

## Religious Education at German School as a Case of Modern Politics on Religion

📖 Religiöse Bildung hat eine fachbezogene „Innenseite“ – dort wird etwa über Begegnungen und Erfahrungen berichtet und über Inhalte, Formen und Methoden verhandelt. Religiöse Bildung hat aber auch eine „Außenseite“, weil sie im Wege der Religionspolitik durchgesetzt werden muss. Ein besonderer Ort dafür ist der Religionsunterricht. Die rechtlichen Vorgaben, die für ihn gelten, repräsentieren Erfahrungswerte und Kompromisse – sie geben aber auch Raum für Reform und Weiterentwicklung.

🔗 Religionspolitik, Religiöse Bildung, Religionsunterricht, Schule, Schulpflicht, „Selbstentfaltung“ und Identität

👤 **Dr. Hinnerk Wißmann** ist Professor für Öffentliches Recht mit einem Schwerpunkt im Religionsverfassungsrecht (Exzellenzcluster „Religion und Politik“) an der Universität Münster und dort u. a. Direktor des Freiherr-vom-Stein-Instituts.

*The debate on religious education at school has an internal side – it is where professional reports on encounters and experiences are made, and content, forms and methods are negotiated. But religious education also has an external side, as a subject of politics on religion.*

### Religion and Politics

People still argue about religion. This in itself is an astonishing fact. For many years, the assumption prevailed that progress, prosperity and enlightenment would make the phenomenon of religion a thing of the past. But we have to admit that religion reaches into the present and the future, because it opens our eyes to present dimensions of human existence. But of course: Conflict is one main issue we associate with religion. That is the second astonishing piece of information. Religion does not serve as a message of peace. Instead, people hate, bomb and kill in the name of religion. This makes the status of religion in the modern constitutional state uncertain – for such a state has to ensure the peacefulness, protection



and self-determination of its citizens. And factors that disrupt or endanger this project of democracy and freedom must be combated by the state. The return of religion to the center of the marketplace is therefore no guarantee that it will be able to maintain its place.<sup>1</sup>

A controversial topic like religion in the modern state is always a mandate for politics. This is why politics on religion have played a greater role in the last ten years than before. In Germany such statements need to be defined more precisely in various directions: Firstly, the relationship between politics and law needs to be clarified. Parliamentary law can be an important part of politics on religion. But regulation by law can only be enacted within the framework of fundamental freedoms. And freedom of religion is a particularly strongly protected freedom, historically, systematically and specifically also in conflict with other freedoms – sometimes referred to as the “mother of all fundamental rights”<sup>2</sup>. This is why religious policy has often taken the form of promotion rather than drawing boundaries and bans (in most cases by courts). This leads to a major challenge: In most constitutional states, different religions were not treated equally but unequally, if only because the population was not divided equally between all religions. Those who promote their main religion or confessions – the German approach and the approach of countries with state churches – are faced with questions of equal treatment. Secondly, the relationship to the part of the population that does not belong to any religion at all must also be determined. And on the other hand, those who want to refrain from promoting religion – the laicist approach as represented by France – will instead promote the welfare state and police measures, which will have to deal with the consequential problems of an “invisible religion”. And of course, in federal states it should be noted that religious policy is not simply the task of “government and parliament”. Many state tasks are not the responsibility of the federal level. The defense of religious freedom is guaranteed by the federal constitution. But religious policy is not unitary: the federal government has almost no legislative or administrative powers in this field of work.<sup>3</sup> The religious communities enjoy the right of self-administration; the neu-

- 1 See “Third Report of the Federal Government on the Global Situation of Freedom of Religion or Belief (2020–2022)”, BT-Drs. 20/9580 (23.11.2023). As early as 2008, the Association of German Constitutional Law Teachers dealt with the topic “Religiöse Freiheit als Gefahr?” under the main topic “Erosion of Constitutional Requirements” (speakers: Ute Sacksofsky/Christoph Möllers), VVDStRL 68 (2009), 7 ff.; 79 ff.
- 2 H. ZABOROWSKI, Grundrecht aller Rechte. Die Religionsfreiheit, in: Hanns-Gregor Nissing (ed.), Naturrecht und Kirche im säkularen Staat, 2016, 75 ff.
- 3 Even in the famous example of the “redemption of state benefits”, the federal government only has the right to establish “principles”. The actual regulation is a matter for the federal states, see Art. 138 para. 1 of the Weimar Constitution (1919), enforced today through Art. 140 of the Basic Law. On the legal policy situation, see CH. WALTER/K. TREMML, Eigentlich schon lange quitt, <https://verfassungsblog.de/eigentlich-schon-lange-quitt/> (21.3.2022). Last accessed on March 4, 2025.



tral state must remain silent on the content of religions.<sup>4</sup> Above all, schools (and universities) are the responsibility of the federal states.<sup>5</sup>

In short: religious policy is not a sub-project, but a necessary permanent task of the modern, liberal state. And religious policy must make use of various instruments in order to uphold the basic agreements of a peaceful community.

## Religious Education

Religious education at school is now a special case of religious policy in Germany. It is the only school subject regulated in the Federal Constitution (Art. 7 para. 2f. GG). Above all, it is one of the classic “common affairs” of state and church. This actually refers to a highly political compromise that determined the relationship between the churches and the Republic in 1919 and 1949. Until the end of the monarchy, the churches in Germany, as state authorities, were the central figure for the elementary school system (and thus for the majority of the population). Religious education (in the respective denomination) was a central subject in order to find one’s place as a Subservient, the other subjects served to provide useful knowledge. At the turn of 1918/19, the Social Democrats in particular demanded that religion should be completely removed from schools. The compromise with the Zentrum, the Catholic party in the “Weimar Coalition”, was as follows: supremacy of the state authorities over schools, but the subject of religious education as a continued possibility for the churches to have influence at schools (although the state became at last responsible for the subject). In this way, at least the open opposition of the two churches to the state was avoided. After the school and the churches had failed under National Socialism, the compromise was repeated in 1949. But now something had changed: the right of children to “self-development in school” was the new program; other basic rights were now (even) more important in schools than the freedom of church religion.<sup>6</sup>

So what is religious education in the constitutional state all about? First of all, it introduces an irritation into the school system: it is not the democratic state with its majority mode that decides what is taught in matters of religion. Instead, it is about questions of religious doctrine that are to be taught “as truth.”<sup>7</sup>

4 About religious neutrality BVerfGE 41, 29 (50) – Simultanschule (1975); H. WISSMANN, Religionsverfassungsrecht im föderalen Mehrebenensystem, § 60, Handbuch Föderalismus III, 2012, Rn. 13 ff.

5 On the legal situation cf. H. WISSMANN, Art. 7, in: W. KAHL / CH. WALTER / CH. WALDHOF (eds.), Bonner Kommentar zum Grundgesetz (2015), Rn. II-22 ff.

6 BVerfGE 45, 400 (417) – Oberstufenreform (1977), with recourse to E. STEIN, Das Recht des Kindes auf Selbstentfaltung in der Schule, 1967; see also WISSMANN, Art. 7 (see Footnote 5), Rn. III-78.

7 BVerfGE 74, 244 (25) – Religionsunterricht (1987).

This formulation is no coincidence, but a strict requirement. For only when it is a matter of truth, of which the state cannot dispose, is there justification for the religious communities to determine the content. Otherwise – a simple control consideration – an armada of lobbyists would be teaching their agenda in every school subject. We keep these interests out of school. We let religion in, not only for historical reasons, but for the sake of the necessary neutrality and for the sake of the special task. The task of religious education after 1919 was initially to moderate the state in favor of the churches.

However, this moderation is to be understood above all in favor of the children, who are to be taken seriously as subjects of their own identity, especially in religious education. It is therefore also necessary that every child can be exempted from this religious education and that no teacher has to teach it (Art. 7 II and III 3 GG).<sup>8</sup>

## Perspectives

The classical German model of religious education was based on the fact that almost the entire population formally belonged to the two main Christian confessions. In most states, the population had remained denominationally stable since 1648; there were Catholic and Protestant regions. Dissenters played almost no role (and were treated badly). This changed after 1949 due to the displaced persons and rapidly with the decline in church membership since 1970 and especially since 2020. Only half of the children still attend traditional German religious education<sup>9</sup> – although the churches have long since opened it up to “guests” of all kinds, and although there are now also Islamic lessons in this familiar structure. In some federal states there are substitute lessons (ethics oder philosophy), but the state authorities have not yet organized them as competition. The current question is whether new combination models will prevail, e.g. through joint Christian curricula or interfaith curricula.<sup>10</sup> A corridor for these attempts should be determined with courage. However, it should also be noted that there is no free mandate for religious communities in schools. They find their special place only because they speak their truth. It is not the truth of the state. That is why the democratic state also finds a limit where faith is concerned.<sup>11</sup> An optimistic narrative remains: The truth sets people free.<sup>12</sup>

<sup>8</sup> WIBMANN, Art. 7 (see Footnote 5), Rn. III-178 ff.

<sup>9</sup> <https://www.tagesschau.de/inland/gesellschaft/christlich-religion-unterricht-100.html> (18.10.2024). Last accessed on March 4, 2025.

<sup>10</sup> H. WIBMANN, *Religionsunterricht für alle?*, 2019.

<sup>11</sup> A. VON SCHELIHA / H. WIBMANN, *Religionsunterricht 4.0. Eine religionspolitische Erörterung in rechtswissenschaftlicher und ethischer Perspektive*, 2024.

<sup>12</sup> John 8:32.