

## Small print, big stakes

### Here's one lesson they're not teaching in Ontario's Catholic secondary schools: The law says you don't actually have to study religion

The following article first appeared in the January 2015 issue of the United Church Observer magazine, written by Luc Rinaldi. It is re-printed here by permission of the author.

Long before graduating from his Catholic high school in Ottawa, Victor Borba was set on studying health sciences at Hamilton's McMaster University. A straight-A student, he had a fair chance at getting into the highly competitive program, but he thought he might have a better shot if he could take a spare period to spend more time studying biology. When he heard about a section of the Ontario Education Act that could exempt him from religion, a course he'd been told was mandatory in every grade, he thought he'd found space for that extra study. "He wasn't looking for some time off," his father, Ricardo, says. "He had a plan."

In September 2013, a semester before Victor was scheduled to take religion in his senior year, Ricardo sent a letter to the Ottawa

Catholic School Board requesting an exemption. The school's principal responded matter-of-factly, "We don't do that," while the board explained that, because of the wording of the Education Act, the exemption was only available to open-access students (that is, non-Catholics). Because the Borbas were Catholic school supporters on their Municipal Property Assessment Corporation (MPAC) property-tax statement, Victor was considered Catholic and, therefore, wasn't eligible. In fact, Victor is an atheist and Ricardo, though baptized and raised in the church, no longer considers himself a Catholic. Ricardo Borba called MPAC, became a public school supporter and returned to the board. The answer was still no, as the board claimed the change of support wouldn't take effect until the following year.

**The Ministry, of Ed.,  
by choice, refused to act.**

Frustrated, Ricardo contacted the Ontario Ministry of Education who, he recalls, told him, "There's nothing we can do; it's open to their interpretation," and advised him to get legal counsel. But with only two weeks left before the start of the second semester, doing so would be an empty threat. By the time a court could make a decision, Victor would have already graduated. So he took religion that year and wasn't accepted into the McMaster program he wanted. "You can't really say if having more time to study biology would have made a difference or not. Who knows?" Ricardo says. "But the board put their interests before the academic interests of my son. I was really disappointed."

More than 100 families have sought religious exemptions in Ontario's Catholic high schools over the past few years. I spoke to a dozen of them. Like the Borbas, some cited academic reasons for abstaining from one or more of the four religion courses students are expected to take (two introductory Catholic classes in Grades 9 and 10, world religions in Grade 11 and a philosophy-based curriculum in Grade 12). Others wanted exemptions because they're not

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Catholic but chose a Catholic school for other reasons: it's closer to home, higher ranked, offers better facilities or sports teams, or has specialized music or French-immersion programs.

### **Law has been in place for decades.**

Exemptions have ostensibly been available to open-access students since 1986, when the provincial government extended funding to Ontario's Catholic high schools. But few were aware of the option until April 2014, when Brampton, Ont., father Oliver Erazo won his sons the right to opt out of religious courses, masses and activities in a highly publicized, precedent-setting court case. Catholic boards have since tackled the issue with varying degrees of grace: some families have obtained exemptions with ease, while others have been stalled and pressured, lied to and bullied. The Ministry of Education, as evidenced by the Borbas' case and others like it, has failed to provide oversight, leaving Catholic boards' behaviour unchecked. For students, the right to freedom of religion in education is at risk. The stakes for boards are equally high. "They are in a quagmire," says Ricardo Borba. "If religion is optional, how will they be differentiated from a regular public school?"

Catholic-Protestant animosity was palpable in pre-Confederation Canada. In 1841, new legislation allowed both Catholic and Protestant minorities to establish and administer their own elementary schools (secondary schools didn't yet exist). Both systems soon obtained the right to public

funding, which was later enshrined in the 1867 British North America Act.

Over the next century, Ontario's Protestant schools morphed into today's public schools. Ontario Catholics, however, retained their original system and began battling the province to have public funding extended to high schools, which were not covered under the BNA Act. In 1986, the provincial government finally agreed, under two conditions: Catholic secondary schools would admit non-Catholics, and they would allow them to opt out of religious classes and programming. The Catholic boards lived up to the first condition; the second was effectively forgotten.

### **Peter Jones found it.**

One day more than 20 years later, a Brantford, Ont., parent and education activist named Peter Jones was reading the Education Act and stumbled upon section 42 (13), the long-winded passage that addresses exemptions. At first, he says, he dismissed it, thinking, "There must be some legalities we're not aware of. Government-funded entities wouldn't lie to the public and pull a fast one." Upon revisiting the section, though, he became convinced his interpretation was right. To test his theory, he phoned a few Catholic high school guidance departments and asked if religion courses were mandatory. The consistent response: "Well, of course."

Jones was eventually put in touch with Kyle Naylor, a Midland, Ont., parent who, at the time, was in the thick of a five-

month battle to convince his local Catholic board that his daughter, who is not Catholic, was entitled to an exemption. He says the board repeatedly lied to him and denied his request. After his story went public, he set up a website, myexemption.com, to help other parents through the process.

### **The big run-around.**

Among them was Carolyn Borgstadt. When she wrote the Durham District Catholic School Board to get an exemption for her son, she was initially ignored, then denied. "They kept coming up with different excuses," she says. Eventually, after she changed which system she supported on her MPAC designation and shared her story with the media, her son received the exemption. "It was just a big run-around."

### **An "exception"**

Meanwhile, Sam Dias of London, Ont., got in touch with Naylor after his 13-year-old daughter asked if she'd need to take religion once she entered high school. Dias, a non-Catholic, encountered resistance because his daughter was baptized Catholic and attended a Catholic elementary school. After a six-month process that saw administrative staff deny, delegate and defer the matter, he, too, secured an exemption. (In a letter from the school board, Dias's daughter was provided an "exception," in "the context of [her] individual circumstances"; other parents also reported being given an "exception" rather than an exemption.)

## Threats—no graduation for you.

A number of other families spoke to me on the condition of anonymity. Some had agreed with boards to stay quiet to get an exemption; others feared academic ramifications for their children. “The repercussions have already started for my daughter, and we don’t need any more,” one parent told me, adding that the school and board had threatened to bar her child from the liturgy-based graduation and prom, impeded scholarship applications, and would speak to the family only through a lawyer; she estimates their legal bill is roughly \$2,000. “It’s like we’re being punished.” Other stories involved unreasonable delays, condescending behaviour and exemption requests being illegally declined. “It kind of contradicts their philosophy,” another parent said. “How can you blatantly lie to me, bully me and intimidate me and then turn around and go to mass?”

The Ontario Catholic School Trustees’ Association (OCSTA) — the body representing English Catholic school boards and trustees — declined an interview request for this story, as did three Catholic school boards; another six boards did not respond to multiple requests. Pauline Stevenson, a spokesperson for the Simcoe Muskoka Catholic District School Board, agreed to speak with me, however. “Faith teachings are fundamental to who we are as a Catholic board. It’s what makes us unique and distinct,” she says. “They are part of every student’s day, whether it be in mass or in English class.” The attention given to the issue, Stevenson says, is dis-

proportionate, given that, in her board of 6,500 students, there have been a mere 10 requests, most of which were made for scheduling purposes and resolved without an exemption. “We’re all reasonable, rational people who want to make things work for the students.”

At least open-access students. Catholic boards interpret section 42(13) of the Education Act to mean that, while non-Catholic students are entitled to exemptions, Catholics are not. “The fundamental crux of the problem is who then gets to decide who is Catholic?” says Nathaniel Erskine-Smith, the Toronto lawyer who represented the Erazo family and continues to advise families seeking exemptions.

## Should the RC high schools have a guideline?

Catholic educators have grappled with this question on a case-by-case basis so far, relying on factors like whether a student was baptized or attended a Catholic elementary school. The inconsistency of such an approach, however, prompted the OCSTA to consider establishing a common guideline that boards could use to determine whose exemption requests should get the green light.

Toronto lawyer Nadya Tymochenko, who regularly works with the OCSTA and Catholic boards, is wary of creating a hard-and-fast rule. In an e-mail to the trustees’ association, published in the minutes of the organization’s September board of directors meeting, she writes, “A guideline is

accessible to the public and will bring additional scrutiny to the issue, which I am concerned will simply increase the number of requests and likelihood of a legal challenge. . . . A failure to consider the requests individually would leave school boards vulnerable to a Human Rights Application, also a process that it would be best to avoid.”

## Catholic students may also qualify for an exemption.

Erskine-Smith also supports a case-by-case approach, so long as boards act reasonably and respect students’ religious freedom. If they don’t, he says, the property-tax designation provides a “clear, bright line” to determine exemption eligibility — a legal interpretation shared by Tymochenko. “The religious background of the student is not relevant to the exemption,” she writes to the OCSTA. “Both Catholic students and non-Catholic students may be exempted if their parents are public school [supporters].” (MPAC support does not affect overall school board funding; the province doles out money per student.)

To date, boards that have denied exemptions have faced no consequences. A spokesperson for the Ontario Ministry of Education wrote in an e-mail that “the Ministry expects all boards to operate their schools in conformity with the Education Act.” The ministry has touted its ability to intervene in board-level matters in the past, but it is neglecting to do so now. “They don’t want to touch [the exemption issue] with a 10-foot pole,” says Naylor, the creator

of myexemption.com. Consequently, the onus is on parents to stand up to resistant boards.

### **RC high schools have not been truthful.**

Michael has spent 34 years in Ontario's Catholic school system as both a student and teacher. He'd always assumed students needed four religion courses to graduate. That's what school literature said and that's what his superiors and colleagues thought. "Why would our students know if we don't?" he asks. When he heard about the exemptions, "it just seemed to me that we were not being truthful about the whole thing and misleading students." So Michael began telling them about exemptions. His school wasn't pleased.

Michael, not his real name, requested anonymity because he fears the consequences of speaking out — a concern justified by the example

of Paul Blake, a Peterborough, Ont., teacher who was formally reprimanded by his school for telling students about exemptions last May; he now teaches in England in part because of the disciplinary note on his file.

### **The basic reason.**

Commenting on situations like these, Naylor speculates that boards are acting out of self-preservation. Exemptions blur the line between Ontario's four school systems (separate and public in both English and French) and can easily be interpreted as another reason for reform. According to a September 2014 Fraser Institute report, restructuring Ontario's system to mirror the one in British Columbia, one of seven provinces that does not fully fund or operate Catholic separate schools, could save the province anywhere from \$850 million to \$1.9 billion. "Catholic

school boards are so afraid of this exemption because that's where the conversation inevitably leads," Naylor says. "You can't talk about exemptions without the next question being, 'Why are we funding four school systems?'"

### **About the author**

The author of this article, **Luc Rinaldi**, is a Toronto freelance journalist whose work has appeared in Maclean's, the Walrus and Toronto Life. A graduate of Ontario's Catholic school system, he says the most challenging part of researching his piece on religious exemptions was trying to get Catholic school boards and stakeholders to speak to him. "My interview requests were routinely denied, ignored or responded to with terse, written statements. It seemed like Catholic boards just wanted the issue to go away."

## **Exemption Initiative**

Over many years, the One School System Network has tackled the issue of funding for Catholic school boards. To get *any* Ontario government to alter the status quo has proven to be an extremely difficult nut to crack.

Even when the United Nations Human Rights Court ruled the system discriminatory, there was no concerted effort to implement any change. And now this latest issue has come to light. In 1985, Premier Bill Davies extended public funding to Catholic High Schools, providing that any student attending such schools could be exempted from taking religious courses and instruction upon request. At first, Catholic school boards denied such requests. Later some boards did grant exemptions on a

case by case basis while other boards put as many obstacles in place as possible. This resulted in costly and lengthy delays for parents and students.

Secular Ontario, *Humanist Perspectives* and other interested parties have taken steps to inform students of their rights to opt out of religious courses if they wish, with the permission of their parents. Rick Young designed the coupon on the next page and the plan is to distribute as many coupons as possible to students. This won't be the straw that broke the camel's back but it will be one more nail in the coffin of the Catholic school system. Catholic school boards are worried that if enough students opt

out of mandatory religious classes, the question will be raised on just how their system is different from the public system.

On January 23, 2015, for the first time, 300 coupons were handed out to students at St Patrick's Catholic High School on Alta Vista Drive, Ottawa. The second school targeted, on January 17, was Immaculata High School on Main Street, also in Ottawa. It was reported by volunteers that some students were ecstatic about the possibility of being released from religious studies.

When the weather warms up, more schools in Ottawa and around the province will be targeted, including Toronto, Kingston, Belleville and Peterborough.

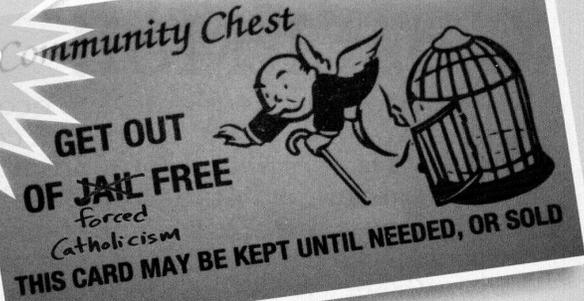
This coupon entitles **any student** in a publicly funded Ontario Catholic high school to

# GET OUT OF THAT "MANDATORY" RELIGION CLASS!

It's the law!

100% OFF!

"No person who attends a secondary school operated by a Roman Catholic board shall be required to take part in any program or course of study in religious education on written application to the Board of the parent or guardian of the person." – Ontario Education Act, Section 42(13)



It's a shame you have to present this coupon to your principal, but unfortunately principals (and superintendents, and trustees) across Ontario *still* insist that Roman Catholic courses and rituals are *mandatory* in these open access, 100% publicly funded schools. Either they don't know they are **breaking the law**, or they just don't care. In either case, it makes you wonder about the real "values" being modelled by the authorities of this school system.

**The good news:** If you mention the possibility of legal action or media involvement, it will likely help speed things along. For more information, visit [www.MyExemption.com](http://www.MyExemption.com)

Brought to you by members of the Ontario public, Secular Ontario, and *Humanist Perspectives* magazine and the Canadian Conference of Catholic Bishops.

If anyone would like to distribute coupons, we would be happy to mail them out to those interested. Please send an email to [Sheila@secularism.net](mailto:Sheila@secularism.net)

## Convention on the Rights of the Child

### Concluding observations on the second periodic report of the Holy See

The following three paragraphs are from Wikipedia.

The United Nations **Convention on the Rights of the Child** (commonly abbreviated as the **CRC**, **CROC**, or **UNCRC**) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under a state's own domestic legislation.

Nations that ratify this convention are bound to it by international law. Compliance is monitored by the UN Committee on the Rights of the Child, which is composed of members from countries around the world.

Governments of countries that have ratified the Convention are required to report to, and appear before, the United Nations Committee on the Rights of the Child periodically to be examined on their progress with regards to the advancement of the implementation of the Convention and the status of child rights in their country.

#### Ratification

Canada signed on to the Convention on May 28, 1990 and ratified it on December 13, 1991. The Holy See signed and ratified the Convention on April 20, 1990.

The "Holy See" is the body of the Roman Catholic Church which has authority over its clergy.

The Holy See made a first report, as required, and the U.N. Committee on the Rights of the Child made its "concluding observations" about the report for further consideration by the Holy See. The second periodic report of the Holy See was only made after the considerable delay of **fourteen years**.

The rebuke of the U.N. Committee in its **16-page report with a full 77 "...areas of concern and recommendations"** is summarized in the following text to highlight another reason why Ontario taxpayers should not be supporting the Roman Catholic church through our forced support of the Roman Catholic separate school system.

**Some key excerpts from  
the report, dated 2014.**

The Vatican has been riding a wave of positive publicity since Pope Francis was elected in March. But the report — which is not binding, meaning the United Nations has no way to enforce its recommendations — drew attention to the single largest stain on the Catholic Church’s global image: Its handling of allegations of sexual abuse by clerics.

The Vatican had been bracing for the report. After widespread revelations of sexual abuse by clerics in Europe in 2010, the U.N. committee, which is headquartered in Geneva, began an inquiry last year. The Vatican declined the panel’s request to review internal files and data on abuse cases.

The report said the church in some places has “systemically” adopted policies that put children at risk. In some cases, confidentiality has been imposed on child victims and their families as a condition of financial compensation. The panel also said Catholic officials obstructed efforts in certain countries to extend the statute of limitations for criminal or civil cases.

The committee “is gravely concerned that the Holy See has not acknowledged the extent of the crimes committed, has not taken the necessary measures to address cases of child sexual abuse and to protect children, and has adopted policies and practices which have led to the continuation of the abuse by and the impunity of the perpetrators,” the report concluded.

The panel condemned church doctrine that it considers out of step with the principles of human rights and child welfare. In blunt language, the committee took particular aim at church stances on sexual orientation, reproductive health and gender equality. It delved into details, expressing its concerns, for instance, about the stereo-

**CRIFE’s interest**

Civil Rights in Public Education, Inc. has a quarrel with our provincial politicians in that they have succumbed to lobbying pressures from the Roman Catholic church to continue to support the Roman Catholic separate school system with our tax dollars.

We have nothing against the Roman Catholic church, as such, but, as evidenced by the report of the U.N. Committee on the Rights of the Child, it appears to be an organization with a poor reputation regarding children. This means that we taxpayers are supporting not only the RC separate school system, but the church teachings and practices that go along with it.

typing of gender roles in Catholic school textbooks.

Although some Catholic leaders deemed the report anti-Catholic, an expert on the United Nations said there generally isn’t tension between the organization and religion.

Wednesday’s critique of the Catholic Church around reproductive issues in particular recalled the clash of world views with the Holy See at the 1994 U.N. population conference in Cairo, where some participants called the Vatican to task for its stance against contraception. But some experts said it was rare for the United Nations to comment on religious doctrine.

The scope of the report illustrated the broad purview of the 10 U.N. committees that monitor adherence to human rights treaties. Their members have done everything from blast Japan for being “deaf” on women’s rights to pointing a finger at Canada for its treatment of the Inuit.

The report from the committee — made up of 18 experts including child welfare advocates and academics — called on the Vatican to adopt reforms and update the panel by 2017.

U.N. officials in Geneva described the investigation as only one of many periodic reviews it conducts of sovereign states that are signatories of Convention on the Rights of the Child, which the Holy See ratified in 1990. They said the panel’s report veered beyond the sexual abuse cases because it found the other topics relevant to the Vatican’s compliance with all articles of the convention. The United States is one of three U.N. member states that have not ratified it.

Officials dismissed suggestions from the Vatican that the report is biased.

“Discrimination on the basis of sexual orientation is something that we have raised with many states,” Kirsten Sandberg, chair of the committee, said in a statement. “This is nothing special. We are not going outside the scope of the Convention.”

For more than a decade, the church has been periodically rocked by widespread allegations of sexual abuse in the United States, Europe and beyond. The church response has varied by nation, and the report Wednesday does not address safety measures from country to country.

In some nations, victims have received bare-bones support even as civil legal systems have left oversight entirely to the church. The U.S. church, on the other hand, has made major institutional changes since the abuse crisis came to light in 2002, including requiring extensive background checks for church volunteers, screening of priests and a requirement that abuse must be reported to authorities.

Vatican defenders said the report did not consider the significant action the church has taken to combat sexual abuse in recent years. Independent studies show that complaints have decreased sharply over the decades, but reports continue to show that no top U.S. church officials have been held legally accountable. The first senior Catholic Church official was convicted in 2012 of covering up abuse, but his conviction was overturned in December.

Since becoming pope 11 months ago, Francis has said that addressing the child abuse allegations is important to restoring the church's credibility. In December, the Vatican announced the creation of a commission on abuse cases that would inform the pope about the progress of investigations and come up with initiatives to combat the problem. Victims groups, which hailed the U.N. report, have said the new committee is too little, too late.

Vatican observers said the report will serve as a wake-up call to church authorities that despite the positive response to the new pontiff, the church still needs to do more to address abuse allegations. But delving into doctrine also appeared to push the focus on sex abuse off track.

### Selected quotations

#### from the UN Report

Underlining added by editor.

**8.** The Committee...reminds the Holy See that by ratifying the Convention, it has committed itself to implementing the Convention not only on the territory of the Vatican City State but also as the supreme power of the Catholic Church through individuals and institutions placed under its authority.

**13.** The Committee is concerned that some of the rules of Canon Law are not in conformity with the provi-

sions of the Convention, in particular to those relating to children's rights to be protected against discrimination, violence and all forms of sexual exploitation and sexual abuse.

**19.** The Committee is... concerned that the Holy See has not established a mechanism to monitor respect for and compliance with children's rights by individuals and institutions of a religious nature under the authority of the Holy See. including all Catholic schools, as well as in the Vatican City State.

**22.** The Committee recommends that the Holy See strengthen its efforts to make all the provisions of the Convention widely known, particularly to children and their families, through, inter alia, developing and implementing specific long-term awareness-raising programmes, and including the provisions of the Convention into school curricula at all levels of the Catholic education system using appropriate material created specifically for children.

**24.** The Committee urges the Holy See to provide systematic training on the provisions of the Convention to all members of the clergy as well as Catholic orders and institutions working with and/or for children, and to include mandatory modules on children's rights in the teachers' training programmes as well as in seminaries.

**26.** The Committee recommends that the Holy See bring all its laws and regulations, as well as its policies and practices, in conformity with article 2 of the Convention and promptly abolish the discriminatory classification of children born out of wedlock as illegitimate children.

**28.** The Committee...urges the Holy See to take active measures to remove from Catholic schools textbooks all gender stereotyping which may limit the development of the talents and abilities of boys and girls

and undermine their educational and life opportunities.

**44 (d)** Amend Canon Law in order for child sexual abuse to be considered as crimes and not as *delicts against the moral*" and repeal all provisions which may impose an obligation of silence on the victims and on all those that become aware of such crimes;

**57 (c)** Ensure the right of adolescents to have access to adequate information essential for their health and development and for their ability to participate meaningfully in society. In this respect, the Holy See should ensure that sexual and reproductive health education and prevention of HIV/AIDS is part of the mandatory curriculum of Catholic schools and targeted at adolescent girls and boys, with special attention to preventing early pregnancy and sexually transmitted infections;

**63.** The Committee recommends that the Holy See take all appropriate measures to-ensure that the present recommendations are fully implemented by, inter alia, transmitting them to the Pope, the Curia, the Congregation for the Doctrine of the Faith, the Congregation for Catholic Education, the Catholic Health Care Institutions, the Pontifical Council for the Family as well as episcopal conferences of bishops, individuals and institutions functioning under the authority of the Holy See for appropriate consideration and further action.

The complete report is found at:

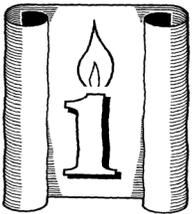
[http://www.washingtonpost.com/world/europe/un-panel-blasts-vatican-handling-of-clergy-sex-abuse-church-teachings-on-gays-abortion/2014/02/05/2a6f1b26-8e75-11e3-84e1-27626c5ef5fb\\_story.html](http://www.washingtonpost.com/world/europe/un-panel-blasts-vatican-handling-of-clergy-sex-abuse-church-teachings-on-gays-abortion/2014/02/05/2a6f1b26-8e75-11e3-84e1-27626c5ef5fb_story.html)

**WHO WE ARE**

Civil Rights in Public Education, Inc. is an organization composed of citizens of differing backgrounds, living in more than 155 communities across Ontario, committed to one strong public education system, which offers neither privilege nor prejudice to anyone.

**OUR AIMS ARE**

- To serve as advocates for civil rights in public education so that the public is informed about the issue of publicly-funded separate schools.
- To hasten the day when Ontario's education policy recognizes the dignity and worth of all children, their right to equality, and their right to freedom from religious discrimination.

**OUR LOGO**

Our logo is composed of a background scroll representing the charters of rights which guarantee fundamental freedoms to all individuals; the numeral "1" signifies equality and social unity in one public education system for each official language; the flame above is the universal symbol for freedom.

**Homa Arjomand appeared before Senate Committee**

<https://www.youtube.com/watch?v=tietEDYvQnU>

Homa Arjomand is one remarkable woman. She speaks with unrestrained passion and authority about several ways Canada can become a truly free and democratic country. In her speech to the Senate, Homa tells a very moving story of her escape from Iran with her family. She claims that objectionable practices of some immigrants are preserved in Canada because of the federal multicultural policy which encourages ethnic ghettos instead of integration.

She asks: "Whom to blame?"

"I start from myself among all other women, children, and human rights activists for not pushing harder for one secular school system for all, for integration, for separation of religion and state, for religion to become private matter of adult individuals."

We need more individuals as passionate as she is for one secular school system. See also:

"Homa A — One Secular Law"

[https://www.youtube.com/watch?v=N5U3ayd\\_gJk](https://www.youtube.com/watch?v=N5U3ayd_gJk)

**A Thought to Consider**

**A crime committed  
in the name of religion,  
is the greatest crime  
against religion**

Appeal of Conscience Foundation

To be added to the mailing list, send \$20.00 to  
**Civil Rights in Public Education, Inc.**  
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