist which determine the relationships between people. These guidelines clearly indicate that man, as an image bearer of God, should provide space and structures to enable each individual and group to accept their privileges with gratitude, to carefully execute their responsibilities and to decisively pursue their rights. Therefore, one can conclude that man has rights in relation to other people and privileges in relation to God (De Bruyn, 1997: par. 3.3, 3.4.1). Individuals find their identity in their relationships (Heyns, 1981:128) and man, as an individual or as member of a minority group, is entitled to the protection of his/her dignity and identity. According to Christian guidelines man should serve his/her fellow-men in justice, reasonableness and with love (Marshall, 1983:18). The respect and protection of the rights of minorities, similarly to the individual rights, are therefore important for the social and political freedom of people and should be recognised on national and international level. Therefore, it is important to support the right to free association, the right to an own identity and to accept that the rights of individuals and groups, i.c. minority groups, should be recognised, protected and developed (De Bruyn, 1997: par. 3.7). It also seems reasonable to argue that because of the fact that God, the Creator, brought creation about in an orderly fashion, there should be a clear distinction between the differentiation among

individuals and groups and unjust discrimination between individuals and groups. Therefore, one should support the provision of own education institutions when they assist in the provision of effective education and prepare the learners of minority groups to fulfil their roles in an effective manner and – in the case of Christians – to the honour of God. This will be an example of differentiation in educational provision. On the other hand, one should oppose the provision of own education institutions if it is preferred for non-educational reasons, for example, because of racism or elitism. The latter will be an example of unjust discrimination in educational provision.

Based on general Christian guidelines, minority groups can, because of the fact that they have rights in relation to other groups, and in particular, in relation to the majority group, also expect that they have the right to receive effective education. They can, therefore, expect from all stakeholders in education provision to ensure that the effectivity of their education is not limited. Minority groups can expect that the educational system will be structured in such a way that they will receive effective education to its fullest extent. The logical conclusion is that the state, parents and all other educational interest groups should fully participate to ensure that the minority groups receive effective education. If a particular minority group is, therefore, prevented, in one way or the other, from receiving effective education by the actions or lack of support by one or more of the educational interest groups, then that particular group can complain of unjust discrimination (Steyn & Van der Walt, 1997).

3. Conflicts based on the claims for minority rights

Europe, similar to other parts of the world, has been the site of conflicts based on the claims for minority rights, such as those in Northern Ireland, the Basque Country, Catalonia, Southern Tirol and Belgium and more recently in Russia, Yugoslavia, Chechoslovakia and Slovenia. Although it is true that many minority conflicts stem from violations of individual human rights, the post-1945 focus on individual rights has proved insufficient in addressing the perceived needs of minority groups (Hannum, 1993:xiii). This situation explains the recent focus on the rights of minority groups. Education provision according to their unique educational needs is regarded as one of the important rights of minority groups and has been a central theme of discussion since the second half of the twentieth century (Southiram, 1995:13). It is also accepted in the international arena that one of the crucial educational rights demanded by minority groups is the right to be educated in their own institutions (Steyn & Vanderstraeten, 1997:4).

The situation is, therefore, that the international community has accepted the demand of minority groups for own institutions as a valid request and is presently in the process of identifying viable ways to achieve this aim. In the South African community which is presently just beginning to discuss the necessity of

recognising minority group rights, the majority groups are generally opposed to the idea of own institutions for minority groups (*Beeld*, 1998-01-13, p. 4). The South African situation must be understood against the background of the drive to avoid any possibility of creating a new system of apartheid and to develop unity in the South African community. It is, therefore, necessary to identify the reasons why minority groups regard own educational institutions as an important educational right and to develop relevant guidelines for South Africa from the experience gained from the Netherlands regarding the provision of own educational institutions.

It is of importance to indicate at the outset why the situation regarding educational provision to groups with unique educational needs in the Netherlands can serve as a valid case study. It is accepted that the Dutch society consists of minorities of different sizes and characteristics which makes a comparison with the South African situation worthwhile, although the Dutch community and the type of differences between the particular minority groups differ from the situation in South Africa. The choice to compare the situation in the Netherlands and South Africa reflects a particular point of view regarding the comparative methodology. As Jurgen Schriewer (1992:60-92) has repeatedly argued, the choice of the units of comparison should not be based on overly, superficial resemblances between case A and case B. The strength of a comparative perspective is rather linked to the issues to be compared and to the contextual setting of the issues to be compared. Therefore, a comparison between the situation in the Netherlands and South Africa can provide valuable options or guidelines in solving existing problems in educational provision to minorities in South Africa. Typical of comparative methodology, recommendations can only be guidelines because, although the expectancy of positive implementation is high, there is no guarantee that the guidelines will be effective when implemented.

4. The demand of minority groups for own educational institutions

4.1 The nature of minority rights in education

A minority group is defined by Lerner (1993:79) as

... a group which is numerically inferior to the rest of the population of a state and in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics which differ from those of the rest of the population and who, if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language.

The identifiers of minority groups are usually the unique characteristics of particular groups determined by either the religious, cultural/language and/or

ethnic differences existing between the minority groups and the majority of the community.

The rights of minority groups as accepted in various treaties, conventions and international deliberations, focus on two main issues, namely the right to an own identity and the right not to be discriminated against (Thornberry, 1991:137). It is also claimed that justice, in modern terminology, consists of treating equals equally and unequals unequally (Laforest, 1993:x). Taylor (1993:42-45) finds that group identification is prevalent among emancipated peoples and that the very idea of identification, of having an identity, is modern. Language is presently recognised as an important identifier of common groups. People need group identification.

One of the rights of minority groups, and on which there is general agreement, is the right to the provision of education according to the specific educational needs of the minority group. Two specific treaties are particularly relevant with regard to the provision of education to minority groups. The first one is the *United Nations Convention on the Rights of the Child* of 1992. In this Convention the right of the child to receive education, as well as the right of children from minority groups to receive education according to their religious or cultural needs, was reaffirmed (UN, 1992: artt. 29, 30). The right of education and the protection of the child's own identity are recognised as the main focuses of the Convention (Detrick, 1992:ix).

The second important treaty is the *Convention against Discrimination in Education* of 1960 which was adopted by Unesco. By adopting the Convention, Unesco accepted the responsibility of furthering the universally accepted respect for human rights and equality of educational opportunity. The protection of the educational rights of minority groups was included in the following way:

- The term discrimination refers to the impairing of equality of educational provision, including any distinction, exclusion, limitation or preference being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth (cf. UNESCO, 1960: art. 1).
- The establishment and maintenance, for religious or cultural reasons, of separate educational systems or institutions or private schools offering an education which is in keeping with the wishes of the parents or guardians, shall not be deemed to constitute discrimination as long as attendance to these institutions is optional and conforms to such standards as may be approved by competent educational authorities (cf. UNESCO, 1960: art. 2).

- Public authorities should not assist educational institutions which base their policies solely on the ground that pupils belong to a particular group (cf. UNESCO, 1960: art. 3).
- The right of parents to choose educational institutions, other than those provided by the state, should be respected. The right of members of minority groups to pursue their own educational activities, including the maintenance of schools, is recognised, as long as these do not prevent pupils of minority groups from understanding the culture of the majority group; if the standard of these educational activities is not lower than the general standards and if attendance to these provisions is optional (cf. UNESCO, 1960: art. 5).

The above-mentioned treaty adopted by Unesco confirms that the international community, by accepting the Convention, accept the right of minority groups to establish and maintain their separate, own educational institutions as an unassailable right. This right is executed in several education systems. In the United States the private or own schools for particular interest (minority) groups have reached such a number that they have become a real competitor for state schools (*International Herald Tribune*, 1997-10-02, p. 1). In Ethiopia the national government has articulated a policy of devolving power to Ethiopia's regions, with boundaries according to local language distribution. In 1994 this policy resulted in a decentralised system of educational provision to provide in the educational needs of the different groups in Ethiopia (Usaid, 1996:3). In Canada several of the Inuit and Indian groups use their own educational institutions to provide in their own educational needs (Steyn, 1995). However, the concern was voiced that all these agreements only imply that the state should respect the rights of minorities, but that it does not imply that the state should be actively involved in the promotion of educational provision, for example, through financial assistance to minority groups (Dinstein, 1993:229). The reason for the existence of only a passive respect is often determined by the fact that the majority government does not understand the real reasons why minority groups want to be educated at their own institutions.

4.2 The educational institution and the educational needs of minority groups

Minority groups quite often find that their numbers are not enough to ensure attainable and sustainable provision in their specific educational needs, or that some external influences, for example, the political context or the economy, are so strong that their educational needs are not really satisfied in the national education system. The trend is, therefore, to focus on specific educational institutions to provide in their educational needs. It is a logical step, because it is easier to serve the educational needs of minority groups at an educational institution level. But to use the education institution as such is not a guarantee that

the educational needs of the minority groups will be served. The education institution should relate to the particular minority group and the minority group should be able to take ownership, in a physical and psychological sense, of the particular education institution. Ownership is acknowledged to be an important prerequisite for the provision of effective education (Spencer, 1992). The level to which the minority group will be able to relate to and identify with the particular education institution is determined by the level of harmony between the culture of the particular education institution and the culture of the minority group (Stephen, *et al.*, 1993:116). The education institution should meet certain requirements to ensure that the particular minority group takes ownership of a particular education institution. The characteristics of a particular education institution, and the culture of that institution, should be acceptable to the minority group to ensure that ownership is taken by the minority group.

The education institution can be described as the orderly convergence of people in a formal structure with the aim of providing effective education (cf. Mentz, 1990:61). It can further be accepted that the education institution is an organisation, because each education institution complies with the typical characteristics of an organisation (Basson *et al.*, 1991:597). The extent to which some core characteristics of the education institution (Van der Westhuizen, 1991:54) should comply with the unique needs of the minority group can be explained in the following way:

- **The education institution is a convergence of educators and learners**

This point of departure implies that there should be educators with the abilities to equip learners with the required knowledge, skills and attitudes to fulfil their roles in life.

In order to identify with and relate to a particular education institution, the minority group should be able to identify with and relate to the learners and educators of that education institution. The learners should be able to relate to the educators, because the acceptance of the educators by the learners increases the effectiveness of education and because educators are often regarded as role models for the learners. The quality and number of educators from the minority group in an education institution will, therefore, enhance the level to which the minority group can relate to that particular education institution (Grant & Gillette, 1987:520).

The learners should also be able to relate to each other, because the education institution is an interpersonal, social institution. The higher the number of learners from a minority group in a particular education institution, the higher the possibility that learners from the minority group, and the minority groups themselves, will identify with that education institution. This is the result of the

coherence, intimacy and security students experience and the fact that fewer students are marginalised (Klausky, 1995:1-24).

- **Effective education is dependent on relevant education programmes**

Different education programmes, curricula and syllabi, ranging from pre-primary to tertiary level are necessary to provide learners with the required abilities and to determine educational quality. The education programmes also refer to the learning content by which learners should be prepared for their roles in life. The minority group will expect that the learning content should prepare their learners to effectively fulfil their roles as members of the minority group. Learners from minority groups also have the challenge to prepare themselves to function effectively and fulfil their roles in the often non-supportive and even hostile community of the majority group. The relevance of the curricula and syllabi to the unique educational needs of the minority group will, therefore, increase the level to which the minority group can identify with and take ownership of a particular education institution.

- **Education is provided by means of language**

Education is communication and communication is brought about by means of language. Language does not only refer to the medium of instruction, but also to the languages taught and communication through symbols and activities. If harmony exists between the medium of instruction, the languages used and taught and the symbols used in the particular education institution, on the one hand, and the mother tongue of the minority group, the language needs of the minority group and the symbols of the minority group, on the other hand, the level to which that particular minority group can identify with a particular education institution will increase.

5. The rights of minorities in South Africa: provision of education

The final Constitution of South Africa (RSA, 1996a: art. 29) provides particular directives regarding the provision of education and also includes references to the educational rights of minority groups. The right of everyone to basic education is stipulated as well as the right to receive education in public institutions in the official language of their choice – should that kind of instruction be reasonably practicable. In order to ensure the effective access to, and implementation of this right, the state must consider all reasonable educational alternatives, including single medium schools. The principles of equity, practicability and the need to redress the results of past racially discriminatory law and practice must be recognised. The right of everyone to establish and maintain, at their own expense, independent educational institutions is recognised, provided that these institutions do not discriminate on the basis of race, are registered with the state, and

maintain standards that are not inferior to standards at comparable public educational institutions.

The Constitution further acknowledges the rights of cultural groups to practise and maintain their cultures, the equal rights of everyone before the law in order to prevent any discrimination on, for example, the basis of religion, culture or language. Provision is also made for the establishment of a Commission for the Protection of the Rights of Cultural, Religious and Linguistic Communities (RSA, 1996a: artt. 9, 30, 31, 185). The principles provided in the Constitution are operationalised in relevant educational legislation (RSA, 1996b: art. 4).

The positive obligation of the state to accord to every person the right to establish, where practicable, state schools based on a common culture, language or religion was put before the Constitutional Court as a test case (*DP, NP & IFP v Gauteng Provincial Legislature 1996 CCT 39/95*). The judgement given implies that schools with Afrikaans as medium of instruction cannot prevent any learner who prefers another language from attending the school, and that these schools should provide, at the request of these learners, teaching in another language, for example, English. In addition to the above, the state is prevented from embarking on programmes intended or calculated to destroy the physical existence of a particular minority group or to eliminate the cultural existence of particular groups. The state is also permitted and possibly required of to take special remedial or preferential action to assist disadvantaged groups. It was also found that the state is permitted but not required of to establish and support communal schools and that members of minority groups are permitted to establish their own schools (*DP, NP & IFP v Gauteng Provincial Legislature 1996 CCT 39/95*: art. 90).

The above-mentioned juridical guidelines can be regarded as the acknowledgement of the existence of cultural pluralism in South Africa and the recognition of the fact that it is a universal phenomenon that should be dealt with in a balanced way. The challenge is to find ways to deal with this educational reality. The government supports the fact that pluralism as a value means recognising the right of individuals and groups to be different. If each person claims to be free then each person must accept the right of others to think differently, to act differently and to have different values. But it is also necessary to seek commonalities and build bridges, and this is precisely the role government expects education to play, namely that of a catalyst in a pluralistic society (Mkhatshwa, 1997:7). However, minority groups are experiencing growing opposition from educational agencies and officials regarding their rights in the provision of own educational institutions. An example of the attitude of government officials is that voices are starting to rise in the majority party in order to prevent independent schools serving the children of middle-class Afrikaans-speaking parents from being subsidised (Pretorius, 1996:4). The problem for minority groups, in this case, is that although

they are paying taxes, they do not benefit in the same manner as the majority regarding the provision of education. Even the right to subsidies for independent schools is being questioned. A second example of the opposing acts of government is the growing perception that the Department of Education is continually positioning itself in such a manner that it is able to overrule decisions of local governing bodies (*Beeld*, 1996-09-06, p. 6). The result of this positioning of government is that the minority groups (i.c. the Afrikaners) begin to feel oppressed – a feeling which leads to a mounting feeling of resistance among the members of minority groups.

The problem is clearly the continuing tension between the common and the diverse as being internationally accepted to be part and parcel of educational provision for minority groups. The tension is the result of attempts to find ways and means to provide effective education, recognising and reconciling the “common” educational needs of the broad community (as being expressed by the majority) and the “diverse” and unique educational needs of particular minority groups. The focus in the ensuing part of the article will be on the Netherlands, and specifically on the provision of own educational institutions, based on a Christian point of view, in the form of “bijzondere scholen” or “particular schools” within the context of the principle of “freedom of education”. This will indicate ways and means of providing effective education reconciling the educational needs of the broad community and the unique needs of particular minority groups. These needs can serve as guidelines for South Africa, but only guidelines, because, although the expectancy of positive implementation is high, there is no guarantee that the guidelines will be effective when implemented.

6. “Bijzondere scholen” (subsidized private schools) on a denominational basis in the Netherlands

6.1 Historical context

Traditionally, the Dutch society consisted of minorities of different sizes and characteristics. As a result, political decision-making was often based on compromises between different interest groups. A clear example of such a compromise was the so-called pacification of 1917 (the word “pacification” may suggest a violent conflict, but no physical violence occurred). The period from 1917 to 1967 was known as the age of pacification and pillarization (*verzuiling*) in the Netherlands (Lijphart, 1988:27). At the beginning of this century two issues dominated Dutch politics, namely the school funding controversy and the introduction of universal suffrage. It was impossible to solve these two issues separately, as there was not enough support to solve only one of these controversies. Each of the controversies was supported by a particular minority group without enough support to ensure a positive vote in parliament. The

confessionals, on the one hand, wished to introduce public funding of denominational private schools, whereas the socialists supported the introduction of universal suffrage. The liberals were opposed to both changes. In 1917 the confessional and socialist minorities agreed to compromise on both matters and were thus able to amend the Constitution. It was agreed that universal suffrage for men would be introduced and that public and private education would be funded equally. This example shows that different minorities may need each other in order to build a majority for change.

The “educational pacification” put an end to the school funding controversy, an issue which lasted for over a century. The issue surfaced for the first time in 1795 when all ties between church and state had been severed. From then on the Dutch government was ideologically neutral. Consequently, all publicly maintained education had to be neutral. The confessional groups that wished to retain the Bible at public schools were not satisfied. The problem could be solved either by reforming the public school system to a Christian-based system or by establishing “bijzondere scholen” or subsidized private schools on a denominational basis (Weggeman, 1997:15).

These two options indicate the dilemma religious political parties are faced with when formulating their vision on educational policy. According to the viewpoints of the Christian political parties in the Netherlands the concept of a neutral state can never satisfy the Christian ideal. The Apostle Paul clearly states that the government is the minister of God (Romans 13:4) and this view has implications for education. Furthermore, one of the Biblical directives for education reads: “Teach all nations” (St. Matthew 28:19). Departing from this point of view, Christians may demand from the government to allow the Bible a central position in all schools. Until the government fulfils this obligation, all possibilities offered by the principle of “freedom to provide education” should be exhausted. Hence, the freedom to establish and maintain private schools should be fully utilized.

One of the implications of the above-mentioned dilemma for the confessional group is that the “freedom to provide education” cannot be seen as an aim in itself. On the other hand, this freedom allows for the creation of independent Christian education in a pluralistic society, thereby putting it on equal footing with the neutral education provided by the state. It is a very difficult choice either to promote public education based on the Christian philosophy, or to promote the principle of the freedom to provide education. However, the right to the “freedom to provide education” is determined by its legal status in the Dutch Constitution as a human right.

A process of secularization and depillarization (*ontzuiling*) can also be identified in the Netherlands since 1967, because of the secularization of the Dutch community. However, because of what has been called the paradox of

educational pillarization, it is clear that the number of learners of “bijzondere scholen” have not decreased (Dronkers, *et al.*, 1997a:20-28). Although a limited number of parents choose “bijzondere scholen” because of their religious (denominational) preferences, the numbers are maintained because parents choose these schools and the quality of education and/or the distance from these schools (Kessel & Van Wieringa, 1997:101-102). The conclusion arrived at is that although many parents do not any longer choose schools because of their religious preferences, the principle of own schools for particular groups with particular educational needs is not questioned (Dronkers, *et al.*, 1997b:337-339).

6.2 The freedom to provide education as a human right

The “freedom to provide education” is phrased in the Constitution of the Netherlands (art. 23) as a typical human right. Every citizen may invoke this right from the government. This human right concerning educational freedom has two aspects (Koekkoek, 1991:5). It confers a freedom on all citizens to receive education according to their own needs. Therefore, article 23 contains a classical human right which forbids government interference.

The right to establish schools may be valuable in itself but the financial barriers can impede the full realization of this right when it is expected from parents, wishing their children to be taught at “bijzondere scholen”, to pay twice. By paying taxes they would contribute to the maintenance of public schools, as these schools are financed by public funds and they also have to finance the “bijzondere scholen” of their choice. Therefore, educational freedom will only have its full meaning if “bijzondere scholen” are given sufficient financial support from public funds. Hence, educational freedom includes a claim towards the government to provide the financial means to maintain education in the “bijzondere scholen” on an equal footing with the education provided in public schools. This implies that Article 23 of the Constitution, apart from being a classical human right, also has the characteristic of a social right. According to the social rights a duty is conferred on the government to ensure equal opportunities regarding educational provision to all citizens. In fact, the first constitutional provision with respect to education was a social right; in 1814 the Constitution stated that education shall be the constant concern of the Government. The classical freedom to establish private schools was not included in the Constitution until 1848 (Mentink, 1997:123).

Thus, the freedom to provide education, as being guaranteed in the Dutch Constitution, has a dual character. On the one hand it implies that the government should refrain from interfering in the provision of education, but on the other hand government intervention is necessary to maintain equality of educational opportunity for all citizens.

6.3 Freedom to provide education

According to the Dutch Constitution, all people are free to provide and receive education according to their own educational needs. This means that private schools may be established in addition to the schools maintained by public authorities. It is the responsibility of the public authorities to ensure that public (neutral) education is sufficiently provided all over the country. This responsibility is based on the principle that everyone should have the opportunity to receive public education (Akkermans, 1987:379). Education provided by public authorities should pay due respect to everyone's religion or belief, implying that they shall be neutral. Neutrality includes respect for the convictions of parents and learners, as well as the expression thereof (Leenhart, 1997:184-185). "Bijzondere scholen", on the other hand, are entitled only to admit students of their own denomination, whereas public schools must admit all pupils. In the constitutional system "bijzondere scholen" are regarded as being merely supplementary to public education. However, in practice some 80% of all students attend "bijzondere scholen", while only 20% attend education provided by public authorities. As mentioned, the process of depillarization has had little effect on the number of learners attending "bijzondere scholen".

The principle of "freedom to provide education" includes three aspects, namely: the freedom to establish schools (*freedom of establishment*); the freedom of philosophical and/or religious expression within the private schools of that particular denomination (*freedom of denomination*), and the freedom to arrange the educational programmes and the organization, structure and administration of the school in conformity with the school's philosophical basis (*freedom of institution*).

- **Freedom of establishment**

The freedom of establishment refers to the irrefutable right of all persons to establish schools conforming to their own philosophical and/or religious preferences. Before the acknowledgement of this freedom in the Constitution, the government had a monopoly regarding the provision of education (Hennekens, 1994:175). As a general rule, all education was provided by public schools, while private schools could only be established upon the government's approval.

However, the freedom of establishment is not an absolute right. As laid down in the Constitution, the government may set standards and other conditions which schools will have to meet in order to be financed from public funds. One of these conditions is that the particular private school should be attended by a minimum number of pupils. At present a primary school can only be established if a minimum attendance of 200 children can be guaranteed. In addition to these standards and conditions, the government may also determine the professional competence and moral integrity of teachers.

- **Freedom of denomination**

Freedom of denomination means that the principles on which teaching will be based will be determined by the founders of that particular private school. Traditionally, the notion of “denomination” is mostly linked to particular religious viewpoints.

In order to be entitled to public funding, each “new” denomination must be recognized as such by public authority. Those who wish to establish a new school will have to prove that their school will meet real needs and they will have to submit estimates regarding the expected number of pupils to be enrolled. This condition raises several problems, for example, since church and state are separate, the government must refrain from interpreting norms and values based on religion or conviction. Thus, when judging whether or not a denomination is entirely new, the government is not allowed to comment or judge on the nature of a particular philosophy of life and, therefore, the test can only be of a very superficial nature. Another problem is that it cannot be expected from the government to distinguish between the subtle theological differences of the various denominations. Therefore, it has recently been suggested that the criteria of a “new” denomination should no longer be used. Estimates of a minimum number of pupils should be the only condition for establishing a private school funded by public funds (Onderwijsraad, 1996). Such a system would also not be without dangers, for example, under the pressure of budgetary cuts, there might be a tendency to raise the minimum number of pupils required to establish or maintain a private school. This would endanger the freedom of denomination because religious groups could find it difficult to realise the required number in a particular area.

- **Freedom of institution**

Freedom of institution implies that the school may be organized and managed according to its official philosophical and/or religious viewpoints. This is subject to the condition that the school has to meet the minimum standards that are set by the Act of Parliament. In practice tension is often experienced between the “freedom of institution” and the minimum standards proposed by the government. For example, when the aims of education are enacted in the core curriculum, the subtle differences between particular ideological and/or religious viewpoints and the influence on (for example) the educational programmes or educational content such as the inclusion of, for instance the evolution theory, are not always recognised.

The regulations for appointing teachers are other examples of the possible tension between the freedom of institution and the minimum requirements determined by the state. The freedom of institution, in principle, guarantees the right of private schools to appoint teachers who conform to the religious or philosophical view-

point of the particular school. This right belongs to the core of the freedom to provide education (Vermeulen, 1994:5). Hence it is, for example, the right of a particular private school to dismiss a homosexual teacher on the basis of the religious basis of the school. This right is seriously restricted by the General Act on Equal Treatment (*Algemene Wet Gelijke Behandeling*). According to this Act, the sole fact that a teacher has a homosexual relationship is not a sufficient ground for dismissal. Dismissal is only permissible when it can be proved that the homosexuality of the teacher limits the level to which the school can realise its vision regarding, for example, its fundamental viewpoints. It is easier to prove such a linkage in the case of a teacher responsible for religious education than when a maths teacher is involved. In our opinion this Act is an unacceptable violation of the freedom of institution.

6.4 Financial equalization

Although the government is responsible for maintaining public schools, it is agreed that public education should not be favoured at the cost of private education. This is why the Constitution stipulates that private schools and public schools should be equally financed.

This financial equalization means that the average financial support per child should be equal for public and private education. Within certain limits, private schools are free to spend their funds according to their own needs. Presently the funding system is gradually transformed into a lump sum system. All schools will receive a lump sum covering their major expenses. The budgeting will be based on a set of objective criteria, for example, the number of pupils and the average costs per teacher. The school board will then be fully accountable for the way in which it administers funds in the budget.

As mentioned above, the financial equality of public and private education is an important element of the constitutional "freedom to provide education". Real free education does not exist unless the government is willing to provide sufficient funds in order to realise an attainable and sustainable provision of private education. This has been pointed out by the American political scientist Lijphart who states that: "The crucial feature of educational autonomy is not just the minorities' right to set up and run their own schools but the ability to make this right effective through full financial support of these schools" (Lijphart, 1996:260).

7. Comparative perspective

In a pluralistic society consisting of various minorities, freedom of education is an important means by which minority groups can preserve their own identity and promote national unity. It is of great importance for minority groups to be able to

educate their children in their own language, religion, history and culture. To reach these aims, Article 23 of the Dutch Constitution includes two types of human rights, namely the so-called classical rights as well as social rights. The expression of one's own identity within schools is guaranteed by the classical right. Freedom of denomination, establishment and institution are valuable elements in this respect. The social right is indispensable for putting these rights into practice. Lack of sufficient funding will make the freedom to provide education a pie in the sky.

Within the context of Christian guidelines regarding the educational rights of minority groups, the following characteristics of the principle of the "freedom to provide education" in the Netherlands as it is being realised by means of "bijzondere scholen" or "particular schools" can be of importance for the South African situation:

- **Minorities may need each other to influence change:** This point of departure implies that minority groups should understand each others' educational needs and support each other in their focused actions to provide in their unique educational needs. Support can also be mustered from minority groups in the international arena (cf. par. 4.1).
- **The acknowledgement of the (educational) rights of minority groups promotes national unity:** Because the security of these groups is guaranteed, they will contribute to the well-being of the country. Clearly it will also be the case in the South African situation (cf. par. 4.1).
- **The freedom of establishment, denomination and institution:** These kinds of freedom comply with the internationally accepted rights of minority groups to provide education in their own education institutions according to their unique educational needs. The recognition of the need of minority groups in the Netherlands to establish and maintain their own "bijzondere scholen" or "particular schools" increases the level to which these minority groups can identify with these schools. This increases the level to which the school community can accept ownership of the particular school, which is to the advantage of effective education. The realisation of these rights in the provision of education will comply with the expectations of several minority groups in South Africa (cf. par. 3.2 & 4).
- **The financial equalization:** The acknowledgement of this principle is a major contributing factor in the realisation of the educational rights of the different religious or denominational minority groups in the Netherlands. If this principle is applied in South Africa, it will also serve as a major factor in the provision of effective education to all groups, the majority as well as the minority.

- According to general **Christian guidelines** minority groups have rights in relation to other groups and therefore Christian guidelines contain nothing that prevent the realisation of the educational rights of minority groups.

8. Summary

This article indicates that it is internationally recognised that one of the important rights of minority groups is the right to receive education according to their unique educational needs. It is also accepted that the need of minority groups to establish and maintain their own education institutions will not be considered as unfair discrimination. The type of arrangement in the Netherlands regarding the freedom of provision of education is a good example of the way in which the needs of minority groups can be catered for.

Furthermore, it is pointed out that minority groups in South Africa experience a measure of opposition from the government, representing the majority in South Africa, regarding the establishment and maintenance of own educational institutions. It is clear, from the outline of the Dutch situation, that the acknowledgement of the educational rights of minority groups will promote the political aim of national unity and the social development of the South African society. It will, therefore, be to the advantage of the South African majority and the minority if the internationally recognised rights regarding minority groups are also applied to South African minorities.

Sources

- AKKERMANS, P W.C. *red.* 1987. De Grondwet, een artikelsgewijs commentaar. Zwolle : Willink.
- BASSON, C.J.J., VAN DER WESTHUIZEN, P C. & NIEMANN, G.S. 1991. Organisational theory (*In* Van der Westhuizen, P C *ed.* Effective educational management Pretoria : HAUM. p. 465-512.)
- BEELD, 6 September 1996:6.
- BEELD, 13 Januarie 1998:4
- CONSTITUTIONAL COURT. 1996 DP, NP & IFP v Gauteng Provincial Legislature. CCT 39/95.
- DE BRUYN, L. 1997 'n Christelike perspektief op minderheidsgroepregte Project report as part of the research report "Die voorsiening van onderwys aan minderheidsgroepe in Suid-Afrika" under leadership of prof. H J Steyn, Faculty of Education, PUCHE, Potchefstroom.
- DETRICK, S 1992. The United Nations conventions on the rights of the child. Dordrecht : Nijhoff
- DINSTEIN, Y. 1993 The degree of self-rule of minorities in unitarian and federal states. (*In* Brölman, C., Lefeber, R. & Zieck, M Peoples and minorities in international law. Dordrecht : Nijhoff. p. 221-235.)

- DRONKERS, J., DIJKSTRA, A.B. & HOFMAN, R.H. 1997a. Inleiding, waarom blijft de onderwijsverzuiling bestaan? (*In* Dijkstra, A.B., Dronkers, J. & Hofman, R.H. red Verzuiling in het onderwijs: actuele verklaringen en analyse Groningen : Noordhoff. p. 1-65.)
- DRONKERS, J., HOFMAN, R.H. & DIJKSTRA, A.B. 1997b. Verzuiling onder druk? (*In* Dijkstra, A.B., Dronkers, J. & Hofman, R.H. red Verzuiling in het onderwijs: actuele verklaringen en analyse. Groningen : Noordhoff. p. 321-350.)
- DP, NP & IFP v Gauteng Provincial Legislature
Kyk CONSTITUTIONAL COURT
- GRANT, C.A. & GILLETTE, M. 1987. The Holmes Report and minorities in education *Social Education*. 517-521, November/December.
- HANNUM, H. ed. 1993. Documents on autonomy and minority rights. London : Nijhoff.
- HENNEKENS, J.A.M. 1994. Het onderwijs: een aanhoudende zorg van Grondwet tot praktijk. *De Gemeentestem* 173-179, April 15.
- HEYNS, J.A. 1981. Dogmatiek. Pretoria . N.G. Kerkboekhandel.
- INTERNATIONAL HERALD TRIBUNE. 2 October 1997: 1.
- KESSEL, N.T.J.M. & VAN WIERINGA, A.M.L. 1997. Onderwijsvoorzieningen en schoolkeuze. (*In* Dijkstra, A.B., Dronkers, J. & Hofman, R.H. Verzuiling in het onderwijs: actuele verklaringen en analyse Groningen : Noordhoff p. 99-141)
- KLAUSKY, M. 1995. Small schools: the numbers tell a story. Chicago : Illinois University
- KOEKOEK, A.K. 1991. Onderwijsvrijheid en onderwijsbeleid in de jaren negentig *Staatscourant*. p. 5-6, Nov. 19.
- LAFOREST, G. 1993. Introduction (*In* Taylor, C. Reconciling the solitudes. Montreal : McGill-Queens University Press. p. vii-xii)
- LEENHART, G. 1997. Vrijheid van onderwijs in vijf Europese landen Deventer : Willink.
- LERNER, N. 1993. The evolution of minority rights in international law. (*In* Brölman, C., Lefeber, R. & Zieck, M. Peoples and minorities in international law. Dordrecht : Nijhoff p. 77-101.)
- LIJPHART, G. 1988. Verzuiling, pacificatie en kentering in de Nederlandse politiek Haarlem Brecht.
- LIJPHART, A. 1996. The puzzle of Indian democracy: A consociational interpretation. *American Political Science Review*, 90(2):260.
- MARSHALL, P. 1983. Human rights theories in Christian perspective. Toronto : Institute for Christian Studies.
- MENTZ, P.J. 1990. Organisasieklimaat in sekondêre skole Potchefstroom : PUCHO (D.Ed-thesis.)
- MENTINK, D. 1997. Over Grondwet en grondwetsuitleg; het debat over de grondwettelijke bepalingen insake het onderwijs: 1796-1996. (*In* Staatrechterkring. Twee eeuwen grondwetgeving in Nederland. Rotterdam : Staatsrechtconferentie p. 120, 131.)
- MKHATSWA, S. 1997. Commemoration lecture. Paper presented at a J. Chris Coetzee lecture at the Potchefstroomse Universiteit vir Christelike Hoër Onderwys, Potchefstroom 26 February
- ONDERWIJSRAAD. 1996. Richtingvrij en richtingbepalend: advies aan de regering. Januarie
- PRETORIUS, C. 1996. Probleme kom as wet nie die beleid uitstippel nie. *Beeld* 4, September.
- RSA
Kyk SOUTH AFRICA (REPUBLIC)
- SCHRIEWER, J. 1992. The method for comparison and the need for externalization. methodological criteria and sociological concepts. (*In* Schriewer, J. & Holmes, B. eds. Theories and methods in Comparative Education Frankfurt am Main : Lang. p. 60-92)

- SOUTH AFRICA (REPUBLIC) 1996a. Constitution. Pretoria : Government Printers.
- SOUTH AFRICA (REPUBLIC) 1996b. National education policy act. Pretoria : Government Printers
- SOUTHIRAM, R. 1995. The education of minorities. Typologies, issues and effects. Paper presented at international conference on: "Education and change". University of South Africa, September 18-22
- SPENCER, D. 1992. Verbal information during interview in London on 12 April 1992. Written report of interview in possession of author of this article.
- STEPHEN, V.P., VARBLE, M.E. & TAITT, H. 1993. Instructional strategies for minority youth. *The Clearing House*, 67(2):116-120.
- STEYN, H.J. 1995. The education system of Canada. (*In* Dekker, E.I. & Van Schalkwyk, O.J. Modern education systems. Durban : Butterworth p. 497-534.)
- STEYN, H.J. & VAN DER WALT, J.L. 1997. Universaliteit/individualiteit en kringsoewereiniteit as kenmerke van onderwysvoorsiening aan minderheidsgroepe. *Tydskrif vir Christelike Wetenskap*, 33(1ste en 2de Kwartaal) 1-12.
- STEYN, H.J. & VANDERSTRAETEN, R. 1997. Minority group education in South Africa: A comparative perspective. Potchefstroom : PUCHO.
- TAYLOR, C. 1993. Reconciling the solitudes. Montreal : McGill-Queens University Press
- THORBERRY, P. 1991. International law and the rights of minorities. Oxford : Claredon.
- UN
See UNITED NATIONS
- UNITED NATIONS. 1992. The United Nations Convention of the Rights of the Child. (*In* Detrick, Sharon. The United Nations conventions on the rights of the child. Dordrecht : Nijhoff. p. i-xvi.)
- UNESCO
See
UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANISATION
- UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANISATION
1960. Convention against discrimination in education. (*In* United Nations. Human Rights: A compilation of international instruments. New York : United Nations. p. 416.)
- USAID. 1996. Decentralizing education: The BESO/Tigray case study. Washington : SARA
- VAN DER WESTHUIZEN, P.C. 1991. Perspectives on educational management and explanation of terms. (*In* Van der Westhuizen, P.C. ed. Effective educational management. Pretoria : HAUM. p. 11-60.)
- VERMEULEN, B.P. 1994. De tijdelijke wet arbeidsbemiddeling onderwijs. Zwolle : Willink.
- WEGGEMAN, J. 1997. Het conflict Groen-Van der Bruggen over de onderwijswet van 1857. *Zicht, Studieblad van de Staatkundig Gereformeerde Partij* 15-19, Februarie.