



## RELIGION IN SCHOOLS COURT CASE

The role of religion in schools has once again been in the news with the High Court handing down judgment in a case brought by OGOD - the *Organisasie vir Godsdienste-Onderrig en Demokrasie* against a number of public schools, the Minister of Basic Education, the Minister of Justice and Correctional Services and the National Association of Governing Bodies and five Friends of the Court (*Amicus Curiae*). The applicant (OGOD) sought to interdict six public schools from engaging in a wide range of practices and activities that are of a religious nature, alleging that such actions amounted to religious indoctrination and were therefore contrary to the Constitution and the National Policy on Religion and Education. The interdict was not granted as the court decided to make a declaratory judgement opting to clarify the existing law.

### The Judgement

Due to the nature of the applicant's case in this matter, the present judgment would appear to have no bearing on independent schools insofar as the Constitution allows for such schools as long as they do not discriminate on the grounds of race (Section 29 (3) a).

The final judgment states that it would contravene Section 7 of the South African Schools Act (SASA) for a public school to promote or adhere to one religion *to the exclusion of others*, nor may a public school hold out that it promotes the interests of any one religion in favour [sic] of others. We refer you to the policy *Fostering Hope the Religious Education Policy for Catholic schools* which explains other issues raised in this case. In other words Catholic schools should always be mindful and respectful of others religions.

### How might this affect Catholic Public Schools on Private Property (PSPPs)?

The positive news is that no reference is made to Sections 14 and 57 of SASA which pertain to the Deed of Agreement and the right of a PSPP to maintain its distinctive religious character. This could be because this legislation fell outside the issues being argued in court. The Deed of Agreement would therefore currently offer protection to the schools. The danger is that education officials who do not understand the rights of PSPPs are likely to use this judgment against Catholic schools. This is already a problem, not only with officials, but also with SGBs and teachers. It will require that Principals, Catholic school service providers (CIE and CSOs) and owners continue to

advocate at all levels for the schools' rights. Schools will need to ensure that their Religion Policy is clear and based on *Fostering Hope*. The SGB's rights to govern schools was affirmed in the judgement.

Please contact your local office for help and for copies of *Partnership for the Common Good* and its preface by Minister Motshekga, Minister of Basic Education, which affirms Catholic PSPPs right to maintain and develop the distinctive religious character. Should the media contact you with queries please refer them to your local office for clarification.