



**Organisasie vir Godsdienste-
Onderrig en Demokrasie**

In 2009 Hans Pietersen, who would later become the founding director of the non-governmental organization OGOD, made headlines for highlighting coercive religious practices in public schools. Detail from this period, including numerous public statements and references in the press, was captured on the web site www.hulle.co.za at the time. Now, five years later, formal charges have been laid.

The *Organisasie vir Godsdienste-Onderrig en Demokrasie* is taking various schools and ministers to task for allowing the suppression of scientific and cultural knowledge, religious coercion and abuse of learners' rights in public schools.

In support of the South African Constitution, OGOD endeavours to

- Promote in-depth, fact-based education about religions of the world;
- Eradicate religious indoctrination in public schools;
- Identify and expose religious counter-knowledge and magical thinking;
- Shield children from the psychological dangers of religious damnation;
- Promote a democratic, secular and human rights based South African society, and
- Eradicate religious elitism.

LEGAL FRAMEWORK

The Honourable Minister Asmal published the religion education policy as approved by the Council of Education Ministers ("the minister and council") on 4 August 2003. The religion education policy was recorded as being necessary and overdue to give full expression to the invocation of religion in the Constitution and the principles governing religious freedom.

In the foreword it is explained that as a democratic society with a diverse population and different cultures, languages and religions, the minister and council were duty bound to ensure that through our diversity they develop a unity of purpose and spirit that recognises and celebrates our diversity. That should be particularly evident in our public schools where no particular religious ethos should be dominant over and suppress others.

Just as the minister and council must ensure and protect the equal rights of all students to be at school, the minister and council must also appreciate their right to have their religious views recognised and respected. The religion education policy

recognised the rich and diverse religious heritage of our country and adopted a co-operative model that accepted our rich heritage and the possibility of creative interaction between schools and faith whilst, protecting our young people from religious discrimination or coercion. The religion education policy was neither negative nor hostile towards any religion or faith and did not discriminate against anyone. Rather it displayed a profound respect towards religious faith and affirmed the importance of the study of religion and religious observances. Accordingly, the religion education policy provided inter alia as follows in the sub-paragraphs that follow hereinafter.

- Recognising the particular value of the rich and diverse religious heritage of our country, the minister and council identified the distinctive contribution that religion could make to education, and that education could make teaching and learning about religion, and the minister and council therefore promoted the role of religion in education – (Section 1).
- In doing so, the minister and council worked from the premise that the public school had an educational responsibility for teaching and learning about religion and religions, and for promoting those, but that it would do so in ways that were different from the religious instruction or religious nurture provided by the home, family and religious community – (Section 1).
- The minister and council did so also in the recognition that there had been instances in which public education institutions had discriminated on the grounds of religious belief, such that greater definition was required – (Section 2).
- In many cases, pupils of one religion were subjected to religious observances in another, without any real choice in the matter – (Section 2).
- The religion education policy was not prescriptive, but provided a framework for schools to determine policies, and for parents and communities to be better informed of their rights and responsibilities in regard to religion and education – (Section 2).
- The minister and council rejected both the theocratic model of the religious state, such as the ‘Christian-national’ state in our own history that tried to impose religion in public institutions, as well as any repressionist model that would adopt a hostile stance towards religion – (Section 3).
- In a co-operative model, both the principle of legal suppression and the possibility of creative interaction were affirmed. Separate spheres for religion and the State were established by the Constitution, but there was scope for interaction between the two – (Section 3).
- While ensuring the protection of citizens from religious discrimination or coercion, that model encouraged an ongoing dialogue between religious groups and the State in areas of common interest and concern – (Section 3).
- Even in such exchanges, however, religious individuals and groups must be assured of their freedom from any State interference with regard to freedom of conscience, religion, thought, belief and opinion – (Section 3).
- In regard to the relationship between religion and public education, the minister and council proposed that the co-operative model which combined constitutional separation and mutual recognition, provided a framework that was best for religion and best for education in a democratic South Africa – (Section 4).
- Under the constitutional guarantee of freedom of religion, the State, neither advancing nor inhibiting religion, must

assume a position of fairness, informed by a parity of esteem for all religions, and world views – (Section 5).

- That positive impartiality carried a profound appreciation of spirituality and religion in its many manifestations, as reflected by the deference to God in the preamble to our Constitution, but did not impose those – (Section 5).
- To achieve those goals, the relationship between religion and education must be guided by the following principles:
 - Public institutions had a responsibility to teach about religion and religions in ways that reflected a profound appreciation of the spiritual, non-material aspects of life, but which differed from the religious education, religious instruction, or religious nurture provided by the home, family, and religious community;
 - Teaching about religion, religions and religious diversity needed to be facilitated by trained professionals, and programs in religion education had to be supported by appropriate and credible teaching and learning materials, an objective assessment criteria – (Section 8).
- Our Constitution had worked out a careful balance between freedom for religious belief and expression and freedom from religious coercion and discrimination – (Section 12).
- On the one hand, by ensuring that “everyone has the right to freedom of conscience, religion, thought, belief, and opinion”, the Constitution guaranteed freedom of and for religion, and citizens were free to exercise their basic right to religious conviction, expression, and association – (Section 12).
- On the other hand, by ensuring equality in the enjoyment of all the rights, privileges, and benefits of citizenship, the Constitution explicitly prohibited unfair discrimination on grounds that included religion, belief, and conscience – (Section 12).
- Protected from any discrimination or discriminatory practises based on religion, citizens were thereby also free from any religious coercion that might be implied by the State – (Section 12).
- The Schools Act upheld the constitutional rights of all citizens to freedom of conscience, religion, thought, belief and opinion, and freedom from unfair discrimination on any grounds whatsoever, including religion, in public education institutions – (Section 13).
- The practices of schools might be tested against the following national priorities:
 - Openness : schools, together with the broader society, played a role in cultural information and transmission, and educational institutions must promote a spirit of openness in which there would be no overt or covert attempt to indoctrinate pupils into any particular belief or religion;
 - Social honour : while honouring the linguistic, cultural, religious or secular backgrounds of all pupils, educational institutions could not allow the over or covert denigration of any religion or secular world view – (Section 14),
- The religion education policy covered the different aspects of religion education, religious instruction and religious observances, and was applicable in all public schools – (Section 15).
- Religion education was a curricular program with clear and age-appropriate educational aims and objectives, for teaching and learning about religion, religions and religious diversity in South Africa and the world – (Section 17).
- The study of religion must serve recognisable educational goals that were consistent with the aims and outcomes of other learning areas, and like other learning areas in the curriculum, programs in religion education must

contribute to developing basic skills in observation, listening, reading, writing and thinking – (Section 17).

- Religion education might also be justified by the educational character of the program, which included the common values that all religions promoted, such as the human search for meaning and the ethic of service to others, and by the desirable social ends, such as expanding understanding, increasing tolerance, and reducing prejudice – (Section 18).
- Religion education is justified by its contribution to the promotion of social justice, and respect for the environment, that can be served by this field of study within the school curriculum – (Section 18).
- Religion education, with educational outcomes, was the responsibility of the school – (Section 19).
- Religion education would include teaching and learning about the religions of the world, with the particular attention to the religions of South Africa, as well as world news, and it would place adequate emphasis on values and moral education – (Section 19).
- In that, the minister and council re-asserted the policy of the revised national curriculum statement to offer education about religions for the purposes of achieving “religious literacy” – (Section 19).
- Religion education was therefore an educational program with clearly defined and transferable skills, values and attitudes as the outcomes – (Section 19).
- It was a program for teaching and learning about religion in its broader sense, about religions, and about religious diversity in South Africa and the world – (Section 19).
- Religion education should enable pupils to engage in a variety of religious traditions in a way that encouraged them to grow in their inner spiritual and moral dimensions – (Section 19).
- It must affirm their own identity, while leading them to an informed understanding of the religious identities of other – (Section 19).
- Confessional or sectarian forms of religious instruction in public schools were inappropriate for a religiously diverse and democratic society – (Section 22).
- As institutions with a mandate to serve the entire society, public schools must avoid adopting a particular religion, or a limited set of religions, that advances sectarian or particular interests – (Section 22).
- Schools should be explaining what religions were about, with clear educational goals and objectives, in ways that increased understanding, built respect from diversity, valued spirituality, and clarified the religious and non-religious sources of moral values – (Section 22).
- The minister and council owed that to our pupils, as well as to parents, citizens, and taxpayers – (Section 22).
- Unlike a single-faith approach to religious education, which provided religious instruction in one religion, and unlike a multiple single-faith approach, which provided parallel programs in religious instruction for an approved set of religions, a multi-traditional approach to the study of religion education did not promote any particular religion – (Section 23).
- It is a program for studying about religion, in all its many forms, as an important dimension of human experience and a significant subject field in the school curriculum – (Section 23).
- Instead of promoting a religious position, a program in religion education pursues a balanced approach to teaching

and learning about religion – (Section 25).

- Religion education was educational – (Section 29).
- Knowledge, understanding, and appreciation of the full extent of our rich and textured religious diversity should be reflected in the learning programs of our schools – (Section 29).
- The teaching of religion education must be sensitive to religious interests by ensuring that individuals and groups were protected from ignorance, stereotypes, caricatures and denigration – (Section 35).
- Pupils in the foundation phase should begin a study of religious diversity by exploring the more tangible forms of a religion, the observable aspects of religious diversity found in churches, mosques, synagogues, temples and other places of gathering for religious life – (Section 50).
- In the intermediate phase, pupils should begin studying the basic component phenomena of religion, such as stories, songs, sacred places, founders, rituals, and festivals, with illustrations drawn from various religious traditions and communities in South Africa and the world – (Section 51).
- In the senior phase programs in religion education could introduce the integration of these component parts of religion as a forerunner to a religious studies program in the further education and training band – (Section 51).
- Religious instruction is understood to include instruction in a particular faith or belief, with a view to the inculcation of adherence to that faith or belief – (Section 54).
- Religious instruction of this sort is primarily the responsibility of the home, the family and the religious community, and more needs to be done to strengthen this role, in place of the school – (Section 55).
- Religious instruction would in most cases be provided by clergy, or other persons accredited by faith communities to do so – (Section 55).
- Religious instruction might not be part of the formal school program, as constituted by the national curriculum statement, although schools were encouraged to allow the use of their facilities for such programs, in a manner that did not interrupt or detract from the core educational purposes of the school – (Section 55).
- That would include voluntary gatherings and meetings of religious associations during break times – (Section 55).
- In accordance with the Constitution, the Schools Act, and rules made by the appropriate authorities, the governing bodies of public schools might make their facilities available for religious observances, in the context of free and voluntary association, provided that facilities were made available on an equitable basis – (Section 58).
- There were various types of religious observance implied in this instance :
 - voluntary public occasions, which made use of school facilities, for religious service on a day of worship or rest;
 - voluntary occasions in the school community (teachers and pupils) gather for a religious observance;
 - observances held in a voluntary gathering of pupils and/or teachers during a school break; and
 - an observance which might be ongoing, and entailed other dimensions such as dress, prayer times and diets, which must be respected and accommodated in a manner agreed upon by the school and the relevant faith authorities – (Section 59).
- Although such religious observances took place on school property, they were not part of the official educational

function of the public school – (Section 60).

- School governing bodies were required to determine the nature and content of religious observances for teachers and pupils, such that coherence and alignment with the religion education policy and applicable legislation was ensured – (Section 61).
- Where religious observances were held, those might be at any time determined by the School, and might be part of the school assembly. However an assembly was not necessarily to be seen as the only occasion for religious observance, which might take place at other times of the day and in other ways, including specific dress requirements or dietary injunctions – (Section 61).
- Where a religious observance was 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 – (Section 61).
- Appropriate and equitable means of acknowledging the multi-religious nature of a school community might include the following:
 - the separation of learners according to religion, where the observance takes place outside of the context of the 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 – (Section 62),
- Where the segregation of pupils was 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” – (Section 62).
- Public schools might not violate the religious freedom of pupils and teachers by imposing religious uniformity or a religiously diverse school population in school assemblies – (Section 63).
- Where a religious observance was included in a school assembly, pupils might be excused on grounds of conscience, from attending a religious observance component, and equitable arrangements must be made for those pupils – (Section 63).
- Since the State was not a religious organisation, theological body, or inter-faith forum, the State could not allow unfair access to the use of its resources to propagate any particular religion or religions – (Section 64).

THE CHARGES

Acting on behalf of learners and parents of learners at public schools in South Africa, OGOD has laid charges in the Gauteng Division of the High Court of South Africa against six public schools and two ministers.

According to the organisation, the actions of the some public schools are in breach of the National Policy on Religion and Education, and/or unconstitutional, for such public schools:

- 1.1 promote or to allow its staff to promote adherence to one or predominantly one religion during its religion school activities;
- 1.2 hold out that it promotes the interests of a religion;
- 1.3 align or associate itself with a religion;
- 1.4 require learners, either directly or indirectly, to disclose:
 - 1.4.1 whether or not such learners adhere to any religion;
 - 1.4.2 to which religion, if any, the learners adhere;
- 1.5 maintain any record of the religion, if any, to which learners adhere;
- 1.6 segregate or permit the segregation of learners on the basis of religious adherence;

OGOD defends the constitutional rights of learners to freedom of religion and conscience, and their right of access to knowledge. Many South African public schools abuse these rights by, for example;

- Claiming to develop children to the honour of a deity;
- Advertising or holding themselves to support specific religions;
- Requiring pupils to subscribe to a specific religion;
- Refer to a deity in their school badges, logos and mottos;
- Rendering religious instruction;
- Expressly recording a mission within a religious tradition;
- Having, as part of their weekly programme, religious singing;
- Having, as part of their curriculum, religious singing and religious instruction;
- Handing out religious booklets or textbooks and/or promulgating religious stories;
- Issuing prefects with T-shirts with religious symbols printed thereon;
- Opening school assemblies with sermons or prayer;
- Publicising the faith membership of its pupils;
- Publicising that faith formed part of its vision, mission and ethos;
- Opening the school day with scripture and prayer;
- Structuring assemblies with religion as part thereof;
- Singing or having religious songs sung;
- Opening various activities with religion and prayer;
- Inviting religious leaders to address learners, in school context, in religious matters;
- Forming religious instruction as part of its curriculum or presenting religious instruction;
- Requiring pupils or parents to disclose their religion, belief, opinion or conscientious objections;
- Stating that pupils may not be friends with children who do not subscribe to the same religion;
- Have prayers before or after sporting games dedicated to a deity;

- Record that school badges represent that children are bound in the educational process by way of places of worship;
- Refer to deities in school anthems;
- Allowing evangelisation courses to be presented;
- Striving for education of learners according to religious principles as part of its disciplinary policy;
- Having values that include learners to strive towards religious faith;
- Instructing preschool children from a religious perspective or building preschool children in faith;
- Allowing or promoting religion youth leaders to speak to children during assemblies or breaks;
- Holding events, including days of thanks, whereby pupils are to identify themselves as members or non-members of a particular faith;
- Working with learners to understand and self-discover in what relationship they stood with a deity;
- Systematically or otherwise exposing or introducing learners to religious coercion;
- Discussing with learners, with or without the aid of games, presentations and singing their own relationship with a deity and sharing religious teachings with friends;
- Teaching creationism;
- Start or end the school day by reading religious texts and prayer in classes;
- Providing learner's with religious texts;
- Teaching that non-believers will go to hell;
- Have children draw pictures depicting religious myths;
- Advertising that pupils had "given their hearts" to a deity;
- Opening assemblies with guest speakers from a faith by way of reading form religious texts, prayer and sermons;
- Having projects or teaching pupils to honour a "Creator";
- Requiring pupils to pray;
- Limiting and promoting the wearing of armbands pertaining to a faith;
- Prayer in each class prior to adjournment at the end of the school day;
- Promoting interest in religious youth camps and excursions;
- Designating a room solely for the purposes of praying;
- Promoting that it has a principal and personnel who, through their example and conduct, illustrated that they were pious;
- Promoting that many learners were ecclesiastically integrated with youth groups and that they lived their religion to the full;
- Publishing, having or condoning religious authors' work, sermons or lectures;
- Advertising and promoting itself as a religious school;
- Decorate or allow its class rooms to be decorated with verses from religious texts or religious paraphernalia of a singular religion;
- Requiring pupils to pray or praying prior to examinations;
- Endorsing a singular religion;
- List religious youth movements as a cultural activity;
- Requiring learners to take along religious texts on school camps;
- Advertising that it is a religiously founded school;
- Promoting or impressing religious principles in pupils residing at its boarding houses;
- Have register teachers of classes open the school days to their classes with religious readings and prayer;
- Utilise Life Orientation classes for religious groups to evangelise and provide testimony in support of a religion;

DEFINITIONS

In the Policy, "Religion" was used to describe the comprehensive and fundamental orientation in the world, mostly with regard to ideas of divinity, spiritual and non-secular beliefs and requiring ultimate commitment, including (but not restricted

to) organised forms of religion and certain worldviews, as well as being used collectively to refer to those organisations which are established in order to protect and promote these beliefs.

“Confessional or sectarian approaches” were used to describe those approaches to religion which took as a starting point a particular set of beliefs, or a particular perspective informed by those beliefs, and advanced a position that was narrowly based on those beliefs and perspectives.

“Religion Education” described a set of curriculum outcomes which defined what a pupil should know about religion.

“Religious observances” were those activities and behaviours which recognised and expressed the views, beliefs and commitments of a particular religion, and might include gatherings of adherence, prayer times, dress and diets.

“Religious instruction” refers to a program of instruction which was aimed at providing information regarding a particular set of religious beliefs with a view to promoting adherence thereto.

“Religious Studies” was a subject which was being proposed for the Further Education and Training band (Grades 10-12), in which pupils undertook the study of religion and religions in general, with the possibility of specialisation in one or more in that context.

This will be South Africa’s watershed case for religion in public schools

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