

# Dealing with Segregation in Education

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## 1. Introduction

In her book *Education Denied* Katarina Tomaševski devoted a chapter on ‘Revisiting Segregation in Education’. She argued that traditional forms of discrimination and segregation, such as in the USA and South Africa, have been overcome. She also put forward that “segregation has changed, however, rather than eliminated. The boundaries of belonging are no longer laid down in law but are determined by the power of the purse, evidenced in the racial profile of residential segregation and the intake of private schools”.<sup>1</sup> This social phenomenon certainly applies to many countries, in particular densely populated urban areas. In many big cities in Western Europe there is an increasing trend of segregation in education. This concept may be understood in different ways, depending on the perspective chosen. It may mean schools where a large portion or the majority of the pupils is from immigrant origin. It may also mean that the pupil composition of a school does not mirror the social composition of the neighbourhood where the school is based. Finally, segregation may entail the existence next to each other of so-called ‘black’ and ‘white’ schools in the same residential area. This ‘new’ type of segregation in education is not promoted, encouraged, regulated or enforced by the state. Instead, it is an independent social phenomenon. This development is related directly to the growing multicultural character of countries and cities due to the arrival of migrant workers and members of their families. In this contribution I intend to discuss the case of The Netherlands as an example of a country where in big cities such as Amsterdam, Rotterdam, Utrecht, The Hague and Nijmegen segregation in education between native Dutch and immigrant groups is rising. This social phenomenon mirrors to a considerable extent residential concentration.<sup>2</sup> There are ‘white’ and ‘black’ residential areas meaning that the majority of the population of that area is either native Dutch or of immigrant origin. The concentration of children of different ethnic origin in schools based in different residential neighbourhoods is seen as problematic from the perspective of promoting the integration of immigrants in society. As Katarina Tomaševski has observed when discussing the role of education as a barrier or bridge between individuals and communities, “segregated education may be faulted for fostering disintegration of society or intercommunity conflicts”.<sup>3</sup> The present contribution will argue that the division of children of native parents and children from migrant parents in separate schools conflicts with one of the core ideas that underlie human rights and education, namely the key importance of promoting mutual understanding, tolerance and friendship between people of different ethnic, national or religious background. This idea is central to the aims of education as laid down in Article 26(2) of the Universal Declaration of Human Rights (UDHR). I will use developments in The Netherlands to illustrate the

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<sup>1</sup> K. Tomasevski, *Education Denied – Costs and Remedies* (Zed Books, London/New York, 2003), p. 143.

<sup>2</sup> OECD, *OECD Reviews of Migrant Education: Netherlands* (Paris, 2010), p. 36.

<sup>3</sup> K. Tomasevski, *Annual report of the Special Rapporteur on the right to education*, UN doc. E/CN.4/2004/45, para. 53.

more general issues that are at stake. However, it should be emphasised that similar problems also occur in other big urban areas in other European countries, such as Paris and Brussels.

## 2. Segregation in Education

'Black' schools can be defined as schools that have over 50 per cent of ethnic minority pupils. Presently the number of 'black' primary schools in The Netherlands is 600, approximately. It has increased over the years. In Amsterdam, for example, segregation between ethnic minority students and their native counterparts in separate primary schools is almost complete. There is also an increasing trend of segregation of immigrant and native pupils in secondary schools in Amsterdam.<sup>4</sup> Research results also show that segregation is not only based on colour, but also on the level of education of the parents: overall and generally speaking, ethnic minority pupils have parents with a low educational level, while native pupils have parents with a higher educational level. In addition, in secondary education in Amsterdam, native pupils usually go to schools that prepare for university education or higher vocational education, while immigrant pupils generally attend schools that focus on lower or medium levels of vocational education. Another trend is that new primary schools established by members of the Muslim minority in The Netherlands are almost fully immigrant schools by definition, while the pupil population of schools established on a specific educational basis (Montessori schools, Jenaplan schools, Rudolf Steiner schools, *etc.*) or on a denominational basis (Protestant, Roman Catholic or Jewish) is 'white' in majority.

In addition, there is also a concern about the relationship between the concentration of immigrants in some cities and school quality. Studies showed that there were relatively high numbers of under-performing schools in cities with high concentration of immigrant pupils. For example, in 2007, 14.1 per cent of primary schools in Amsterdam, The Hague, Rotterdam and Utrecht were classified as under-performing.<sup>5</sup> The results of other more recent empirical sociological research show that ethnic diversity (native and immigrant students) at 'black' secondary schools causes a decreasing quality at such schools. On the other hand, 15-year old students at secondary schools with homogeneous student populations (either native, or from different immigrant origin) perform better.<sup>6</sup> The reason for the underperformance of mixed schools is that teachers have to devote a lot of attention to bridging cultural gaps between students, rather than having sufficient time to focus on passing on the subject matter to them. These teachers are unable to adequately specialise in teaching members of a specific ethnic group. The outcome of this research would be an argument against multicultural mixed schools, but its focus is the performance level of pupils, not their membership of a multicultural society and their

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<sup>4</sup> See the Dutch daily newspaper *NRC Handelsblad* of 26 August 2003, reporting about the results of research undertaken by the SCO Kohnstamm Institute by order of the Municipality of Amsterdam.

<sup>5</sup> OECD, *supra* note 2, p. 37.

<sup>6</sup> See J. Dronkers, 'Positive but also negative effects of ethnic diversity in schools on educational performance?', Inaugural address at Maastricht University, 17 June 2010, on file with the author. The empirical data on which Dronkers based his research originate from the 2006 Program for International Student Assessment (PISA). The research covered Germany, Belgium, Scotland and Denmark and applied to children of 15 years of age.

relationships with other pupils at school, in other words social distances between ethnic groups.

One of the key questions is what the motives are of parents to select a particular school for their children. Research has shown that in a number of big cities in The Netherlands what really counts are the *alleged* quality and the atmosphere at school. In this respect predominantly ‘black’ schools have a bad image with native parents.<sup>7</sup> This perception lies at the basis of the so-called ‘white flight’ of parents who take their children to schools in predominantly ‘white’ residential areas which may be far away from the areas where they live. The argument goes that ‘white’ schools perform better than ‘black’ schools. This ‘white flight’ is not exclusively related to the ethnic background of pupils, but also to their socio-economic background (rich *versus* poor families, differences in income, the educational level of parents). The Netherlands government argues that it is quite natural that in urban neighbourhoods with a high proportion of ethnic minority residents’ schools tend to have a relatively high proportion of ethnic minority pupils. The government thinks that this is also due to the fact that parents are free to choose their child’s school and privately run schools are not obliged to accept pupils.<sup>8</sup> One may wonder what the (social) costs are of this development towards segregation in education, in terms of getting to know one’s fellow citizens, being able to communicate with them, also at a later stage, in one’s personal and professional life. The UN Committee on the Elimination of Racial Discrimination has urged The Netherlands government to increase its efforts to prevent and abolish segregation in education. It is of the view that the role assigned to the Education Inspectorate in promoting integration has been inadequate.<sup>9</sup> The European Commission against Racism and Intolerance (ECRI) also recommended the Dutch authorities to address *de facto* segregation in Dutch schools by, *inter alia*, providing parents with incentives to send their children to schools in their own neighbourhoods.<sup>10</sup>

### 3. The Human Rights Framework

Protection and promotion of human rights is based on the idea of inclusiveness, meaning that people from different ethnic, religious, cultural and national backgrounds should, on the basis of equality of opportunity, be able to become a member of and take part in society. School is the place where people from different backgrounds meet for the first time. Inclusiveness in the area of education can be realised at the classroom level, which is the responsibility of the teacher, but also at the level of school policy, which is the responsibility of the management of a school and the local authorities. Finally, inclusiveness can be part of the education system as a whole which is laid down in

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<sup>7</sup> FORUM (Institute for Multi-Cultural Development), Letter concerning the elimination of segregation in education, 16 April 2009, p. 3, available at <[www.forum.nl](http://www.forum.nl)>, accessed June 2010.

<sup>8</sup> *The Netherlands’ consolidated 17<sup>th</sup> and 18<sup>th</sup> periodic report on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination*, UN doc. CERD/C/NLD/18, para. 28.

<sup>9</sup> Committee on the Elimination of Racial Discrimination, *Concluding Observations on The Netherlands*, UN doc. CERD/C/NLD/CO/17-18, para. 7.

<sup>10</sup> European Commission against Racism and Intolerance, *Third Report on the Netherlands*, 2008, p. 22, <[www.coe.int/t/dghl/monitoring/ecri/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/default_en.asp)>, accessed June 2010.

educational legislation.<sup>11</sup> A multicultural setting is crucial for the personal development of children. These ideas are prominent in the human rights instruments in which an inclusive approach is framed in terms of goals to be achieved by carrying out obligations. Generally speaking, states parties to the International Convention on the Elimination of All Forms of Racial Discrimination undertake to promote understanding among all races (Article 2, introduction). To this end, states undertake to encourage integrationist multi-racial movements and organisations aimed at eliminating barriers between races, and to discourage anything which tends to strengthen racial division (Article 2(e)). In addition, states undertake to take immediate and effective measures, particularly in the fields of, *inter alia*, teaching and education, with a view to combating prejudices and promoting understanding, tolerance and friendship among nations and racial or ethnic groups (Article 7). Relevant in this respect are also the aims of education as laid down in human rights instruments, such as the UDHR, the International Covenant on Economic, Social and Cultural Rights (Article 13(1) ICESCR) and the Convention on the Rights of the Child (Article 29(1)). For example, under paragraph d) the latter provision stipulates that education shall be directed to the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.<sup>12</sup>

There are, however, other provisions in human rights treaties which provide guarantees for the freedom of parents to choose for their children schools, other than those established by the public authorities, and to ensure the religious and moral education of their children in conformity with their own convictions (Article 13(3) ICESCR). Article 26(3) UDHR reads: “Parents have a prior right to choose the kind of education that shall be given to their children.”<sup>13</sup> According to The Netherlands Constitution (Article 23), parents have a right to choose between public education, or education on a specific denominational, philosophical or pedagogical basis, but there is no right to have access to a particular school.<sup>14</sup> In the Netherlands there has always been a strong focus on the guarantee of parental freedom to choose, strongly supported by the Christian political parties in Parliament (centre and orthodox right). The issue of ‘black’ and ‘white’ schools therefore reflects a clash between basic values: parental freedom to choose, free from state interference which is a typical liberal and Christian idea, *versus* the notions of inclusiveness, multiculturalism, equality of opportunity, non-discrimination and integration. The question may be raised whether a balance can be struck between these conflicting values. In this respect it is important to repeat here a

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<sup>11</sup> P. Batelaan, ‘The Implications of International Documents on Intercultural Education’, in P. Batelaan and F. Coomans, *The International Basis for Intercultural Education Including Anti-racist and Human Rights Education* (IAIE/IBE/Council of Europe, 1999) p. 19.

<sup>12</sup> See also the UNESCO Guidelines on Intercultural Education 2006, available at <[www.unesco.org](http://www.unesco.org)>. For other relevant international texts, see Batelaan and Coomans, *supra* note 11.

<sup>13</sup> See also Article 2, First Protocol to the European Convention on Human Rights and Fundamental Freedoms.

<sup>14</sup> For an overview of The Netherlands’ educational system, see Eurydice, *Organisation of the education system in the Netherlands 2008/09*, <[eacea.ec.europa.eu/education/eurydice/documents/eurybase/eurybase\\_full\\_reports/NL\\_EN.pdf](http://eacea.ec.europa.eu/education/eurydice/documents/eurybase/eurybase_full_reports/NL_EN.pdf)>, accessed June 2010.

view of the UN Committee on the Rights of the Child. In its General Comment on the aims of education it said:

Racism and related phenomena thrive where there is ignorance, unfounded fears of racial, ethnic, religious cultural and linguistic or other forms of difference, the exploitation of prejudices, or the teaching or dissemination of distorted values. A reliable and enduring antidote to all of these failings is the provision of education which promotes an understanding and appreciation of the values reflected in article 29(1), including respect for differences, and challenges to all aspects of discrimination and prejudice.<sup>15</sup>

This quote would imply that education which promotes an understanding and appreciation of the differences between ethnic, cultural and religious characteristics of pupils would be more effective if such education occurs in a multicultural setting, where students actually meet and can learn about each other.

#### 4. Striking a Balance

Dutch legislation requires schools to promote active citizenship and social integration among pupils, ensure that students are familiar with and find out about the different backgrounds and cultures of their peers, assuming that pupils grow up in a diverse society.<sup>16</sup> How should these goals be realised? Is it sufficient for the government to persuade schools to make voluntary agreements about spreading students over schools in a particular town? Or is there a need to enforce multi-cultural schools, for example by stipulating that children will be assigned on the basis of the postal code of their home address? Or should the local authorities set a limit to the percentage of migrant pupils in a school in a particular area? Such a policy could conflict with the free choice of education of parents for their children, if the outcome would be that children could only go to a school which is contrary to the beliefs or convictions of their parents. In this respect it is worth recalling that the UN Committee on the Elimination of Racial Discrimination in 1995 adopted a General Recommendation, in which it observed that:

a condition of partial segregation may [...] arise as an unintended by-product of the actions of private persons. In many cities residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds.<sup>17</sup>

States are invited to monitor all trends which can give rise to racial segregation and to work for the eradication of any negative consequences that may ensue. This clearly means that a state has a positive obligation to actively work for the mixed, multicultural composition of a school. So far, the government has focused on encouraging school boards and municipalities to promote initiatives from native and immigrant parents,

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<sup>15</sup> UN Committee on the Rights of the Child, *General Comment No.1- The Aims of Education*, UN doc. CRC/GC/2001/1, para. 11.

<sup>16</sup> *The Netherlands' consolidated 17<sup>th</sup> and 18<sup>th</sup> periodic report on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination*, UN doc. CERD/C/NLD/18, paras. 24–25.

<sup>17</sup> UN Committee on the Elimination of Racial Discrimination, *General Recommendation No. 19, Racial segregation and apartheid*, para. 3, contained in UN doc. A/50/18 (1995).

trying to influence the intake of very young children in pre-school centres, promoting contacts between ‘white’ and ‘black’ schools and investing in the attractiveness and quality of ‘black’ schools. The government has established a so-called ‘National Knowledge Centre on Mixed Schools’. The mission of this institution is to disseminate knowledge on initiatives to improve the quality of education in mixed schools, but also to act as an intermediary for the exchange of information on local desegregation initiatives.<sup>18</sup> These policy measures are rather noncommittal. They do not force municipalities and school boards to engage in a pro-active policy to counter the trend of segregation. Reasons given for this permissive approach and the slow progress made so far are the lack of a feeling of urgency about the problem of segregation in education, a lack of agreement between municipalities and school boards and a lack of ideas about which measures could be successful to tackle the problem.<sup>19</sup> In 2009 the Municipality of Nijmegen began an experiment by asking the parents of prospective students to indicate their preference for public education or education on a denominational, philosophical or pedagogical basis. The local authorities, however, decide to which school a child will be assigned. The aim of this policy is to have a more balanced school population within and between schools in a particular area. This indirect way of influencing school choice is said not to be contrary to the idea of the freedom to choose of parents and is supported by all school boards in the Nijmegen region.<sup>20</sup> Using ethnic origin as a criterion for a school admission policy in a town is contrary to non-discrimination and equal treatment clauses in human rights treaties. However, the use of less suspect criteria, such as household income, language spoken at home and educational level of parents may be explored further.

## 5. Concluding Remarks

In conclusion, the key question is whether a more even school population is desirable, and, if so, how this can be attained. I am of the view that indeed mixed schools are desirable from a societal perspective, but also the best interest of the child would require multicultural education. Education is more than just learning, it is also about living together. Limitation *de jure* of the freedom to choose of parents, however, does not seem to be an option, because such a measure would be disproportional. Self-regulation and voluntary action by schools, municipalities and parents is a first step, but should be combined with an active policy by the government to inform, motivate, involve, support and facilitate native and immigrant parents in matters of school choice for their children. Such a policy should also include an impetus to improve the quality of education for both native and immigrant children. The key element of such a policy would be the role of parents, whether they are willing to actively engage in educational issues and transcend stereotyped views and traditional motives about the nature and quality of education and the broader goals to be achieved with education. Preferably native parents take the initiative to persuade other native parents to keep their children in a multicultural school. In addition, the local authorities should be asked to allocate additional resources for such

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<sup>18</sup> OECD, *supra* note 2, p. 36.

<sup>19</sup> FORUM, *supra* note 7, p. 2.

<sup>20</sup> J. Bouma and A. Toonen, ‘Iedereen wil gemengde scholen, maar dwang ligt gevoelig’ [Everybody wants mixed schools, but coercion is delicate], *NRC Handelsblad*, 13 February 2009, p. 3.

schools in order to catch up the educational back-log of pupils, either immigrant or native. Such an approach would be in the spirit of human rights and their inclusive nature. It is appropriate to end this contribution with a quote from one of Katarina Tomaševski's UN reports on the right to education: "[T]he ability of education to socialize children into understanding and accepting views different from their own is an important lesson for all human rights education."<sup>21</sup>

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<sup>21</sup> K. Tomaševski, *Annual report of the Special Rapporteur on the right to education*, UN doc. E/CN.4/2001/52, para. 13.