



EDUCATIONAL DIVERSITY

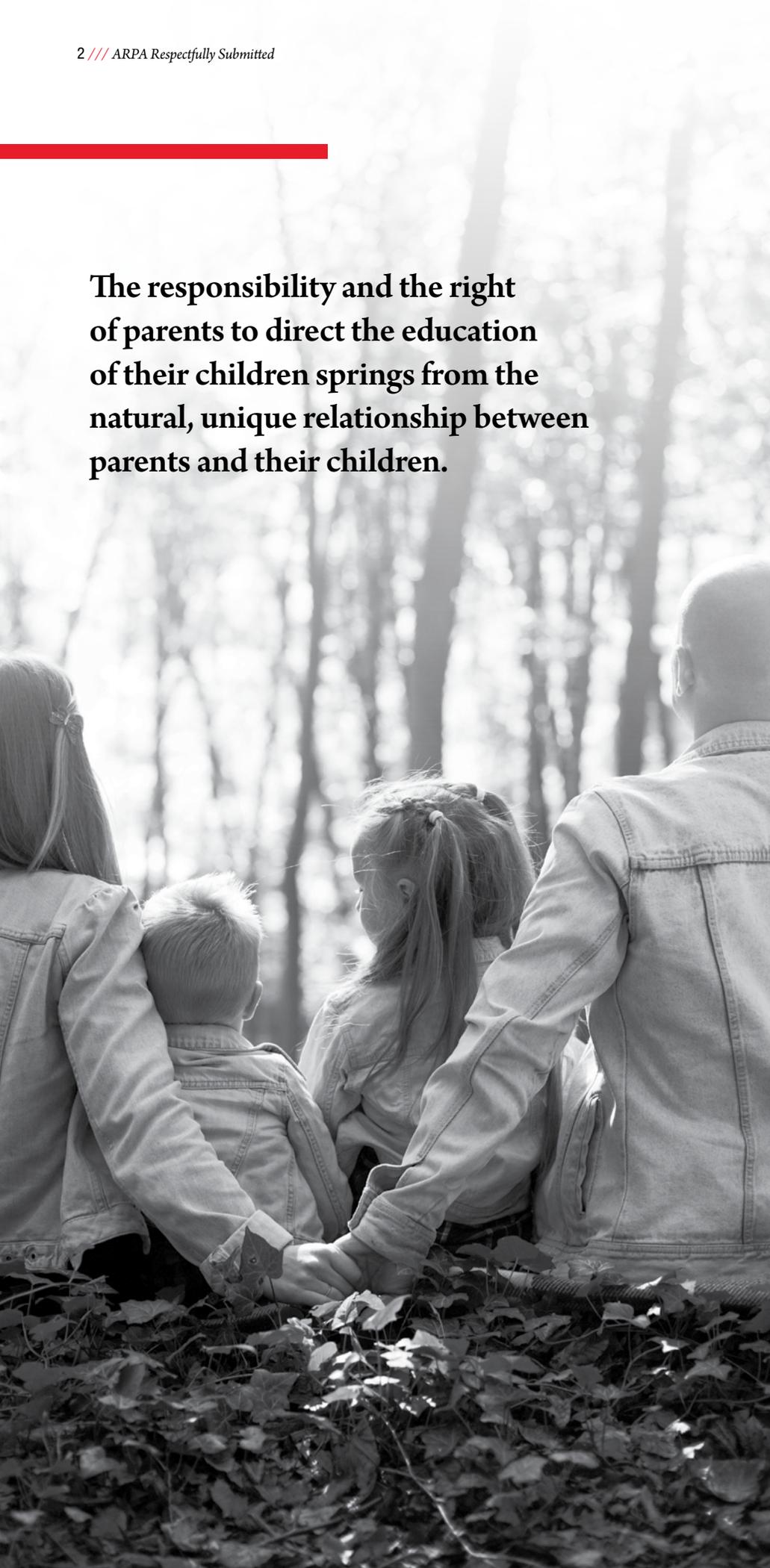
Education is always founded on conceptions of what constitutes the good life and the common good.¹ People have different ideas of what is good, how to prioritize certain goods, and when and how these goods should be taught to their children.

A uniform, inflexible education system is ill-suited for a country as diverse as Canada.² A pluralistic education system is as essential to education as a multi-party system is to a vibrant democracy. Just as a democracy functions best with multiple political parties reflecting diverse viewpoints of the common good, so our education system should accommodate diverse worldviews in order to thrive.³

Canada has relatively little of its diversity reflected in its education system. In the 2018-19 school year, 91.8% of all elementary and secondary students were enrolled in a public school.^{4,5} Although there is some diversity within public schools – francophone schools, Catholic schools (in Alberta, Saskatchewan, and Ontario), charter schools (in Alberta), and alternative schools (various provinces) – the vast majority of students attend secular, non-specialized public schools.⁶ Only 7.4% of students were enrolled in an independent school and 0.6% were homeschooled,⁷ although those percentages have steadily increased over the past two decades.⁸

Some academics and advocates argue that education's importance justifies the provincial governments' near monopoly on providing education.⁹ This argument, however, does not withstand scrutiny. Food is even more essential to life than education, yet the government does not produce and distribute all food to its citizens. The government does not run grocery stores or require citizens to shop at the grocery store nearest their residence.¹⁰ Consequently, Canadians enjoy the abundance, diversity, quality, and relatively low cost of food today.

This approach does not necessarily exclude the civil government from education. Just as the federal government issues guidelines around nutrition in Canada's food guide and sets food safety standards, so provincial governments may require that children receive an education that fosters "minimally decent citizenship."¹¹ Education has also long been recognized as a merit good with spillover effects to the wider society.¹² The direction and quality of fellow citizens' education profoundly impacts others – at the ballot box, in work settings, and



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in everyday interpersonal interactions. Nevertheless, the civil government need not take direct responsibility for educating 90% of students to accomplish the goal of good education.

Why do provincial governments directly provide most children's education? Alexis de Tocqueville might reply that "every central government worships uniformity."¹³ Canada's largely uniform education system reflects governments' tendency to centralize, despite the diversity of people and communities in each province. This lack of educational diversity and choice is a problem on three fronts: (1) it encroaches on the moral responsibility of parents to educate their children; (2) it infringes on legal and constitutional rights in the realm of education; and (3) it hinders students' success.

The Moral Case for Educational Diversity: Parental Responsibility in Education

The responsibility and the right of parents to direct the education of their children springs from the natural, unique relationship between parents and their children.¹⁴ Over the first few months and years of their lives, most children are raised almost exclusively by their parents. Over time, parents may gradually delegate some of their responsibility to professional caregivers and teachers. However, their right and responsibility are never *forfeited* but only *delegated*,¹⁵ as Canada's Supreme Court affirms.¹⁶ Ultimately, parental responsibilities towards their children are non-transferable.¹⁷ Just as citizens have a personal responsibility to engage in the democratic process – no other person can vote on their behalf – so too parents have a personal responsibility to choose and direct the education that is best for their children.¹⁸

The primary responsibility of parents for their children's education is a Christian principle, and many other religious and non-religious people hold the same view. Throughout the Bible, God commands parents to teach their children the law of God,¹⁹ their shared history,²⁰ and their religious practices.²¹ The wisdom of the Book of Proverbs is imparted as from parents to children: "Hear, my son, your

Canada needs not only accommodation for diverse individual students, but diverse communities and their representative institutions.

father's instruction, and forsake not your mother's teaching."²²

Although the principle that parents bear the *primary* responsibility to educate their children is justifiable on both natural and biblical grounds, this does not mean that parents have an *exclusive* interest in their children's education. The civil government's compelling interest in promoting general civil obedience, mutual respect among citizens, economic self-sufficiency, and civic participation and responsibility can correspond with parental responsibility.²³ It is also in the common good to have a literate, numerate population. So, civil governments may mandate and regulate education in a limited way to achieve these particular goals, while at all times respecting parents' primary responsibility for their children and protecting parental authority.²⁴

Unless the provincial government can demonstrate that a specific educational setting is detrimental to children, the civil government ought not to interfere with how parents educate their children. Indeed, the government should recognize that parents are deeply invested in the teaching of their children, even without government provision of education. Before the advent of public school, nearly all parents ensured their children received adequate education and sacrificed time and income to accomplish this goal.²⁵ We agree with E. G. West that "the state's educational powers are to be regarded as powers of last resort" rather than the default means of education.²⁶

The responsibility or the right of parents to direct the education of their children

"is one of the most fundamental of all human rights... when this right is no longer acknowledged, then much of what is most precious in human existence is endangered."²⁷

Legal historian Janet Epp Buckingham has shown how, over the past 150 years, "the Canadian education system seemed to insist on conformity" which "harmed children by not acknowledging their particular identities."²⁸ A popular misconception is that the eventual secularization of education improved matters. However, "secularizing the schools was not a panacea."²⁹ Canada needs not only accommodation for diverse individual students, but diverse communities and their representative institutions. In this respect, pre-Confederation education legislation might have something to teach 21st century education policymakers. As Epp Buckingham explains:

In Ontario, the ... Common School Act of 1841 was designed to give the newly united Canada a single school system. However, the act contained a clause (sec. XI) allowing for "dissentient" schools, which allowed "any number of persons of a different faith from the majority" to "establish and maintain one or more common schools" that would be eligible for government support. Subsequent legislation in 1843 (An Act for the Establishment and Maintenance of Common Schools in Upper Canada) gave parents the right to decide the religious education of their children (sec. 54)... This allowed the development of Protestant minority schools in Quebec and Roman Catholic separate schools in

*Ontario and subsequently in the prairie provinces.*³⁰

It would make sense in today's multicultural society to expand this early principle of accommodation to allow for "any number of persons of a different faith from the majority" – including Sikh, Jewish, and various Protestant denominations to "establish and maintain" schools eligible for government support.

Since education is primarily a parental responsibility, parents – rather than governments – should take first action to rectify inadequacies in education. Numerous studies show that parental engagement, or at least involvement, in education is a central influence on students' academic performance.³¹ The decline of civil institutions within society and the rise of interventionist governments have allowed, and perhaps even encouraged, parents to abdicate their responsibility to educate their children. One of the greatest boosts to the Canadian education systems would be for parents to become more engaged in their children's education. Public policy that supports greater educational diversity and promotes school choice fosters greater parental engagement.

The Legal Case for Educational Diversity: Fundamental Freedoms and Constitutional Guarantees

The fundamental freedoms guaranteed by the *Canadian Charter of Rights and Freedoms*, particularly *freedom of association* (section 2(d)) and *freedom of religion* (section 2(a)) support educational diversity.

At their core, independent schools are local associations of like-minded parents whose purpose is to educate their children according to their own cultural, religious, philosophical and pedagogical convictions.



Freedom of Association

Justice Dickson, former Chief Justice of Canada, articulated why freedom of association is fundamental: “The most natural privilege of man, next to the right of acting for himself, is that of combining his exertions with those of his fellow creatures and of acting in common with them... No legislator can attack it without impairing the foundations of society.”³² According to Justices Le Dain and Sopinka, freedom of association “must be applied to a wide range of associations or organizations of

a political, religious, social or economic nature, with a wide variety of objects, as well as activity by which the objects may be pursued.”³³ This must include independent schools. At their core, independent schools are local associations of like-minded parents whose purpose is to educate their children according to their own principles, beliefs, and preferences – an exercising of another fundamental freedom, that of thought, belief, opinion, and expression (section 2(b) of the *Charter*).

Freedom of association is diversity’s friend. By respecting, protecting, and encouraging

associational freedom – also through supporting independent schools and homeschooling – provincial governments provide “a key resource to minorities who have experienced oppression elsewhere... [and] accommodates vulnerable communities and subcultures.”³⁴ Freedom of association protects the freedom of individuals to associate in order to engage in various pursuits, including educating their children in a particular tradition.

When governments recognize and respect distinct associations as a means to “empower vulnerable groups and help them work to

Freedom of Religion

Furthermore, freedom of association is particularly important for the exercise of freedom of expression and religion.³⁸ Education is unavoidably linked to conceptions of what is good and bad, right and wrong. Hence, education is inextricably linked to individual conscience and religion. The dominant worldview of public schools has become especially obvious in teaching about sexual ethics and philosophical views on autonomy. When it comes to moral and religious matters, it is impossible for schools to remain neutral; ethical, metaphysical, and epistemological presuppositions are intertwined in all subjects.³⁹ For example, in his examination of approved teaching resources, educator Donald Oppewal finds that public schools consistently adopt religious convictions in their teaching, especially from the worldview of secular humanism.⁴⁰ Members of society who find such teachings to be contrary to their conscience and religious convictions cannot fully participate in such schools and must seek exemptions from particular classes or enrol in a school that respects their convictions. Both options are very difficult when the civil government refuses to support the choice and responsibility of parents.

Religion is at the very heart of the identity of millions of Canadians. Instilling a religious identity in their children is non-negotiable to people of faith. As Proverbs 22:6 advises, “train up a child in the way he should go; even when he is old, he will not depart from it.” God commands parents to teach the ways of God “diligently to your children and talk of them when you sit in your house, and when you walk by the way, and when you lie down, and when you rise up.”⁴¹ It is not surprising then that, historically in Canada, churches have been “the first patrons and the constant supporters of education... The state was a latecomer to the field.”⁴²

Canada is well versed in the cost of ignoring the religious and cultural beliefs of particular communities in an educational setting. The Truth and Reconciliation Report described Canada’s residential school system as a “cultural genocide” that destroyed the structures and practices that allowed First Nations to thrive.⁴³ Fundamentally, the

INTERNATIONAL LAW

International law also affirms the moral and legal rights of parents in directing the education of their child:

“Parents have a prior right to choose the kind of education that shall be given to their children.”

~ *United Nations’ Universal Declaration of Human Rights*, Article 26.3

“The child [has the right] to freedom of thought, conscience and religion” and “parents [have] rights and duties ... to provide direction to the child in the exercise of his or her right.”

~ *United Nations Convention on the Rights of the Child*, Article 14

“Parents have the primary responsibility for the upbringing and development of the child... [the state] shall render appropriate assistance to parents.”

~ *United Nations Convention on the Rights of the Child*, Article 18

Education should be directed to “the development of respect for the child’s parents, his or her own cultural identity... and values.”

~ *United Nations Convention on the Rights of the Child*, Article 29.1(c)

“The right to education includes the freedom to set up educational establishments, on a basis of due respect for democratic principles and for the right of parents to ensure that their children are educated and taught according to their religious, philosophical and pedagogical convictions.”

~ *European Parliament Resolution of 12 June 2018 on Modernisation of Education in the EU*, Statement J

right imbalances in society,” then freedom of association “protects marginalized groups and makes possible a more equal society.”³⁵ Recognizing and supporting independent education respects the good of free association. The Supreme Court has ruled that freedom of association “may properly require legislative protection of group or collective activities.”³⁶ This principle, though stated in a labour relations case, should no less apply to support for independent schools.³⁷

residential school system violated family integrity. Given the importance of education in passing down religious beliefs and cultural identity, provincial governments must learn from the tragic mistakes of the past and ensure that faith-based and culture-based schools continue to enjoy the freedom to operate. “For those from minority religions,” says Epp Buckingham, “separate religious schools affirm cultural and religious identity, which raises a strong rationale for public funding.”⁴⁴

In *Big M Drug Mart*, Justice Dickson declared that freedom of religion must be interpreted in a “generous rather than a legalistic” fashion and explained that it includes “the right to manifest religious belief... by teaching and dissemination.”⁴⁵ He wrote the now famous words: “Freedom can primarily be characterized by the absence of coercion or constraint” or forms of control that “limit alternative courses of conduct available to others.”⁴⁶

Justice McLachlin wrote, “The right to teach children religious beliefs and share with them religious practices is arguably as much an aspect of religious practice as going to church.”⁴⁷ Indeed, teaching children from a cohesive religious perspective, different from the secular religious perspective of public schools, is the very reason many Canadians have established their own independent schools as an alternative to the public schools.

In *R. v. Jones*, Justice La Forest observed that freedom of religion encompasses the rights of parents to educate their children according to their religious beliefs.⁴⁸ He later affirmed this position, writing in B.(R.), “It seems to me that the right of parents to rear their children according to their religious beliefs... is an equally fundamental aspect of freedom of religion.”⁴⁹ In *Chamberlain*, after reviewing Canadian jurisprudence on the paramount role of parents in childrearing, Justices Gonthier and Bastarache concluded:

*... parents clearly have the right, whether protected by s. 7 or s. 2(a) of the Charter, to nurture, educate and make decisions for their children, as long as these decisions are in the children’s “best interests.” Parents will be presumed to be acting in their children’s “best interests” unless the contrary is shown.*⁵⁰

Other Constitutional Considerations

Canada’s government recognized the importance of diversity in education before and at Confederation. Section 93 of the *Constitution Act, 1867* extends full funding and recognition to Catholic and francophone schools in Ontario, recognizing the importance that education plays in preserving a cultural heritage. As a result, Ontario, Alberta, and Saskatchewan have fully funded Catholic schools within the public education system. The Manitoba Schools Question – the fight over whether Catholic, francophone schools in Manitoba would receive similar funding in the late 1800s – also demonstrated the importance of language, religion, and parental responsibility with respect to schooling.⁵¹ Section 23 of the *Charter* guarantees minority language education rights to parents who fit particular qualifications. And finally, section 27 guarantees that all rights and freedoms in the *Charter* (including freedom of religion and association and related education rights) “shall be interpreted in a manner consistent with the preservation *and enhancement* of the multicultural heritage of Canadians.” A diverse spectrum of independent schools will enhance the multicultural heritage of Canada, and respect for the values and priorities of unique communities is necessary to allow educational diversity to flourish. Giving support only (or predominantly) to a one-size-fits-all approach to child education is untenable in a multicultural society like Canada.⁵²

In 1999, the United Nations Human Rights Committee ruled that the Ontario government’s failure to support independent religious education had no reasonable justification as long as they were funding Roman Catholic schools. This “discriminatory” practice resulted in “a violation of ... rights under Article 26 of the Covenant.”⁵³ In response, the Ontario government established the “Equity in Education Tax Credit” for all private schools. Sadly, this tax credit was cancelled after only two years, following a change in government, and never reinstated.⁵⁴

The Evidence-Based Argument for Educational Diversity: Better Education

Governments want an education system to instill fundamental literacy, numeracy, and scientific skills in young people, to prepare them for future vocations, and to equip them to be positive contributors in a democratic and pluralistic society.⁵⁵ Both public and independent schools operate with these goals in mind, though these are certainly not the *only* goals of education.⁵⁶ A major difference between public schools, independent schools, and homeschooling is *who* is responsible for achieving these goals, and, secondarily, *how* best to achieve them. If the goals of public schools, independent schools, and homeschooling overlap, then education policy should favour an education system that most effectively and efficiently achieves these goals.

Ultimately, a pluralistic education system – one that features and encourages a substantial mix of public schools, independent schools, and homeschooling – best achieves these goals.⁵⁷ The current system, dominated by public schools, is lacking and, in some provinces, horribly so.

There are two primary reasons that a pluralistic education system outperforms a monolithic school system. First, an independent school or homeschooling may be a better fit for some students, especially for those with particular disabilities.⁵⁸ An independent school may specialize in specific programs (e.g. music, theatre, or athletics) to capitalize on the natural abilities of students. It may promote cultural values or traditions and philosophical or religious beliefs that align with those of the students and their families, reducing cognitive dissonance between values taught at home, in school, and in religious institutions. Especially in their younger years, this consistency helps students to thrive.⁵⁹

Secondly, independent schools and homeschooling increase the quality of all schools through competition for students.⁶⁰ Education in Canada, particularly in the Maritime provinces, is nearly monopolized by provincial governments, and geographic limitations and the lack of open enrollment policies lead to captive markets within each

school district. Because public schools are funded on a per student basis through public taxation, they lack *financial* incentives to improve educational quality.⁶¹ This monopoly power, captive market, and funding arrangement can make public schools unresponsive to the desires of parents and students – particularly minorities – and offers little incentive to improve educational outcomes.⁶² Competition from independent schools – and greater diversity and mobility within the public system – can incentivize schools to improve their offerings and outcomes.⁶³

Greater diversity and mobility within the public system also improves educational outcomes within the public system. For example, British Columbia introduced a province-wide open enrolment policy in 2001, granting parents the discretion to send their child to any public school in the province (though maintaining priority for students within the school's district). This policy raised the average student's reading and mathematics scores, especially in urban areas where competition between schools is greater than in rural areas.⁶⁴

Numerous studies show that independent schools outperform public schools in a variety of subjects – particularly reading, writing, and mathematics.⁶⁵ Studies also show that the mere presence of an independent school positively impacts test scores in neighbouring public schools. Researchers Bosetti, Brown, & Hasan found that this increase in test scores occurred for virtually all student groups and were most pronounced for the economically disadvantaged and racial minorities.⁶⁶ If, in fact, teachers, politicians, and policymakers are particularly concerned with the education of vulnerable groups, then a uniform public system is worse for poor and minority children. Researchers have also documented that educational diversity increase the rate of high school graduation.⁶⁷ In Ontario, competition between Catholic schools and traditional public schools increases the rate of university applicants.⁶⁸ British Columbia, Alberta, and Quebec's higher math, reading, and science test scores correlate to greater pluralism within their

education systems and their proportionally higher number of independent schools.⁶⁹

Not only do independent schools and homeschooling increase overall levels of educational achievement, but the majority of the academic literature also indicates that these types of education create more well-rounded citizens. Numerous studies find that independent (religious) schools statistically produce graduates who are more invested in the common good, donate more, volunteer more, and are less of a burden on public expenditures.⁷⁰ Although these benefits are often overlooked in evaluations of public education versus independent education, they are crucial elements to good citizenship.

Education in the Netherlands: A Case Study

Pluralistic education systems around the world demonstrate that they work. The Netherlands provides a classic example.⁷¹ Virtually all Dutch schools are publicly funded, provided that they operate as a non-profit. The government allocates funds to schools on a per capita basis – funding follows the student. Despite the centralized and equalized funding of students, each school has considerable discretion regarding hiring, curriculum, and teaching philosophies. Most schools are operated by non-governmental organizations, and many schools are managed by religious organizations. All students, regardless of whether they attend a public or independent school, may attend any school of their (or their parents') choosing. Although critics of educational pluralism often worry about inequities between schools or the development of elitist schools, neither is a significant feature of the Dutch system.

The Netherlands' pluralist system yields high outcomes at relatively low cost. The Netherlands spends approximately the OECD average for primary and secondary education,⁷² yet Dutch students consistently rank above the OECD average on test scores and other measures of educational quality.⁷³ Religious independent schools within the country also tend to outperform their non-sectarian public counterparts.⁷⁴

A uniform public system is worse for poor and minority children.



A diverse spectrum of independent schools will enhance the multicultural heritage of Canada ...

The case of the Netherlands demonstrates that it is not necessary for the civil government to regulate *and fund and provide* primary and secondary education to achieve high educational outcomes. Although the Dutch government extends funding to virtually all schools and guides educational practice through regulation, education is capably provided by non-governmental organizations. Clearly, “the fear of the state’s retreat from matters of importance in education policy with the introduction of market forces is not founded ... a large, pluralistic school system can promote efficiency and equity.”⁷⁵ If pluralism is efficient and equitable in a relatively homogenous country like the Netherlands, how much more fitting would a pluralistic system be in such a diverse country as Canada?

RECOMMENDATIONS

More and more Canadians are seeking alternatives to the public system.⁷⁶ A free, pluralistic society should “pursue a policy of *maximum feasible accommodation*, limited only by the core requirements of individual security and civic unity.”⁷⁷

The moral, legal, and evidence-based arguments outlined above all support the case for greater educational diversity in Canada. Parents have the moral responsibility to direct the education of their children and should be given the freedom to do so. Canada’s constitution and legal tradition, along with international law, support educational pluralism. An abundance of academic literature demonstrates that having diverse educational options delivers superior results.

Canada’s provincial governments can do more to maximize the accommodation

of independent schooling, whether in institutional settings or at home, and fostering a more pluralistic education system. Policy innovations should include the following:

Recommendation #1:

Enshrine in provincial legislation the right of parents to select schooling for their children in line with their religious, philosophical, or cultural commitments or traditions.

Recommendation #2:

Increase parental involvement in education by requiring schools to make all curricula publicly available, to encourage parental review of curricula and classroom settings, and to invite parental participation in the extra-curricular activities their children are involved in.

Recommendation #3:

Allow more choice among public schools by opening catchment boundaries, providing an adequate number of spaces for out-of-catchment students, and offering a greater number of public French immersion, charter, alternative, and distributed learning schools.

Recommendation #4:

Allocate education funding according to a per-capita formula for all public school, independent school, and homeschooled students.

Recommendation #5:

Require the “flow-through” of any federal per-capita student funding to follow the

students whether attending public schools, independent schools, or home school (e.g. Official Languages in Education Protocol, “Safe Return to Class Fund” for school safety supplies, etc.).

Recommendation #6:

Decentralize decisions over budgeting, hiring, curricula, pedagogies, school policies, and religious or philosophical orientation to local school boards and individual school administrative staff.

Conclusion

Canada’s diverse population is best served by education systems that provide a wide latitude for educational diversity. If policymakers wish to serve children’s best interests, they should give careful thought to the recommendations and research cited here in support of a pluralistic education system. Education systems with a high degree of pluralism, such as the Dutch model, are more effective and efficient than public monopolies. True educational pluralism requires not only that governments *allow* independent schools and homeschooling but also that governments encourage and breathe life into independent schools and homeschooling by providing fair funding and true independence to such schools.

**All citations, with hyperlinks, are included in the electronic version of this report, available at ARPACanada.ca/policy-reports*

Endnotes

- 1 Ashley Berner, "[Education for the Common Good.](#)" *Education Next* (blog), 2017.
- 2 Nicholas P. Wolterstorff, *Educating for Life: Reflections on Christian Teaching and Learning*, ed. Gloria Goris Stronks and Clarence W. Joldersma (Grand Rapids, MI: Baker Academic, 2002), 196.
- 3 Donald Oppewal, *A Reformed Christian Perspective on Education: Fifty Years of Footprints* (Grand Rapids, MI: Chapbook Press, 2012), 92.
- 4 Statistics Canada, "[Table 37-10-0109-01](#) Number of Students in Elementary and Secondary Schools, by School Type and Program Type," November 2, 2018.
- 5 In a sense, all schools are "public" insofar as schooling is compulsory, accountable to provincial education ministries, benefits society in general, and (in some cases) funded by provincial government. Within this report, "public schools" refers to schools run by provincial or federal governments while "independent schools" refers to schools managed by religious, non-profit, or for-profit organizations.
- 6 Angela MacLeod and Sazid Hasan, "[Where Our Students Are Educated: Measuring Student Enrolment in Canada - 2017](#)" (Fraser Institute, 2017).
- 7 For a detailed study of home schooling in Canada, see Deani Neven Van Pelt, "[Home Schooling in Canada: The Current Picture—2015 Edition](#)" (Home Schooling in Canada: The Current Picture - 2015 Edition, 2015).
- 8 Statistics Canada, "[Table 37-10-0109-01](#) Number of Students in Elementary and Secondary Schools, by School Type and Program Type"; Lynn Bosetti, Deani Van Pelt, and Derek J. Allison, "The Changing Landscape of School Choice in Canada: From Pluralism to Parental Preference?," *Educational Policy Analysis Archives* 27, no. 38 (2017); MacLeod and Hasan, "[Where Our Students Are Educated](#)," *supra* note 6; Paul W. Bennett, *The State of the System: A Reality Check on Canada's Schools* (McGill-Queen's University Press, 2020).
- 9 See, for example, the arguments of Stephen Macedo, Eamonn Callan, and Amy Gutmann as summarized in Melissa Moschella, *To Whom Do Children Belong? Parental Rights, Civic Education and Children's Autonomy* (New York, New York: Cambridge University Press, 2016), 74–118.
- 10 For a more fulsome version of this argument, see E. G. West, *Education and the State: A Study in Political Economy*, Third (Indiana: Liberty Fund, 1994), 11–12.
- 11 Moschella, *To Whom Do Children Belong?* *supra* note 9 at 116–18.
- 12 Caroline M. Hoxby, *The Economics of School Choice* (University of Chicago Press, 2003).
- 13 Quoted in West, *Education and the State*, *supra* note 10 at 230.
- 14 Moschella, *To Whom Do Children Belong?* *supra* note 9 at 6.
- 15 Louis Berkof, "The Christian School and Authority," in *Foundations of Christian Education: Addresses to Christian Teachers* (USA: Presbyterian and Reformed Publishing Company, 1990), 112.
- 16 *R. v. Audez*, [1996] 2 S.C.R. 171 at para. 41 where Justice La Forest wrote, "Parents delegate their parental authority to teachers and entrust them with the responsibility of instilling in their children a large part of the store of learning they will acquire during their development." [emphasis added]. See also *R. v. Jones*, [1986] 2 S.C.R. 284 at 298.
- 17 Moschella, *To Whom Do Children Belong?* *supra* note 9 at 33. One exception that requires more nuance than we can give in this report would be consensual adoption.
- 18 Moschella, *To Whom Do Children Belong?* *supra* note 9 at 33.
- 19 Deuteronomy 6:7 & 11:19
- 20 Joshua 4:7
- 21 Exodus 12:26-27; see also Louis Berkof, "Our Attitude Toward the Christian School," in *Foundations of Christian Education: Addresses to Christian Parents* (USA: Presbyterian and Reformed Publishing Company, 1990), 29; Joseph Boot, *The Mission of God: A Manifesto of Hope for Society* (Toronto: Freedom International Press Inc., 2016), 429 and Genesis 18:18-19, Exodus 18:22-26, Deuteronomy 1:16-17, Deuteronomy 6:1-9, Psalm 78:1-8, Proverbs 22:6, Matthew 22:17-21, Ephesians 6:4, Romans 13:1-7, and 1 Peter 2:13-15.
- 22 See Proverbs 1:8, 1:10, 1:15, 2:1, 3:1, 3:11, 3:21, 4:10, 4:20, 5:1, 5:7, 5:20, 6:1, 6:3, 6:20, 7:1, 7:24, 8:32, 19:27, 23:15, 23:19, 23:26, 24:13, & 24:21
- 23 Moschella, *To Whom Do Children Belong?* *supra* note 9 at 117.
- 24 Moschella, *To Whom Do Children Belong?* *supra* note 9 at 170. In the context of 21st century Canada, refusing to teach a child how to read or do arithmetic would probably rise to the level of neglect and justify truancy laws. However, such neglect is exceptionally rare. Furthermore, not teaching children prevalent theories around identity, ethics, origins, or civics as "true" does not rise to the level of neglect.
- 25 West, *Education and the State*, *supra* note 10.
- 26 West, *Education and the State*, *supra* note 10 at 311.
- 27 Nicholas P. Wolterstorff, *Educating for Life*, *supra* note 2 at 213.
- 28 Janet Epp Buckingham, *Fighting Over God: A Legal and Political History of Religious Freedom in Canada* (Montreal & Kingston: McGill-Queen's University Press, 2014), 68. Throughout chapter 2, Epp Buckingham outlines appalling examples of intolerance toward religious minority communities when it comes to education in Canada. A popular misconception is that the eventual secularization of education improved matters. However, "secularizing the schools was not a panacea" (p. 68).
- 29 Epp Buckingham, *Fighting Over God*, *supra* note 28, at 68.
- 30 Epp Buckingham, *Fighting Over God*, *supra* note 28, at 36-37.
- 31 Kathryn A. Levine and Dawn Sutherland, "History Repeats Itself: Parental Involvement in Children's Career Exploration," *Canadian Journal of Counselling and Psychotherapy* 47, no. 2 (2013): 239–55; Esther Ho Sui-Chu and J. Douglas Willms, "Effects of Parental Involvement On Eight Grade Achievement," *Sociology of Education* 69 (April 1, 1996); Charles Desforges and Alberto Abouchaar, *The Impact of Parental Involvement, Parental Support and Family Education on Pupil Achievement and Adjustment: A Review of Literature* (Nottingham: Department for Education and Skills Publications, 2003); John Hattie, *Visible Learning: A Synthesis of over 800 Meta-Analyses Relating to Achievement*, Reprinted (London: Routledge, 2010). For an explanation of the difference between parental involvement and parental engagement, see GEMS Education, "The Impact of Parent Engagement on Learner Success," 2010.
- 32 *Reference Re Public Service Employee Relations Act (Alberta)*, [1987] S.C.J. No. 10, at para. 86.
- 33 *Reference Re PSERA*, *supra* note 32, at para. 142 (emphasis added).
- 34 David Schneiderman, "Associational Rights, Religion, and the Charter" in Richard Moon, ed., *Law and Religious Pluralism in Canada* (Vancouver: UBC Press, 2008) 65, at 80.
- 35 *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 SCC 1, at para. 58.
- 36 *Ontario (Attorney General) v. Fraser*, [2011] 2 S.C.R. 3, at para. 65.
- 37 For a more thorough exploration of freedom of association and its broad implications for public policy, see André Schutten, "Recovering community: addressing judicial blind spots on freedom of association" (2020) 98 S.C.L.R. (2d) 399.
- 38 *Professional Institute of the Public Service of Canada v. Northwest Territories (Commissioner)*, [1990] 2 S.C.R. 367, at para. 76.
- 39 Cornelius Van Til, "Antitheses in Education," in *Foundations of Christian Education: Addresses to Christian Teachers* (USA: Presbyterian and Reformed Publishing Company, 1990), 3–24; Oppewal, *A Reformed Christian Perspective on Education*, *supra* note 3 at 26.
- 40 Oppewal, *A Reformed Christian Perspective on Education*, *supra* note 3 at 55–69.
- 41 Deuteronomy 6:7
- 42 W.L. Morton, "Victorian Canada" In *The Shield of Achilles: Aspects of Canada in the Victorian Age*, edited by W.L. Morton (Toronto: McClelland and Stewart, 1968) at 315-316.
- 43 Truth and Reconciliation Commission of Canada, [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada.](#), 2015, 8. See also See Anderson, Amy and Miller, Dallas and Newman, Dwight G., "Canada's Residential Schools and the Right to Family Integrity" (2018) 41 Dalhousie Law Journal 301.
- 44 Epp Buckingham, *Fighting Over God*, *supra* note 28, at 48-49.
- 45 *R. v. Big M Drug Mart*, [1985] 1 S.C.R. 295 at paras 117 and 94.
- 46 *Ibid.*, at para. 95 [emphasis added].
- 47 Beverley McLachlin, "Who Owns Our Kids? Education, Health and Religion in a Multicultural Society" in *The Cambridge Lectures*, 1991, p. 150.
- 48 *R. v. Jones*, [1986] 2 S.C.R. 284 at 298.
- 49 *B. (R.) v. Children's Aid Society of Metropolitan Toronto*, [1995] 1 S.C.R. 315 at para. 105.
- 50 *Chamberlain v. Surrey School District No. 36*, [2002] 4 S.C.R. 710 at para. 108 [emphasis added]. Though Justices Gonthier and Bastarache are writing in dissent, the majority concurs on this point (see para. 3); see also Lagos, Julio Alberto. (2012). "Parental Education Rights in Canada: Canon and Civil Law Approaches to Homeschooling." *Studia canonica* 46(2), 401-469.
- 51 Gordon Bale, "[Law, Politics and the Manitoba Schools Question: Supreme Court and Privy Council](#)," *The Canadian Bar Review* 63, no. 3 (September 1, 1985).
- 52 See Anderson, et al., "Canada's Residential Schools and the Right to Family Integrity", *supra* note 43, where the authors explore how the residential schools' system can be understood in terms of a legal wrong involving violations of family integrity. The 19th and early 20th centuries saw increasing state intervention in families generally so as to impose compulsory education. Focus on this international law right of family integrity has potential application to other contexts of interference with Indigenous families and may be helpful in better understanding the need for supporting independent education, particularly along cultural, religious, and philosophical lines.
- 53 *Waldman v. Canada*, Communication No. 694/1996; U.N. Doc. CCRP/C/67/D/694/1996 (1999) (UN Hum. Rts. Ctte.) at para. 10.6. The International Covenant on Civil and Political Rights, Article 26 states: *All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this*

- respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- 54 Janet Epp Buckingham, *Fighting Over God*, *supra* note 28, at 50.
- 55 See, for example, Government of Ontario, "[Education Act](#)," 1990; Government of British Columbia, "[School Act](#)," 1996.
- 56 For instance, the stated purposes of education in both the British Columbia (Public) *School Act* and *Independent School Act* are virtually identical. See Government of British Columbia, "[School Act](#)"; Government of British Columbia, "[Independent School Act](#)," 1996. That said, there are additional deeper, richer goals to pursue in education, particularly from a Christian perspective. The goal of education is (to quote Francis Bacon) "thinking God's thoughts after him". The big shift in education in the late 1800s (initiated by philosophers like John Dewey) is a move toward a functionalist approach to education: learn skills and facts to be a productive member of society. While learning facts and skills are important and necessary, they are not *sufficient* to a well-rounded education for a well-formed human.
- 57 For a general yet thorough review of the American literature on educational pluralism, see Andrew D Catt et al., "The 123s of School Choice: What the Research Says about Private School Choice Programs in America," *EdChoice*, 2020, 96.
- 58 This observation requires more attention than space allows in this report. However, a disability-rights analysis may well provide further legal and ethical support to the arguments in this paper supporting educational pluralism.
- 59 Yolanda Vasquez-Salgado, Patricia M Greenfield, and Rocio Burgos-Cienfuegos, "Academic Achievement and Well-Being Among Latino First-Generation College Students," *Journal of Adolescent Research*, n.d., 35; Mariane Hedegaard, "[Strategies for Dealing with Conflicts in Value Positions between Home and School](#):" Influences on Ethnic Minority Students' Development of Motives and Identity," *Culture & Psychology* 11, no. 2 (June 1, 2005): 187–205; Stefan Fries et al., "[Conflict-ing Values and Their Impact on Learning](#)," *European Journal of Psychology of Education* 20 (September 1, 2005): 259–73.
- 60 Corey A. DeAngelis and Heidi Holmes Erickson, "What Leads to Successful School Choice Programs? A Review of the Theories and Evidence," *Cato Journal* 38, no. 1 (2018): 247–63.
- 61 Individual schools and teachers undoubtedly strive to serve and educate their students to the very best of their ability, but good intentions and best efforts are not enough; a well-designed educational system is also needed to best educate the next generation of Canadians.
- 62 Bennett, *The State of the System*, *supra* note 8 at Chapter 7: The "One-Size-Fits-All" Model.
- 63 DeAngelis and Erickson, "What Leads to Successful School Choice Programs?", *supra* note 60.
- 64 Jane Friesen, Benjamin Harris, and Simon D. Woodcock, "[Expanding School Choice Through Open Enrollment](#): Lessons from British Columbia," *SSRN Electronic Journal*, 2015.
- 65 See Ping Ching Winnie Chan, "School Choice, Competition, and Public School Performance" (University of Toronto, n.d.); David N. Figlio and Cassandra M.D. Hart, "[Competitive Effects of Means-Tested School Vouchers](#)" (National Bureau of Economic Research, 2010); Thomas Rabovsky, "[Deconstructing School Choice: Problem Schools or Problem Students?](#)," *Public Administration Review* 71, no. 1 (2011): 87–95; Mark Schneider and Jack Buckley, "Charter Schools: Hype or Hope?" *Education Finance and Policy*, 2006, 16; Lynn Bosetti, Brianna Brown, and Sazid Hasan, "A Primer on Charter Schools" (Fraser Institute, 2015); M. Danish Shakeel, Kaitlin P. Anderson, and Patrick J. Wolf, "[The Participant Effects of Private School Vouchers Across the Globe: A Meta-Analytic and Systematic Review](#)" (University of Arkansas, 2016).
- 66 Lynn Bosetti, Brianna Brown, and Sazid Hasan, "[A Primer on Charter Schools](#)" (Fraser Institute, 2015).
- 67 DeAngelis and Erickson, "What Leads to Successful School Choice Programs?", *supra* note 60.
- 68 Philip S. J. Leonard, "Choice of Ontario High Schools and Its Impact on University Applications," *Education Economics* 23, no. 3–4 (June 2015): 433–54.
- 69 OECD, "[PISA 2015 Key Findings for Canada - OECD](#)," 2019.
- 70 See, for example, Pennings, R. et al., *A Rising Tide Lifts All Boats: Measuring Non-Government School Effects in Service of the Canadian Public Good* (Hamilton, ON: Cardus, 2012).
- 71 See Harry Anthony Patrinos, "School Choice in the Netherlands," *CESifo DICE Report*, 2011.
- 72 *Ibid.*, at 57. OECD stands for the Organization of Economically Developed Countries.
- 73 *Ibid.*, at 57.
- 74 *Ibid.*, at 58.
- 75 *Ibid.*, 55, 58.
- 76 Bennett, *The State of the System*, *supra* note 8, Chapter 7: The "One-Size-Fits-All" Model.
- 77 William A. Galston, *The Practice of Liberal Pluralism* (New York: Cambridge University Press, 2005), p. 20.



We hope you enjoyed reading this policy report.

We know that championing our policy recommendations will take courage, dedication, and hard work. We at ARPA Canada strongly believe that doing so would be consistent with God's calling for you in a position of civil authority (Romans 13), and for promoting the well-being of our neighbours, in line with Canada's constitution and legal history. We are grateful for your service and we remember you in our prayers.

RESPECTFULLY SUBMITTED

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