

CAPITAL COMMENTARY

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Educational Equity in Ontario

In 2001, Jim Flaherty, Ontario's Minister of Finance, announced that the Progressive Conservative government would support the enactment of the Equity in Education Tax Credit. This landmark legislation would provide partial tax relief for parents of children in independent schools. It would be phased in over five years and would eventually apply to the first \$7,000 of tuition fees. The measure was justifiably hailed as a partial victory for those groups, including the Ontario Alliance of Christian Schools (OACS) and the Ontario Multifaith Coalition for Equity in Education, which had long argued for funding of all schools, irrespective of their confessional status.

Behind this move was a history of contention over education extending back to Canadian Confederation in 1867. Section 92 of the *British North America Act* (now the *Constitution Act, 1867*) gave the provinces exclusive jurisdiction over education. But section 93 provided that educational rights of "the Queen's Roman Catholic subjects" in Ontario and of Protestants in Quebec were to be protected by law. In Ontario this was eventually acknowledged to entail the full public funding of the system of Catholic (or "Separate") schools from elementary through secondary levels. Protestant and Jewish schools were conspicuously excluded.

Against the backdrop of this obvious inequity, the United Nations' Human Rights Committee issued a report in 1999 criticizing Ontario's educational policy as blatantly discriminatory. The committee recommended that Ontario either extend public funding to all independent schools irrespective of religious orientation or withhold such funding from all such schools. To remove funding from the Roman Catholic schools so late in the day would be politically impossible. Yet the extension of financial support was also controversial. Teachers' unions, the opposition parties, and much of the press opposed it, fearing a further loss of resources from the cash-strapped public system. Then-Premier Mike Harris, already unpopular due to his

government's fiscal austerity measures and an abrasive personal style, looked set to ignore the UN ruling.

Flaherty's tax credit legislation thus took the people of Ontario by surprise. Toronto's *National Post* expressed support, while the *Toronto Star* was vehement in its opposition. Yet the latter's fears of a massive hemorrhage of students from the public schools failed to materialize. Ontario had now joined three other provinces in providing at least some financial support for parental choice in education, even if it fell short of full equality.

However, victory celebrations proved premature. A provincial election in 2003 brought the Liberal Party to power under the leadership of Dalton McGuinty. Premier McGuinty had fought the tax credit, both as leader of the opposition and during the election campaign itself. As promised, his government repealed the law, adding insult to injury by making it effective retroactive to the beginning of 2003, when the previous government was still in power. The OACS filed for a temporary injunction in court to prevent this, but without success.

This would seem to be the end of the quest for educational justice in Ontario. Yet that may be too pessimistic an appraisal. After all, Christian, Jewish, Muslim, and other parents were given a brief taste of the real thing for one short year, before it was snatched from them. They are unlikely to be satisfied with a return to the status quo. Moreover, the UN committee report still stands, and this time Ontario is deliberately, rather than passively, in contravention of it. The issue will not go away. British Columbia, Alberta, and Manitoba have had partially funded independent schools for some time now, without the apocalyptic predictions of opponents coming true. The battle will simply have to be fought again.

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