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The Freedom of Religion and the Freedom of Education in 21st Century Belgium: a Critical Approach

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Abstract

In spite of recent tendencies of secularization and religious pluralism, most Belgian schools are Catholic schools, where Roman Catholic religious education is a compulsory subject. As we will argue, this can lead to a *de facto* undermining of the freedom of religion and education and a shift in the system is therefore required. In the long term, the number of Catholic schools should be in proportion with the number of students/parents choosing these schools. In the short term, however, this strategy is not recommended and for pragmatic reasons, we propose a system in which religious education in substantially subsidized faith-based schools is no longer compulsory. We will argue that such a system does not lead to an infringement of the (internal) freedom of religion of faith-based institutions and that it will guarantee more educational and religious freedom than the current system does.

Keywords

freedom of religion; freedom of education; secularization; faith-based schools; religious education; Belgium

1. Introduction

Despite recent tendencies of secularization and religious pluralism, most Belgian schools are Catholic schools, where Roman Catholicism is a compulsory subject. As I will argue, this can lead to a *de facto* undermining of the freedom of religion and education and in order to maximally guarantee these freedoms for all students, a substantial reform of the Belgian system is required. Ideally, the system should evolve into a system in which the number of faith-based schools is in accordance with the number of parents/students who are in favour of these schools and in which there are sufficient secular alternatives (state schools). For pragmatic reasons, however, this will not be the most recommended solution in the short term and therefore, I will plead for an interim policy in which religious education classes and other faith-based activities are no longer obligatory for all students in substantially subsidized (faith-based) schools. As opposed to what some people say, this does not lead to an infringement of the autonomy of faith-based schools. Moreover, in order to guarantee the freedom of

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education and the freedom of religion not only in a *formal*, but also in a *practical* way, such a system is in fact required in the actual educational context in Belgium.

This article is divided in three main parts: after a brief historical sketch (2), the recent sociological situation concerning religion in Belgium is outlined, with particular focus on secularization, religious diversity and depillarization (3). In a second part, I will elaborate on the identity of Catholic schools today (4) and on the aims and scope of the subject Roman Catholicism (5). Finally, I will do some recommendations in order to improve the Belgian educational system (6-7).

2. Belgium and its Turbulent History of Education

Since early Belgian history, the Belgian state is characterized by the prevailing dominance of the Catholic Church. Partly as a result of this socio-cultural monopoly, this Church established many social organizations and institutions in Belgium, for instance hospitals, schools, youth movements, health insurance, a political party, media and libraries. Besides, also liberals and socialists established their own organizations and associations, but these *pillars* were (and are) significantly smaller and far less influential than the Catholic pillar.

Different from the Northern Netherlands, Roman-Catholicism remained the dominant religion in the Southern Netherlands. This religious divergence between North and South finally resulted in the Belgian independence: both Catholics and liberals did not agree with King Willem I's interfering policy in favour of the protestants (particularly his educational policy was not appreciated), and in 1827-1828 both parties joined each other in their fight against the king, which led to Belgian independence in 1830.

In 1831, the Belgian Constitution was signed. This constitution was probably one of the most liberal constitutions, in which several rights and freedoms (e.g. the freedom of person, religion, education, press and assembly) were mentioned in an explicit way. In addition, the Belgian law is committed to an active policy of state support for religion. In art. 181 (previously art.117) for instance, it is stated that the state is responsible for the salaries and pensions of the "ministers of religion" (§1) and of "representatives of organizations recognized by the law as providing moral assistance according to a non-denominational philosophical concept" (§2). In art.24, it has been added that "all pupils of school age have the right to moral or religious education at the community's expense" (§3)². In this same article (§1), we also read that "schools run by the public authorities offer, until the end of compulsory education, the choice between the teaching of one of the recognized religions and non-denominational ethics teaching". Since both paragraphs have always been read in mutual accordance, the state pays for wages and pensions of teachers of the recognized worldviews in public (state) schools

² Since the Constitutional Reform of 1988, education is not a federal matter any longer but a *regional* matter. Accordingly, the Flemish, French and German Community each have their own Minister of Education and their own decrees concerning education.

and in addition, it pays the wages and pensions of RE teachers in private (mainly Catholic) schools as well.³

Additionally, art.24 (§1) also establishes the freedom of education.⁴ This was of an enormous importance for church-state relations in Belgium and the impact of this freedom on the Belgian educational landscape is, until today, undeniable: since the Catholic Church in Belgium tactically used the freedom of education, but also the freedom of association and religion, this institution could develop a huge network of schools – a network that still dominates the Belgian educational landscape: with 68% of all Flemish and 52% of all Walloon schools, Catholic schools are still in a majority position in Belgium today.

Unlike the Catholics, liberals, socialists and humanist freethinkers were not in favour of their ‘own’ (humanist/socialist/liberal) schools, but they pleaded for a large number of state schools. However, this was not so evident in Catholic Belgium in the past. Accordingly, Belgian history of education is characterized by polarization, conflict and controversy, which culminated in a serious battle over schools. After a long period of political unrest and disagreement, a compromise was reached in 1958: the *schoolpact*. This pact was sealed in the schoolpact-law of 1959 and thirty years later, the basic principles of this law were implemented in the revised Belgian Constitution (1988).

In the schoolpact-law, four principles were legally established: (1) the recognition of public (state) and private schools; (2) the parental choice between a state or a private school; (3) state subsidies for private schools; and (4) pupils in (primary and secondary) state schools have the right to choose between “education in Catholic, protestant or Israelitic religion [...], and in non-confessional ethics” (art.8).

As a result of the constitutional freedom of religion and of the socio-political dominance of the Catholic pillar, this particular pillar already obtained a monopoly position in the Belgian (and particularly the Flemish) educational landscape before the schoolpact was signed. As a result of this schoolpact and its constitutional establishment, this position could be maintained and today, the subsidized Catholic school network, in which more than 60% of all Belgian students are enrolled, is still the largest provider of education in Belgium: in the Flemish Community, 62% of all primary and 75% of all secondary schools are private – mainly Catholic – subsidized schools, with a similar percentage

³ Public schools are run by the state and we distinguish here between schools run by the Flemish/French/German Speaking Community (Community Schools) on one hand, and schools run by public authorities (municipalities, cities, provinces) on the other. Private schools are run by private institutions, which is in Belgium mainly the Catholic Church.

⁴ In full, art.24 § 1 reads:

Education is free; any preventive measure is forbidden; the punishment of offences is regulated only by the law or federate law.

The community offers free choice to parents.

The community organises non-denominational education. This implies in particular the respect of the philosophical, ideological or religious beliefs of parents and pupils.

Schools run by the public authorities offer, until the end of compulsory education, the choice between the teaching of one of the recognised religions and non-denominational ethics teaching.

of students; in the French Community, there are 42.5% primary and 61% secondary private (mainly Catholic) schools. Since Catholic schools meet several objective criteria of quality and are principally accessible for all students, they are officially recognized and extensively subsidized by the state.⁵

For a long time, Catholic schools were schools *from* and *for* Catholics: the majority of the Belgian population belonged to the Catholic Church and it was considered obvious that education would be in the Catholic tradition. Every school day started and ended with a prayer or a moment of reflection and lunch was only allowed after a word of thanks to the Lord (grace). In addition, special liturgical times like the Holy week, Lent and Advent received special attention and on Holy Days and special Christian occasions, the school organized liturgical activities, which were of course attended by all staff and students. Besides, all students were enrolled in a catechetical/confessional subject Roman-Catholicism, which was often taught by clergymen. This kind of Catholic education was quite evident for a long period, but in recent decades, we can observe a change as a result of secularization and increasing religious diversity.

3. Belgium in the 21st Century: Secularization, Religious Pluralism and Mental Depillarization

3.1 Secularization

For a long time (until the 1960s), Belgium was mainly a Catholic nation, but like many western nations, Belgium could not escape secularization, which mainly resulted in a decline of Roman Catholicism.⁶

First, there is a massive decline in *church attendance*: in 1967, almost 50% of the Belgian population went to Sunday Service, in 1981 this number decreased to 30% and in 2009, only 11% of the Belgian population attended Church at least once a week. Given the fact that a substantial part of these people are older than 65 years and that participation of youngsters is very low, we can expect that this number will decrease even more in the future. Besides, the number of Belgian citizens who attend church at least once a month decreased, particularly among younger people: 75% of the people born before 1940 attended church at least monthly (37%) or with Holy days or special celebrations (38%). For the youngest generation, this number decreased to 31%, of which only 2% frequently go to church.

In addition, there is a clear decrease in Catholic *rites de passage*: in 1967, 94% of all Belgian children were still baptized, 86% of all marriages were blessed in church and 84% of all funerals took

⁵ From 2002 onwards, subsidies for working costs (100%) and staff (100%) in Flemish private and public schools are equal, taking into account 'objective differences' such as transport cost for pupils and the organization of religious subjects, which is more expensive in public schools. For infrastructure (buildings), schools of the Flemish Government receive a 100% subsidy, while private schools, but also communal, municipal and provincial schools get a 60% subsidy. In the French Community, the same number of subsidies is given for staff (100%) in public and private schools, but different from the Flemish Community, a difference is made between subsidies for infrastructure in Community schools (100%), communal, municipal and provincial schools (60%) and faith-based (mainly Catholic) schools (no direct subsidies for infrastructure). Another difference is that the French Community pays 100% of the working costs for Community schools, while other schools receive 75%.

⁶ Statistics are based on Botterman & Hooghe 2009; Dobbelaere, Billiet & Voyé (2011); Billiet, Abts & Swyngedouw (2013).

place in the church. In 2007, this number was significantly lower: 58% of the funerals in Belgium took place in the church and 55% of Belgian children were baptized, which is clearly a decrease compared with 1967. Even more striking is the decrease in Church weddings: in 2007, only 26% of the Belgian weddings were celebrated in the Catholic Church. In addition, many people do not trust in the Catholic Church any longer, which is probably the result of several scandals of child abuse in this Church and of the way this institution did (not) handle with these cases.

Particularly the post '60 generation (born between 1970 and 1984) and the youngest generation (born after 1984) are more and more secularized and the number of people who call themselves atheist or a-religious has increased: from those people who were born before 1940, only 19% identify with atheism or a-religiosity; this number increased to 55% of the post '60 generation and 69% of the youngest generation.

3.2 Religious Pluralism

As a result of the labor migration programs during the 1970s on one hand, and the more recent increased mobility and globalization on the other, Belgium is also characterized by an increasing religious plurality. Today, 50% of the Belgian population still identify with Catholicism. In addition, 8% are affiliated with a non-Catholic religious denomination. Some Belgians (2.5%) belong to a different Christian population: this is mainly the Protestant Church (with its many denominations), but there are also several Christian Orthodox and Anglican communities in Belgium. Besides, 0.4% of all Belgians belong to the Jewish community and 5-6% of the Belgian population identify as a Muslim. In the larger cities, this number can increase to more than 10% and in the region of Brussels-Capital, as many as 20% of all inhabitants belong to Islam. Finally, 0.3% of the Belgian population identify with Buddhism, while smaller religious communities such as the Jains, Hindus, Sikhs, Jehovah's witnesses, Mormons and Scientology are also present in Belgium.

In addition, we observe that only 9% of all Belgian citizens who do not identify (any longer) with a particular worldview, explicitly categorize themselves as atheists. The other 33% do not explicitly identify with a particular worldview, neither do they see themselves as atheists. In this group, some people combine several aspects of diverse religious traditions and accordingly, a 'religion à la carte' is constructed. Other people of this group appreciate several spiritual, eastern traditions, without identifying with a particular religious tradition. Finally, some people admit to believe in 'something', but without any affiliation to an existing religious tradition.

3.3 Mental Depillarization

The diversification, but also the secularization and related decrease of church attendance primarily led to a deconfessionalization of the Catholic pillar. The reason why many people (and thus also many parents) choose Catholic organizations (and thus also Catholic schools) has quite often nothing to do any longer with their religious convictions. Even though leading people with top functions in Catholic

organizations still adhere to Catholicism or Christianity, this is not the case any longer for most employees in these organizations, neither for their members: not all teachers and school principals in Catholic schools are still Catholics, and a fortiori, the same is true for students.

As a result of this mental depillarization, there have been some debates about the ‘Catholic’ or ‘Christian’ identity of several Catholic organizations. Some of them abandoned their Catholic/Christian identity and accordingly changed/adapted their name. Other organizations chose to retain their Christian affiliation, quite often for historical reasons. Finally, some organizations try to give more attention to their Catholic/Christian identity, but this is often in conflict with the identity of many members and employees. In this regard, Catholic schools are challenged to reflect about their identity.

4. Catholic Schools and their Identity

Because almost 70% of all Flemish schools are Catholic, the mental depillarization also occurred there.⁷ For a long time, Catholic schools have been schools from and for Catholics, but today, this is not the case any longer: many students, but also teachers and school principals, do not affiliate with Catholicism. Accordingly, they do not need to be baptized any longer (as long as they don’t teach Roman Catholicism), but they must – at least formally – agree with the declaration of loyalty to Catholic education and with the school’s Christian identity. As a result of the aforementioned sociological changes, this identity has been discussed during the last decades and in order to avoid further eroding of the Christian identity, without “reconfessionalizing” (Catholic schools are schools from and for Catholics), the Flemish Catholic umbrella organization for education (VSKO) has very recently opted for a “*Catholic school of dialogue*”. This is a school wherein students are challenged *to think about their own identity and to dialogue about this identity with co-students*, whatever their religious affiliation may be.

At first sight, this seems not to be different from other (state) schools, which handle with religious diversity in an “active pluralistic” way. However, the General Secretary of the VSKO, Lieven Boeve, clearly states that “the definition of *dialogue* in the Catholic schools [... is] not a *value-free* fact”, but is based on the Catholic and Christian tradition: in particular the idea that human beings are created by God and that this same God will deliver mankind, is the basis of the Catholic school of dialogue: “Recalling to mind [the awareness of being positioned in a relation of humility toward God] on one hand [...] and introducing the Christian voice in the dialogue on the other, that is the project of the Catholic school of dialogue.” Christianity is thus not only the *source* for dialogue, but also a *unique voice* within this dialogue: “We expect that Christians at school will in one way or the other become responsible, in their diversity, to introduce that Christian voice in the school. Non-Christians are invited to create, from within their own sources and inspiration, a framework in which this can happen.” (Boeve 2014)

⁷ In the next paragraphs, I will focus on Flemish Catholic schools, but similar tendencies can be found in Catholic schools of the French and German Communities.

In official terms, Catholic schools are still “built on the person of Jesus Christ” and based “on the attitude to life that has grown out of the biblical-Christian tradition of faith, in solidarity with the church community [...]. In a Catholic school, people live ‘in the Words of our Lord’ [and it is possible to] stir ‘joy and hope’ in young people from within this evangelical message” (*Mission statement of Catholic Schools in Flanders*). These young people “are encouraged to fill in their existence in a creative way [...] as free human beings in relation with God [...]” Put differently, the Catholic school is “a society of work and life in which people experience the Christian faith every day in community [...]” (*Mission Statement*).

In order to facilitate this, the Catholic school does not only organize lessons in Roman-Catholicism (an obligatory 2 hours a week subject), but also moments of prayer and sacramental liturgies. In some schools, these pastoral activities are still compulsory, but this is not the case in all schools. Particularly in cities and their agglomerations, where many Muslim students attend Catholic schools, Catholic activities are no longer organized or they are no longer obligatory. This conforms with the view of the Recognized Authority for Roman-Catholic education, which declared in a note of 2000 (*The subject Roman-Catholicism in Catholic primary schools with a high Number of Muslims*) that it is “required to handle very carefully arrangements for prayer for Muslims in Catholic schools, and to guarantee especially the respect of personal freedom of Muslim students. It is in any case not allowed to make active participation in a Christian prayer, in any kind of form (classical prayer, prayer service, sacramental or other liturgical service) compulsory [...]”.

It is, however, questionable whether this openness is sufficient, since this same note says that the Recognized Authority for Roman-Catholicism – and with this authority also the Catholic school network – has chosen “to offer, as religious classes, *only classes in Roman-Catholicism*, with attention to diversity and in an open dialogue” (emphasis mine). Given the non-Catholic background of many students in Catholic schools, it is questionable whether this is still desirable.⁸

5. The Subject Roman-Catholicism in 21st Century Belgium

Since the new syllabi of 2000, the subject Roman-Catholicism is no longer catechetical but ‘dialogical’ and as such, it will meet the religious plurality of students. However, if we take a closer look at these syllabi, we observe that Christianity still has a priority position and that other religions are presented from within the ‘own’ Christian religious tradition. Jesus, his message and the first Christian communities are “the source and point of reference” (*Syllabus Roman Catholicism for Secondary Education* p.19) and one of the aims of the subject is “to learn from Jesus’ words and deeds in his contact

⁸ In a recent newspaper article (*De Standaard*, January, 20, 2015), Lieven Boeve said that he does not exclude the introduction of Islam courses in several Catholic schools in the future. However, if this will ever happen, these schools should, in order to treat all pupils equal, also take into account the convictions of atheists (who form a substantial group in most Catholic schools) and of adherents of other faiths. Unfortunately, Boeve did not say anything about these groups and this makes his idea controversial.

with people and [from] the first Christian societies” (p.19). Hence, one of the “basic options” for the subject is still “the richness and power of Christian faith” (p.22).

Even though there is attention for interreligious dialogue, this dialogue always starts from the Christian faith: “*the core confession – that Jesus is the Savior of the world, in which God has enunciated Himself* – is so decisive, so engaging and so rich, that [this confession] will precisely become more clear and meaningful in the interaction with other religions. For it is exactly through this contact with other religions that people will become aware of their own confession and of *the unique identity of Christianity*. [...] In the communication with other religions will their own confession and its scope be enriched or can the vocation for conversion or reconciliation sound even louder” (p.30) (emphasis mine).⁹

Actually, Roman-Catholic education is thus still a (semi-)confessional subject: even though its aim is not (any longer) to convert students to Catholicism, the subject is still based on the idea that Christianity is a special and privileged source of inspiration. Philosophical and ethical themes are therefore always approached “more or less from within a confessional point of view” (Derroitte, H., Meyer, G., Pollefeyt, D. and Roebben, B. 2014, 50). Besides, the Church (i.e. the Recognized Authority of Roman Catholicism) is still responsible for teacher training, appointment and inspection of the subject and syllabi are still made by this Authority.¹⁰ As a consequence, the subject is, despite its principal openness and its focus on dialogue, still based on a particular religion and accordingly, not all parents (and students) who ‘choose’ a Catholic school, approve of this approach.¹¹

In Flanders, 80% of all students in primary and secondary schools take Roman Catholic education, mainly in Catholic schools.¹² However, this situation is no longer in accordance with sociological reality: only 50% of all Belgian citizens identify with Catholicism and even more important in an educational context is the fact that 69% of the youngest generation affirm that they are a-religious or atheistic. It is therefore not a surprise that only 50% of the students of secondary schools in Flanders agree that the RE subject taught at school is in line with the religious views at home.¹³

⁹ In the French Community, Catholic religious education has a similar aim: “awakening sense of quest for the meaning of life in existential issues – in confrontation with the many voices and especially the voice of Christianity” (Derroitte, H., Meyer, G., Pollefeyt, D. and Roebben, B. 2014, 50). Also there, the subject thus remains within the Christian framework.

¹⁰ Only when teachers have a mandate (which can only be given by the bishop of the diocese), can they, at request of the bishops, be appointed by a school as RE teachers. In order to receive such a mandate, teachers must be baptized and sign a statement of commitment. This mandate opens the possibility to work as an RE teacher, but it does not give any access to a definite appointment. In order to get such an appointment, the vicar-general of the Catholic diocese evaluates the prospective teacher (his/her religious background, the need for additional training, etc.) and can then submit him/her for a specific job at a specific school. This procedure also proves that Roman-Catholicism is still taught from within the Catholic tradition.

¹¹ It is also noteworthy that in several (public and private) *primary* schools, the preparation for the first Communion is also integrated in the religious education classes, which proves – again – that the subject is not always as open and dialogical as it claims to be.

¹² Statistic Yearbook of Education 2013-2014.

¹³ Survey by order of the Flemish Government and as part of equal educational opportunities (Ministry of the Flemish Community, Department of Education 2006). In the first two years of Secondary education (students aged 12-14), respectively between 59.45 and 50% of the students say that the RE classes are in line with the religious

Quite often parents choose a Catholic school for practical reasons ([perceived] quality of education, school climate, neighbourhood, programmes offered and image of the school)¹⁴, while the Catholic identity is for many parents, and even more for their children, not important any longer.¹⁵ These tendencies on one hand, and the large number of Catholic schools on the other, mean that there are *de jure* sufficient alternatives for those parents who do not want their child(ren) to take Roman-Catholic education, but *de facto* this is not always the case. Even though the state provides transport for students to state schools in order to guarantee the freedom of education, it cannot be taken for granted that this is still sufficient today. If there are, for instance, three Catholic schools at a walking or biking distance from a student's residence, while the nearest state school is at a distance of 10 km, for many parents it is more obvious to choose a nearby Catholic school, even if this is not in accordance with their own worldview. Not surprisingly, the Catholic identity of Catholic schools is, particularly in large cities and their agglomerations, no longer in accordance with the identity of many students and their parents: "Even within Catholic schools many of the students do not consider themselves Catholic anymore, even if they are baptized Catholics. Practicing students belong to the absolute minority even within their own schools." (Derroitte, H., Meyer, G., Pollefeyt, D. and Roebben, B. 2014, 47-48)

6. Freedom of Religion and Freedom of Education

As stated in the ECHR (art.2, 1st protocol), the right to education implies that "the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions". Also in the UDHR (art.26) we read that "Parents have a prior right to choose

views at home. In the next two years (students aged 14-16), this is the case for about 50% of the students. In the last two years of secondary schooling (students aged 16-18), this seems to be true for 63.89% of the pupils in more general studies, while this number is significantly lower (46%) for students in technical and vocational training. Unfortunately, only 250 students participated in this survey and in order to get a more representative view, a large-scale survey is needed.

¹⁴ In 1997, the Flemish Government organized a small survey on this issue (Ministry of the Flemish Community, Department of Education 1997), but in order to get a more representative and actual view, a new, large scale survey is required.

¹⁵ According to a recent survey by theologian Didier Pollefeyt in 68 Flemish Catholic schools, there is a 'massive support' for the Catholic school of dialogue among teachers, school principals, parents and clergy: 84% are in favour of this model, 12% are indifferent and only 4% are against this model. However, this image should be nuanced: most of the interviewees seem to agree with the model of dialogue, but apparently, they also agree with other models: 50% of the interviewees are also in favour of the 'colourful' school (this school respects religious diversity, in spite of the 'own' identity), 28% are 'not against' this 'colourful' school and only 22% are explicitly opposed to the 'colourful' school. This shows that the *explicit Catholic character* of the Catholic school seems to be less important than the researchers suggest. Also important is the fact that the published survey data do not make a difference between parents on one hand (those who *make use* of the Catholic school) and school principals, teachers and clergy (those who *realize* the Catholic school in practice) on the other. In order to get a more nuanced image, this distinction should be made (and hopefully this will be made in future publications on this research). Furthermore, we observe in the survey that students are far less inclined to support the Catholic school of dialogue, which is in line with the aforementioned tendencies of atheism and a-religiosity among youngsters: 62.5% of the students favour the 'colourful school', while 50% are (also) in favour of a 'school of dialogue'. In addition, 29% is against the dialogical model. Since these students are the parents of the next generation of students, I expect that the so-called 'massive support' for the Catholic school of dialogue will decrease even more in the future. Finally, it is noteworthy that most pupils see less dialogue in practice than teachers and staff claim to realize (Pollefeyt & Bouwens 2013).

the kind of education that shall be given to their children.” In order to realize this, the state can subsidize schools with a religious identity, but this is not required. However, *if* the state opts for a policy of support, it should always guarantee sufficient secular alternatives (state schools) because the absence of a sufficient number of these schools can lead to a *de facto* situation in which parents *have to* enrol their children in a faith-based school that is not in line with their own religious convictions. Accordingly, Jeroen Temperman (2010, 872) rightly states that “the minimum standard international human rights law provides is that all persons, whether secular or religious, must be able to have public school education if they so desire”.¹⁶ As a result of the high number of Catholic schools, a substantial majority of Belgian students attend these schools, where Roman-Catholicism is a compulsory subject, but this is not in accordance with the religious affiliation of the students any longer.

Given this new sociological situation, it seems somewhat bizarre that a profound reform of the pillarized education system is not on the political agenda yet. Occasionally, some people plead for a unified system of education¹⁷, but the different school networks and most politicians and policy makers are strongly opposed to such a system. In addition, it seems that most parents do not lose any sleep over this issue. For this reserved attitude, there are several reasons.

First, the quality of Belgian schools is very good and accordingly, there seems to be no reason for profound changes. Because many parents are (still) convinced that Catholic schools are better schools than state schools, they often ‘choose’ a Catholic school, even if they are atheists or adherents of another faith. Since Catholic schools and RE classes are in practice significantly ‘deconfessionalized’ and accessible for all students who agree with the school’s conditions, it seems that many parents do not care that much about RE classes or about ‘real’ religious and educational freedom.

In addition, politicians and policy makers do not want to change the pillarized education system for the sake of peace: for several decades, Belgian (educational) policy was characterized by religious conflicts which came to an end in 1958. In order to maintain the peaceful co-existence of the different pillars, it is safer to keep these pillars (or what is still left) intact. It is also noteworthy that, during history, the different pillars obtained several privileges which they do not want to lose. As long as Catholic schools camouflage their “religious decolouring” and as long as they frequently stress their

¹⁶ Some readers might object that even state schools are not strictly neutral or impartial, but that they are also based on a specific pedagogical and didactical approach. This is indeed the case, but different from faith-based schools, no single religion or worldview has a priority position in state schools, and all religions (and non-religious convictions) are treated with equal respect. Accordingly, this approach could be accepted by all reasonable and rational citizens, and for this reason state schools, in contrast to most private schools, can be labelled as neutral or impartial.

¹⁷ During the 1970s, some progressive young Catholics were in favour of ‘pluralist’ schools, but the implementation of these schools was mainly opposed by conservative Catholics. More recently (2002), several liberal politicians pleaded for more subsidies for Catholic schools, but only under the condition that they would become pluralistic, which would imply, for instance, that they should organize *different* RE subjects. This proposal has led to some commotion and particularly Community schools and Catholic schools where strongly against it. In 2014, there was also a plea for one pluralistic school network because the pillarized model should be much too expensive. Unfortunately, a profound political discussion was, once again, absent and the existing education networks strongly defended their own privileges within the current system.

“affinity with the forefathers” (Huyse 1987, 62), they can still reap the fruits of the schoolpact, and that is exactly what happens today.

Finally, several politicians and policy makers (in particular the representatives of the different school networks) defend the current system and argue that profound (structural and ideological) changes will lead to an infringement of the freedom of education. Without a doubt, this freedom of education is important, but quite often do policy makers forget that *real* freedom of education does not only imply freedom *to establish* schools, but also freedom *to choose* a particular school. As I argued, this choice is currently threatened: formally, the freedom of religion and education are still guaranteed, but *actually* this is not always the case. Therefore, a profound change is required.

One possibility is an adaptation of the number of faith-based schools in accordance with the number of parents/students asking for these kinds of schools. If it becomes clear that less than 75% of Flemish parents/students are in favour of Catholic secondary schools, there is in fact no reason for the state to subsidize such a high number of secondary Catholic schools – and the same is true for primary schools. In this case, the state could use a part of these subsidies for schools with another religious character – for instance Islamic, Jewish or protestant schools: when the state chooses to outsource a part of its educational services to private (religious) organizations (which is the case in Belgium), these organizations should be treated equally and this means that diverse religious and non-religious schools should have equal opportunities to get subsidies when they offer quality education in an efficient way. As said by Greenawalt (2009, 354): “*all who provide the service equally well should be treated the same*”.

It is, however, important that such a plural educational system does not lead to (religious) segregation and that all pupils – whatever their religious affiliation may be – are educated as critical, autonomous citizens (see e.g. Kymlicka 1999, 88-90; De Jong & Snik 2002). Additionally, the state should guarantee an adequate number of ‘neutral’ or ‘secular’ schools for parents and students who do not identify with a particular worldview or who consciously choose education that is not based on a particular worldview. In order to realize this, the Belgian government should give more subsidies to state schools since these schools are underrepresented.

For practical reasons, however, it is not recommended to implement such a policy as soon as possible since that can work counterproductive. Because the Catholic school network has a lot of expertise and experience in education, and because Catholic schools are at least *in principle* open for *all students* – whatever their religious affiliation may be¹⁸ –, the Belgian state can, for pragmatic reasons, choose to continue its policy of support, but only under the condition that *substantially supported faith-based schools* are not only *de jure*, but also *de facto* accessible for students with different religious convictions. Probably many parents and students (including those with a Muslim background) do not

¹⁸ Flemish Decree on equal educational opportunities I, 28-06-2002 (B.S. 14-09-2002), chapter 3: right to register, art. III.1.

have a problem with the Christian inspiration of Catholic schools in Belgium, but it cannot be taken for granted that they agree with the compulsory Roman Catholic education classes (and with other Catholic or Christian activities if they are compulsory). In order to guarantee the freedom of education and the freedom of religion both *in theory and in practice*, the Belgian state could therefore choose a policy in which substantially subsidized Catholic schools make their religious activities and religious education classes optional. Under these conditions, students with a different worldview can be enrolled in faith-based schools, without being obliged to participate in religious activities and classes they do not endorse.

If several Catholic schools still prefer a more explicit religious identity and if they will, accordingly, make their RE classes and other religious activities compulsory for all students, the state can decide to diminish subsidies here and to use them for schools with a more open policy. A similar educational policy is for instance common in France, where faith-based schools receive a considerable amount of state subsidies, on condition that they make their religious activities (and thus also their RE classes) optional. In other words, faith-based schools (and other private schools) are always free to fill in their pedagogical mission as they see fit, but when their policy leads to a *de facto* undermining of the freedom of religion and education, the state can diminish or even cancel subsidies. As said by Harry Brighouse (2002, 251), “*religious schools [...] have the choice to opt out. They are simply being presented with a new option: more financial security in return for fulfilling a secular function, or refusing that security and refusing the secular function*”. Since faith-based schools are still free to choose how to fill in their pedagogical project, their religious freedom will still be guaranteed.

Finally, we should be careful that the proposed policy does not exclude religious education from the curriculum altogether. As said by Tim Jensen (2011, 131), religious education is “a must for an open society and a secular state” and it should therefore be a part of every regular school curriculum in all state run public and publicly funded private schools. However, given the fact of religious diversity, this kind of *compulsory religious education* should be methodologically a-religious and not (semi)-confessional as is the case now in Belgium.¹⁹ Only then can real freedom of religion and education be guaranteed.

7. Conclusion

In 2008, the Human Rights Committee criticized Ireland because the vast majority of primary schools in Ireland are denominational (Catholic) schools with a religious integrated curriculum and because

¹⁹ Because non-confessional RE is, compared to confessional RE, relatively new in most countries, it is not a surprise that its implementation does not always go smoothly (see e.g. *Folgerø and others v. Norway* [Appl. no. 15472/02]). This, however, does not imply that a compulsory subject about religion would be impossible or that it would definitely infringe on the freedom of religion. Unfortunately, I cannot go into detail here, but I am, for several reasons, quite optimistic about the possibility and desirability of non-confessional RE in secularized and religiously diversified societies. (See on this topic e.g. Franken & Loobuyck 2011; Loobuyck & Franken 2011; Franken & Loobuyck 2013; Franken 2014).

there are not enough secular alternatives.²⁰ Five years later, a father of a Muslim student went to the Court of Paderborn (Germany) because he wanted to get his son, who was enrolled in a Catholic school, exempted from religious lessons. Even though the Court decided in favour of the school, the judge concluded that denominational schools cannot dismiss students of another faith if there is no state school at a reasonable distance of the student's residence. In the Paderborn case, there was a state school at a 'reasonable distance' (although we can wonder how reasonable a total travel time of 2 hours per day [which was the judge's criterion] is for a young student) and for that reason, the court argued in favour of the school. If, however, there were no state school at a 'reasonable' distance, then the student's dismissal would probably have been deemed unjustified.²¹

These two cases make clear that sometimes a shift in education policy is required in order to guarantee real freedom of religion and education. Even though Catholic schools in Belgium have a very open policy, the compulsory subject Roman Catholicism can be offensive for some parents/students and it can even lead to a *de facto* undermining of religious and educational freedom since there may not always be sufficient secular alternatives for all students. For pragmatic reasons and as an interim policy, making religious activities and religious education optional in substantially subsidized faith-based schools seems to be a worthy solution. As said by the Muslim father in Paderborn:

We could certainly agree with a tolerant faith-based school... a school where children are educated conform the principles of the Catholic faith, but where the religious identity of students committed to another faith and of non-religious students, is also taken into account. These students should not be ignored and coerced to an unfamiliar religious education. (translation mine)

("Streit um staatliche Bekenntnisschulen: Eine Frage der Lehre". *Der Spiegel online*, August, 19, 2013)

Hopefully, Belgian policy makers will not neglect these words and support an educational system in which the religious convictions of *all citizens* are maximally taken into consideration. Only in that case will the freedom of education, which was one of the main stakes of the Belgian Revolution, become a *real* freedom of education.

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²⁰ Concluding observations of the Human Rights Committee: Ireland (2008).

²¹ See [Urteil Verwaltungsgericht Minden, 8 K 1719/13](http://www.justiz.nrw.de/nrwe/ovgs/vg_minden/j2014/8_K_1719_13_Urteil_20140228.html). Accessed January, 20, 2015.

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