



# *Education Equality in Ontario*

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## **Presentation to Standing Committee on Finance and Economic Affairs Pre-budget consultation January 27<sup>th</sup>, 2006**

Good afternoon. My name is Leonard Baak. I speak to you today on behalf of Education Equality in Ontario, a non-governmental human rights organization and education advocacy group. We seek the elimination of religious discrimination and duplication in the Ontario school system through the establishment of a single publicly-funded school system for each official language (English and French).

### **Background:**

Ontario's divided school system was born out of 19<sup>th</sup> century realities. Ontarians of the day could generally be categorized as being either Protestant or Roman Catholic<sup>1</sup>, and neither group had much tolerance for the religious teachings of the other. The laws of the day accommodated that intolerance by allowing for the segregation of students between the public school system, which incorporated Protestant religious education, and a separate school system for Roman Catholics. To assuage fears of eventual assimilation into a distinctly Protestant public school system, that segregation became a constitutional "right" for the Roman Catholic minority at the time of Confederation. Over time, increased diversity led the public school system to become secular and religiously neutral, while the separate school system maintained its religious identity. The rationale for segregating our school system in the 19<sup>th</sup> century no longer exists in 21<sup>st</sup> century Ontario. It is time to move on.

### **Discrimination:**

Today, the uniqueness of publicly-funded school choice and additional employment opportunities for the members of a single religious minority constitutes discrimination that offends the equality guarantees of the human rights instruments to which Canada is a party. Our Supreme Court has stated that denominational school rights "make it impossible to treat all Canadians equally."<sup>2</sup> Non-fundamental denominational school rights render our fundamental equality rights ineffective by virtue of their constitutional status. As you are likely aware<sup>3</sup>, the UN Human Rights Committee found Canada in violation of the equality provisions of the International Covenant on Civil and Political Rights by virtue of the discrimination in the Ontario school system in November 1999. They demanded that the situation be remedied by funding all religious education equally or by funding none at all. The Committee censured Canada again on November 2<sup>nd</sup>, 2005 for failing to "adopt steps in order to eliminate discrimination on the basis of religion in the funding of schools in Ontario."<sup>4</sup>

Upon taking office in 2003, the current Ontario Government eliminated public-funding for all but Roman Catholic religious education, exacerbating the very discrimination they were supposed to have addressed. At the same time, however, the Government brought Ontarians tantalizingly close to religious equality through no funding for religious education. Last fall, they eliminated the right of certain religious groups to

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<sup>1</sup> In 1867, the Ontario population was 82% Protestant, 17% Roman Catholic, and 0.2% other.

<sup>2</sup> Wilson, J., REFERENCE RE BILL 30, AN ACT TO AMEND THE EDUCATION ACT (ONT.), 25 June 1987.

<sup>3</sup> Over the years, several presenters to this Committee have commented upon the religious discrimination in the Ontario school system.

<sup>4</sup> See Observation 21, *Concluding observations of the Human Rights Committee : Canada. 02/11/2005* ([http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.CAN.CO.5.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.CAN.CO.5.En?OpenDocument)).

religious dispute arbitration, citing the need to have “one law for all Ontarians.” An elimination of all public funding for religious education would be consistent with that goal. It would also be consistent with statements by the Minister of Education and his Parliamentary Assistant, Kathleen Wynne, who in November 2005 stated that they would not support further fracturing of the public system through extended public-funding for religious schools.<sup>5</sup> This leaves one school system as the only viable and ethical alternative.

On a recent television show, Kathleen Wynne, the Parliamentary Secretary to the Minister of Education, repeatedly recognized that Ontarians must eventually broach the subject of the discrimination in our school system. She indicated that this is a conversation we must have. We agree. This discrimination offends human dignity and the notion that Ontarians are equal before and under the law.

While addressing Chinese law students on a recent (November 2005) trade mission to China, the Ontario Premier expressed his hopes that China would soon ratify the International Covenant on Civil and Political Rights<sup>6</sup>, the very instrument we were censured for violating only days before his address. Effective and strong advocacy for human rights requires a commitment on the part of the advocate as well.

### **Duplication and Waste:**

In addition to the discrimination in our school system, the duplication in our school system entails a significant opportunity cost for all Ontarians; a cost that can be measured in diminished opportunities in education, health care, or any number of other important public priorities. The Ontario Public School Boards Association has stated that “the duplication of effort involved in governing four independent systems has extensive financial ramifications.”<sup>7</sup> The provincial Standing Committee on Public Accounts has also recognized that “the fiscal burden imposed by this decision (the decision to operate multiple systems) has not been insignificant.”<sup>8</sup>

In January 2004, trustee representatives from all four of Ontario’s school systems (public and separate English and French) submitted a legislative review report<sup>9</sup> to the Minister of Education. It recognized that the lower enrolment and more dispersed schools of English separate and French public school boards represented an inherent cost disadvantage that necessitated greater Geographic Circumstances, Transportation, and Administration and Governance Grants to ensure a quality of service comparable to their larger counterparts. What it did not explicitly recognize, but is easily inferred, is that even those larger boards have lower enrolment and more dispersed schools than they would have under a single public system, thus requiring higher funding for those same grants as well.

Thousands of students are currently bused past their nearest publicly-funded school each day to attend another publicly-funded school. Under a single school system, average bus commute distances would shrink across the province; bringing fiscal, environmental, health, and lifestyle benefits to all Ontarians. Many students now bused would find themselves within walking distance of their schools under a single system.

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<sup>5</sup> “We’re not going to extend funding to private schools to further fracture, in our view, the public education system”, Kathleen Wynne on *The Michael Coren Show*, CTS Television, November 22<sup>nd</sup>, 2005.

<sup>6</sup> Ottawa Sun, *Dalton Tackles Human Rights*, by Antonella Artuso, November 8<sup>th</sup>, 2005.

<sup>7</sup> Ontario Public School Boards Association, *Exploring Future Directions in Publicly-Funded Education*, October 2001

<sup>8</sup> Standing Committee on Public Accounts, January 1994, in responding to comments by the Ontario Auditor-General regarding the high cost of education in the province.

<sup>9</sup> Report of the Legislative Review Committee As Per Section 257.107(1) *Education Act*, January 27<sup>th</sup>, 2004.

“Last November, the Ontario Public Health Association released a report that found children riding on school buses were at risk of being exposed to more polluted air. The association recommended the province set up a Healthy School Bus Program, aimed at reducing harmful emissions from school buses. The OPHA said 800,000 provincial children take school buses daily and that this exposure represents a significant public health concern.” – Toronto Star, *Choking on gridlock*, January 20<sup>th</sup>, 2006.

I would suggest to you that shorter commutes, or no commutes for some students, would help address this concern.

Another cost concern arising from the duplication in our school system concerns competition between coterminous school boards. School boards across Ontario have been dealing with the reality of declining enrolment for some years now. This has forced many boards to consider the politically unpopular option of school closings. It has also given rise to competition for student market share. Such competition often entails significant costs, such as the \$750,000 marketing campaign of the Toronto Catholic District School Board in January 2005. Competition of this sort wastes money that should be spent on education. Worse, it only succeeds in shifting one board’s declining enrolment problem onto another. This is worse than a zero-sum exercise. Where one board wins, both still lose financially.

Another consequence of the competitive, rather than cooperative, relationship between Ontario school boards is lost opportunities for economies of scale. In a 2000 report on collaboration between Ontario school boards<sup>10</sup>, the Education Improvement Commission found that “collaboration is one of the most effective strategies available to school boards to ensure that they are directing as much money as possible to the classroom. Nonetheless, collaboration among boards has still not become the norm in Ontario.” This report concentrated on the successes of purchasing cooperatives, but noted other opportunities exist in human resources, professional development, student support services, plant operations, transportation, program delivery (e.g., distance learning), and a full range of business services. The elimination of overlapping jurisdictions, and with them the motivation for competition, would do much to foster such cooperation.

### **The Way Forward:**

Ontario could move towards a single publicly-funded school system with *or without* constitutional change. Constitutional change affecting one or more, but not all provinces (such as denominational school rights) can be accomplished through a bilateral amendment between the affected province(s) and the Parliament of Canada alone. Quebec and Newfoundland both eliminated denominational school rights through such an amendment<sup>11</sup> in the late 1990s. The Newfoundland amendment was proclaimed just 4 months after being requested by the provincial legislature. Manitoba eliminated denominational schools unilaterally in 1890, despite a constitutional obligation to provide them virtually identical to Ontario’s.

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<sup>10</sup> *Collaboration Among School Boards: Working Together For Better Value*, Ministry of Education, Education Improvement Commission, Oct 2000.

<sup>11</sup> Section 43, Constitution Act, 1982.

## Conclusion:

I believe that today I have laid out for you the necessity to address the discrimination in our school system and some of the benefits of a unified school system as a remedy. I hope you will give them your serious consideration. I hope you will recommend that the Government seek constitutional change to establish the primacy of fundamental equality rights over non-fundamental denominational rights. We want equality for our children and ourselves. We want to see better stewardship of the financial resources committed to the education of our children. One school system will address those concerns, and those of the UN. Unlike many of the groups who present to you, we come not with a cap in hand, but with a proposal to help fill those caps.

Thank you for the opportunity to speak to you today. I would be happy to take your questions.

Sincerely,

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"While the responsibility to comply with the obligations enshrined in international human rights instruments and to uphold universally agreed human rights standards falls upon states, involvement by informed citizen is key to pushing for states' compliance with human rights instruments." - Bill Graham, Minister of Foreign Affairs of Canada, March 2004, in the preface to "*FOR THE RECORD 2003: The United Nations Human Rights System*"

"Finally, government is to see to it that equality of citizens before the law, which is itself an element of the common good, is never violated, whether openly or covertly, for religious reasons. Nor is there to be discrimination among citizens." - Pope Paul VI, *DECLARATION ON RELIGIOUS FREEDOM*, 7 Dec 1965.

"...religious discrimination is an offence against the dignity of the human person; a contradiction to the sincere respect which is owed to other faiths, and an offence against charity." -- Canadian College of Catholic Bishops, *Eliminate Racial and Religious Discrimination: See Every Person as My Sister or Brother*, 21 Mar 2004.

From *Waldman v. Canada*, 1999:

State party: "Full public funding of private religious schools is likely to lead to increased public school closings and to the reduction of the range of programs and services a public system can afford to offer"

Author: "[The state party] acknowledges that the public school system in Ontario would have greater resources if the Government would cease funding any religious schools."

Author: "...the State party's rationale for the discriminatory treatment of religious schools, the desire to foster multiracial and multicultural harmony through maximizing public funding for the secular school system, would actually require the withdrawal of special funding for Roman Catholic separate schools."