

# THE PLACE OF RELIGION IN EDUCATION IN SOUTH AFRICA<sup>1</sup>

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## ***I. Religious instruction organised during the school hours (in lower and in secondary education) in state funded schools***

**I.1 Question: Religious instruction organised during the school hours (in lower and in secondary education) in state funded schools. Is – and if affirmative please refer to the provisions in the law (add the text separately) – the teaching of religion in your country organised during school time in public educational institutions: in primary education, in secondary education.**

**Answer:**

It is possible but not organised by the government and not as part of the formal school curriculum. Schools are encouraged to make their facilities available for such instruction to be undertaken by clergy or certified members of the religious persuasion itself (National policy para 54 – 57)

**I.2 Question: What choices amongst the religious education possibilities are offered in public educational institutions , e.g. catholic religion, Islamic teaching, ....**

**Answer:**

Theoretically there is no limitation but permission (concurrence) from the school governing body is necessary (SASA, sections 7 (the power of the governing body to make rules for religious observances), 20(1)(c) (the power to develop the mission statement (ethos) of the school), AND 20(1)(k) (the discretion to allow the reasonable use under fair conditions determined by the Head of Department of the facilities of the school for educational programmes not conducted by the school).

## ***II. State funded denominational schools and state supervision***

**II.1. Question: Are there state funded denominational schools in your country? If affirmative, what is the numeric importance of state funded schools. If affirmative, what is the numeric importance of Islamic state funded schools. Please refer to statistical information on-line**

**Answer:**

In 2008 366 201 (2.6%) of South Africa's learners (at all levels including higher education) were in independent schools compared to 11 873 162 in public schools (84.1%)<sup>5</sup>  
There are *subsidised and funded* schools. Sections 29(3) and (4) of the Constitution read as follows:

“(3) Everyone has the right to establish and maintain, at their own expense, independent educational institutions that-

- (a) do not discriminate on the basis of race;
- (b) are registered with the state; and
- (c) maintain standards that are not inferior to standards at comparable public educational institutions.

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<sup>5</sup> Department of Education. 2010. Education statistics in South Africa 2008.

<http://www.education.gov.za/emis/emisweb/08stats/Education%20Statistics%20in%20South%20Africa%202008.pdf>, accessed on 14 November 2010.

(4) Subsection (3) does not preclude state subsidies for independent educational institutions.”

In order to qualify to receive subsidies independent schools need to be registered in terms of section 46 of the South African Schools Act, 1996 (which registration may be withdrawn in terms of section 47). Section 48 of the Act provides as follows regarding subsidies to independent schools:

(1) The Minister may, by notice in the *Government Gazette*, determine norms and minimum standards for the granting of subsidies to independent schools after consultation with the Council of Education Ministers and the Financial and Fiscal Commission and with the concurrence of the Minister of Finance.

(2) The Member of the Executive Council may, out of funds appropriated by the provincial legislature for that purpose, grant a subsidy to an independent school.

(3) If a condition subject to which a subsidy was granted has not been complied with, the Head of Department may terminate or reduce the subsidy from a date determined by him or her.

(4) The Head of Department may not terminate or reduce a subsidy under subsection (3) unless-

(a) the owner of such independent school has been furnished with a notice of intention to terminate or reduce the subsidy and the reasons therefor;

(b) such owner has been granted an opportunity to make written representations as to why the subsidy should not be terminated or reduced; and

(c) any such representations received have been duly considered.

(5) The owner of an independent school may appeal to the Member of the Executive Council against the termination or reduction of a subsidy to such independent school.

No doubt some of the independent schools are faith-based but statistics on exactly how many of them are faith-based as opposed to e.g. language based are hard to obtain. From figures on the websites of the Jewish Board of Education, the Association of Muslim Schools and the Catholic Institute of Education it is clear that numbers seldom exceed 100 and seldom go beyond 300 nationally seen.

On reading the question put forward in the questionnaire a South African could tend to conceive of denominational schools as independent schools.

However, Colditz<sup>6</sup> argues that faith-based (denominational schools) need not be private or independent and he argues compellingly that most public (State) schools are denominational as they are “entitled to have a particular religious ethos but without exclusion or discrimination of or against non-believers or adherents of other religions. The so-called Catholic schools have all been declared public schools and most of them continue to exist on private property.

Schools with a particular religious ethos are not necessarily denominational schools but can be – as is the case with the Catholic schools. Most of the Anglican schools that were transferred to the state during the 60’s and 70’s of the previous century also continue to exist as public schools but with a very close link with the Anglican church.

Very much the same applies to many Dutch Reformed and (presently) Uniting Reformed Church and schools established by the Islamic community.”

In the rest of our responses we will try and reflect both possible interpretations of denominational schools.

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<sup>6</sup> E-mail to J Beckmann 14 November 2010.

In summary then: there are funded public denominational schools and subsidized independent schools. Viewed against this background, the majority of public schools are probably denominational while some independent schools may be subsidized by the state although the state is not compelled to subsidize (fund) them.

**II.2. Question: Are there non-state funded denominational schools in your country (private)? If affirmative, what is the numeric importance of private schools. If affirmative, what is the numeric importance of Islamic private schools. Please refer to statistical information on-line**

**Answer:**

It is very likely, considering the money that has to be spent on expanding the public system.

If affirmative, what is the numeric importance of private schools: between 2 and 3%<sup>7</sup>

If affirmative, what is the numeric importance of Islamic private schools: fewer than 100 country wide

See the websites of the education departments ([www.education.gov.za](http://www.education.gov.za); the Jewish Board of Education; the Catholic Institute of Education, the “Christelik Volkseie” (“Christian National” – *authors’ translation*) schools, international Christian schools like the Accelerated Christian Education (ACE) schools, etc

**II.3. Question: How do the authorities control the teaching in state funded denominational schools and are there any special questions about the control of the content of teaching in state-funded denominational schools? Please refer to the provisions in the law.**

**Answer:**

Two comments, one from Davies and one from Colditz, will suffice here:

Davies:

“The mechanism is that independent schools have to be registered with the authorities and have to satisfy the registration requirements laid down by them (see eg Ch 5 of SASA). Some of the provinces also have promulgated provisions in their provincial education legislation and policies - these would have to be studied, for there will be differences between them.

“From our experience a requirement is that schools follow an approved basic curriculum - in the case of South Africa the National Curriculum Statement - and they add to that their own denominational concerns.

“The Gr 12 examination [school-leaving high school exam (Gr 12)]for those with secondary divisions can be an important restriction as they write under the aegis of one of the 11 public exam bodies approved by Umalusi [the national examinations quality assurance body] - the Independent Examinations Board is also quite popular. “Some of the schools don't write local exams, others do both local and foreign ones. In some provinces it seems as though there is some limited attempt to check on quality, in others not at all.” ...

“My view is that "control of content of teaching" by the state in subsidised independent schools is not direct and is probably not very systematised. On "control the teaching" one could refer to the SACE Act which in theory requires all teachers no matter where employed to be registered with them and subject to their disciplinary and professional codes. ... Going by what happens in public schools, I'm not sure that there is a thorough-going application of that legislation in the independent schools either.”<sup>8</sup>

Colditz

Colditz maintains that section 6A(1-2) of SASA encapsulates the government's approach in this regard. These sections provide as follows:

- 1) The Minister must, by notice in the Government Gazette, determine-
- (a) a national curriculum statement indicating the minimum outcomes or standards; and

<sup>7</sup> The Catholic Institute of Education, for instance, is associated with 353 schools country wide.

<sup>8</sup> E-mail to J Beckmann, 16 November 2010.

- (b) a national process and procedures for the assessment of learner achievement.
- 2) The curriculum and the process for the assessment of learner achievement contemplated in subsection (1) must be applicable to public and independent schools.

Davies and Colditz talk to the same issue and strategy but Davies provides considerably more practical detail.

**III. Refusal or limitations on the number of pupils of another conviction/belief by the governing board of a confessional (catholic) school**

**III.1. Question: Does the head of a state funded denominational (e.g. Catholic) school has the right to refuse pupils from other religious beliefs? Please refer to the provisions in the law.**

**Answer:**

Yes but unfair discrimination on religious grounds is not allowed (section 9 of the Constitution and section 5 of SASA)

**III.2. Question: Does the head of a state funded denominational (e.g. Catholic) school the authority to limit the number of pupils from other religious beliefs (e.g. Muslim pupils) in order to support the specificity of the project?**

**Answer:**

Only if discrimination as set out in 5 above is avoided. The religious profile and distribution of religions in South Africa may this highly unlikely.

**IV. Point of views of the authorities concerning the teaching of Islam in denominational (Catholic) education, Islam instruction or instruction on other convictions/beliefs in denominational (catholic) schools for (a number of pupils requesting it) and alternative ethical course**

**IV.1. Question. Is there a legal obligation to organise, if parents ask for, classes of Islamic religion in denominational (Catholic) education funded by public authorities? a. for any pupil for whom a request has been made? b. from a minimum number of pupils for whom a request has been made?**

**Answer:**

See above. Such instruction is not a part of the formal curriculum and school programme. The law requires equitable treatment but there are no numeric provisions in this regard. The discretion of the governing body is moiré important than numerical issues.

**IV.2. Question. Does the same obligation exist for the offer of (a) other religions and/or philosophical convictions, (b) an alternative class of conception of life, philosophy, ethics**

**Answer:**

These are covered under the term religion education which is explained above. Religion education is a study of religions whether they be majority or minority without favouring any faith.

**IV.3. Question. Can you shortly mention the pro and contra standpoints that have been expressed concerning the respect of fundamental rights (among others, freedom of education and right to education) in relation with this obligation?**

**Answer:**

Government's point of view is contained in the National policy that this is not the school's responsibility but that of the parents and the faith communities. Article 7 of the Charter contends that every person has the right to be educated or to educate their children, or have them educated, in accordance with their religious or philosophical convictions.

It also asserts (article 7.1) that the state, including any public school, has the duty to respect this right and to inform and consult with parents on these matters. Parents may withdraw their children from school activities or programs inconsistent with their religious or philosophical convictions.

Article 7.2 makes the point that every educational institution may adopt a particular religious or other ethos, as long as it is observed in an equitable, free, voluntary and non-discriminatory way, and with due regard to the rights of minorities.

In article 7.3 the Charter says that every private educational institution established on the basis of a particular religion, philosophy or faith may impart its religious or other convictions to all children enrolled in that institution, and may refuse to promote, teach or practice any religious or other conviction other than its own. Children enrolled in that institution (or their parents) who do not subscribe to the religious or other convictions practised in that institution waive their right to insist not to participate in the religious activities of the institution.

The only significant differences between the National Policy and the Charter appear to be the following:

- The Charter's assertion that parents have a right to be consulted – in terms of the National Policy Religion Education is compulsory for all learners
- Likewise the Charter maintains that a private school may refuse to teach, practise or promote religious practices other than their own – this runs contrary to the National Policy's proposal of Religion Education.

#### **IV.4. Question. Reference to the legal basis, with Website address, and also if possible to the parliamentary preparation of texts.**

**Answer:**

#### ***V. Teaching of Islam in denominational (e.g. Catholic) schools at their own initiative***

**V.1. Question: Is there in your country a general guideline for teaching of Islam in denominational (e.g. Catholic) schools at their own initiative defined by (a) the Bishops' Conference, (b) another body, namely. . .**

**Answer:**

We are not aware of such guidelines which would, in our opinion, be unnecessary and superfluous given the guidelines emanating from the National Policy, SASA and the Constitution and also from the functions and powers of governing bodies of public schools and trustees of independent schools.

**V.2. Question: If affirmative, does the guideline implies that (a) the teaching of other religions is organised when: one parent asks for, or a sufficient number of parents ask for (how many?), (b) only teaching of Islam is offered as alternative religion when one parent asks for or a sufficient number of parents ask for (how many?)**

**Answer:**

Not applicable

**V.3. Question: There is no guideline and: (a) in fact, teaching of Islam is never proposed in Catholic schools, or (b) the teaching of Islam is organised in some schools, which have taken themselves the initiative. If possible, explain the importance of this option**

**Answer:**

Not applicable. If there were such guidelines, it is unlikely that they would only refer to Islam.

Islam forms part of Religion Education

It may be organised but the initiative comes from the faith community with concurrence of the governing body.

#### ***VI. Religious symbols in public schools***

**VI.1. Question: Are religious symbols (e.g. crucifix) in public schools compulsory, allowed, or forbidden?**

**Answer:**

**VI.2. Question: Is a teacher allowed to wear the Islamic headscarf and manifest her religion? Please explain if not allowed on which grounds.**

**Answer:**

**VI.3. Question: Is a pupil allowed to wear the Islamic headscarf and manifest her religion? Please explain if not allowed on which grounds.**

**Answer:**

**VI.4. Question: Who decides on the dress code in schools. Please refer to the law.**

**Answer:**

**VI.5. Question: Can a pupil and/or a teacher be exempted from the dress code when she considers it her religious duty to wear the Islamic headscarf?**

**Answer:**

**VI.6. Question: Who is the regulatory authority in this sphere?**

**Answer:**

**VI.7. Question: What kind of disciplinary measures and proceedings are taken if the pupil or teacher fails to comply with the rules on dress codes?**

**Answer:**

**VI.8. Question: Please describe the case-law in your country.**

**Answer:**

**VII. After-school education in private religious institutions. Islamic instruction organised after the school hours (age 6-18)**

**VII.1. Question: Is there any form of Islamic teaching (for children and youngsters of age 6-18) in your country organised after school time in private religious institutions:**

**Answer:**

**VII.2. Question: Is there any form of Islamic teaching in your country organised in primary education age (6-12)**

**Answer:**

**VII.3. Question: Is there any form of Islamic teaching in your country organised in secondary education age (12-18)**

**Answer:**

**VII.4. Question: How many such institutions are there in your country providing Islamic instruction organised after the school hours?**

**Answer:**

**VII.5. Question: How many children take part in the activities of Islamic instruction organised after the school hours?**

**Answer:**

**VII.6. Question: How is the pedagogical quality of Islamic instruction organised after the school hours safeguarded?**

**Answer:**

**VII.7. Question: How would you characterize the public debate about this form of Islamic instruction organised after the school hours?**

**Answer:**

***VIII. Additional comments***

***XI. Bibliography***

Some websites:

Catholic Institute of Education: <http://www.cie.org.za/>

Association of Muslim Schools of South Africa: <http://www.ams-sa.org/>

South African Board of Jewish Education: <http://www.sabje.co.za/>

Association of Christian National Schools (“Christelik Volkseie Skole”): <http://www.bcvo.co.za/pages/skole.php>

Department of Basic Education: <http://www.education.gov.za/>

Further reading:

Chidester, David (2008). Unity in Diversity: Religion Education and Public Pedagogy in South Africa, *Numen*, 55 (2-3):272-299.

Chidester, David (2003). Religion Education in South Africa: Teaching and Learning about Religion, Religions, and Religious Diversity, *British Journal of Religious Education*, 25(4 ): 261 – 278.

Kumar, P. (2006). Religious Pluralism and Religion Education in South Africa *Method & Theory in the Study of Religion*, 18(3):273-293.

**Annex: the following statistics about South Africa are worth noting:**

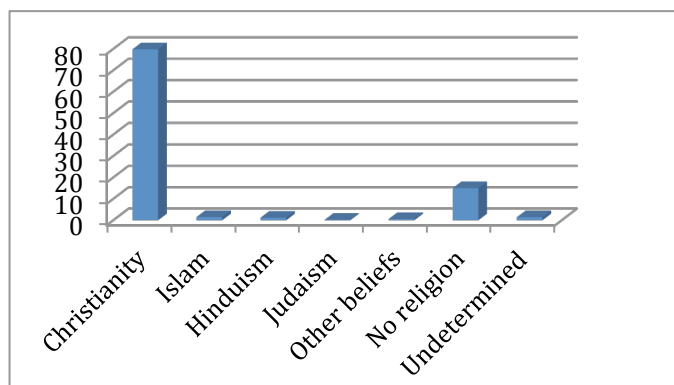
**2010 population estimate**

**49 991 300**

**Distribution of religions**

**%**

Christianity	79.8
Islam	1.5
Hinduism	1.2
Judaism	0.2
Other beliefs	0.6
No religion	15
Undetermined	1.4



**Annex 2: with regard to religion and education policy and law in south africa refer to four concepts that are not synonymous and should be distinguished:**

**A. Religious instruction**

This term refers to instruction in a particular faith or belief in order to inculcate that faith or belief (National Policy on Religion and Education (Annexure C), par 54). In terms of policy it is not the responsibility of the school and should be offered clergy or persons accredited by faith communities and may nor form part of the formal school programme (National Policy on Religion and Education, par 55). However the policy (par 57) encourages the provision of religious instruction by religious bodies and other accredited groups **outside the formal**

**school curriculum** on school premises, provided that opportunities be afforded in an equitable manner to all religious bodies represented in a school, that no denigration or caricaturing of any other religion take place, and that attendance at such instruction be **voluntary**. Persons offering Religious Instruction would do so under the authority of the religious body.

**B. Religious studies (which is named “religion studies” in the latest Revised National Curriculum Statement) (para 2.1 and 2.2 of Section 2 of the Curriculum and Assessment Policy Statement (CAPS) (Annexure D)**

The subject Religion Studies (Grades 10 to 12) studies religion as a universal human phenomenon and the religions found in a variety of cultures. It neither favours nor discriminates against any religion and does not promote adherence to any particular religion. It is intended to lead to the recognition, understanding and appreciation of a variety of religions within a common humanity and also aims to develop religious literacy.

The subject contains the following four topics:

- (i) Variety of religions
- (ii) Common features of religion as a generic and unique phenomenon
- (iii) Topical issues in society
- (iv) Research into and across religions

The four topics of Religion Studies allow for specialisation in a specific religion in Grade 12. Specialisation in a religion must come after the various religions have been explored.

The subject has the following specific aims namely to:

- (i) enhance the constitutional values of citizenship, human rights, equality, freedom from discrimination and freedom of conscience, religion, thought, belief and opinion;
- (ii) develop the learner holistically, that is, intellectually, physically, socially, emotionally and spiritually;
- (iii) inculcate knowledge, skills and values necessary for the enrichment of each learner, interpersonal relationships and an open and democratic society;
- (iv) equip the learner with knowledge and understanding of a variety of religions and how they relate to one another; and
- (v) equip the learner with knowledge and skills for research into religion as a social phenomenon, and across religions as well as to relate and systematise universal dimensions of religion.

**C Religion education<sup>9</sup>**

Religion education is part of a compulsory formal examinable learning area of the curriculum (National Policy on Religion and Education (Annexure C), par 42). It is a curricular programme for learning about religion, religions and religious diversity in South Africa and in the world (par 17). It teaches the common values that all religions promote such as tolerance, understanding and the reduction of prejudice (par 18).

**D Religious observances<sup>10</sup>**

The Governing Bodies of public schools may make their facilities available for religious observances, in the context of free and voluntary association, and provided that facilities are made available on an equitable basis (National Policy on Religion and Education (Annexure C), par 58). Although such religious observances take place on the school property, they are not part of the official educational function of the public school (par 60).

School Governing Bodies are required to determine the nature and content of religious observances for teachers and pupils. They may also determine that a policy of no religious

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<sup>9</sup> Also see Wittmann v Deutscher Schulverein, Pretoria and Others, 1998 (4) SA 423 (T)

<sup>10</sup> Ibid.



observances be followed. Where religious observances are held, these may be at any time determined by the school, and may be part of a school assembly. An assembly is not necessarily the only occasion for religious observance, which may take place at other times of the day, and in other ways, including specific dress requirements or dietary injunctions. Where a religious observance is organised as an official part of the school day it must accommodate and reflect the multi-religious nature of the country in an appropriate manner (par 61).

Appropriate and equitable means of acknowledging the multi-religious nature of a school community may include the following:

- The separation of learners according to religion, where the observance takes place outside of the context of a school assembly, and with equitably supported opportunities for observance by all faiths, and appropriate use of the time for those holding secular or humanist beliefs;
- Rotation of opportunities for observance, in proportion to the representation of different religions in the school;
- Selected readings from various texts emanating from different religions;
- The use of a universal prayer; or
- A period of silence (par 62).

Where the segregation of pupils is contemplated, a school must consider and mitigate the impact of peer pressure on children, and its negative influence on the willingness of children to be identified as “different” (par 62).

A school assembly has the potential for affirming and celebrating unity in diversity, and should be used for this purpose. Public schools may not violate the religious freedom of pupils and teachers by imposing religious uniformity on a religiously diverse school population in school assemblies. Where a religious observance is included in a school assembly, pupils may be excused on grounds of conscience from attending a religious observance component, and equitable arrangements must be made for these pupils (par 63)..