



MARJA HEIMONEN
Music Education & Law
REGULATION AS AN INSTRUMENT

STUDIA MUSICA 17
SIBELIUS ACADEMY

MARJA HEIMONEN *MUSIC EDUCATION & LAW* REGULATION AS AN INSTRUMENT



Sibelius Academy
Docmus Department

Studia Musica
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Studia Musica 17

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Abstract

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MUSIC EDUCATION & LAW **Regulation as an instrument.**

The aim of this study is to explore the relationship between music education and the law. The principal questions to be addressed are:

1. How do the principles “the right to education” and “freedom in education” function in music education for children and adolescents?

Different kinds of music-education systems are explored. The study focuses on the network of Finnish music schools, and on extra-curricular music education for children and adolescents in Sweden, England and Germany.

2. What kind of regulative model would best promote the aims in extra-curricular music education for children and adolescents?

Here, regulation as an instrument (means) is examined, and a closer look is taken at the different kinds that are in existence.

As a result, a partially open and flexible regulative model of extra-curricular music education for children and adolescents is supported. A balance between positive and negative freedom is the aim of this regulative model; in other words, the model secures the financial resources but at the same time leaves space for human autonomy. It makes holistic aims in music education possible. These aims are similar to the “best interests of the child”, which is the most important legal principle in all action concerning children in Finland. Furthermore, this principle, which is formulated in the United Nations Convention on the Rights of the Child, has been ratified over almost all of the world.

The conclusion is that the state has to produce the conditions and circumstances for extra-curricular music education for children and adolescents, rather than to regulate the content of music-education activities. This positive role of the law is its principal function regarding regulation governing Finnish music schools.

Perspective

The approach of this study is interdisciplinary; the research questions are related mainly to music research (especially music education) and law. The intention is to describe the legal and educational issues as they presently are, and in the process of doing this to raise some questions. The perspective is hermeneutic in a holistic way, yet the approach could also be characterised as analytical.

Contents

PREFACE	15
INTRODUCTION.....	17
RESEARCH SUBJECT	17
PRINCIPAL QUESTIONS.....	18
SOME REMARKS ON THE MAIN CONCEPTS	19
REGULATION AS AN INSTRUMENT – AN OUTLINE	19
ABBREVIATIONS	22

PART ONE MUSIC SCHOOLS IN DIFFERENT COUNTRIES

CHAPTER 1 A COMPARATIVE STUDY OF MUSIC SCHOOLS AND THEIR REGULATION	25
1.1 INTRODUCTION: THE MUSIC SCHOOL	26
1.2 COMPARATIVE LAW RESEARCH	27
1.3 COMPARATIVE MUSIC-EDUCATION RESEARCH.....	31
1.4 CHALLENGES IN COMPARATIVE RESEARCH.....	33
1.5 CONCLUSIONS.....	34
CHAPTER 2 SWEDEN.....	37
2.1 BACKGROUND: VOLUNTARY MUSIC ACTIVITIES AND CREATING A WELFARE STATE: <i>FOLKHEMMET</i>	38
2.2 LOCAL SELF-GOVERNMENT: DIFFERENT KINDS OF ORGANISATIONS AND NO SPECIAL LEGISLATION	41
2.3 COLLABORATION AND THE PRINCIPLE OF EQUALITY.....	43
2.4 AIMS AND CURRICULA: LOCAL DECISION MAKING	45
2.5 ÖREBRO CULTURE SCHOOL.....	46

2.5.1	<i>General Background</i>	46
2.5.2	<i>Collaboration</i>	47
2.5.3	<i>Forms of regulation</i>	48
2.5.3.1	Financial regulation and curricula	48
2.5.3.2	Conventions, declarations, visions, and aims	50
2.5.3.3	Challenges	51
2.6	CONCLUSIONS	52
2.6.1	<i>The right of every child</i>	52
2.6.2	<i>Autonomy – Freedom within boundaries</i>	54
CHAPTER 3 ENGLAND		59
3.1	INTRODUCTION: NO NETWORK OF MUSIC SCHOOLS	60
3.2	BACKGROUND: FROM TEACHER AUTONOMY TO GOVERNMENT CONTROL	62
3.3	LEGISLATION, CURRICULA AND ASSESSMENT	64
3.3.1	<i>General remarks</i>	64
3.3.2	<i>The National Curriculum</i>	66
3.3.3	<i>Music examinations</i>	68
3.4	ELITISM OR EQUALITY?	73
3.5	AIMS IN MUSIC EDUCATION	76
CHAPTER 4 GERMANY		81
4.1	BACKGROUND: MUSIC SCHOOLS IN EAST AND WEST GERMANY	82
4.2	ORGANIZATION AND FINANCE: MUNICIPAL AND NON-PROFIT ORGANIZATIONS FINANCED BY PUBLIC RESOURCES AND PUPIL FEES	85
4.3	CURRICULA AND AIMS: THE FRAMEWORK SYLLABUS OF THE VDM ASSOCIATION	88
4.4	EDUCATIONAL LEGISLATION	92
4.4.1	<i>The responsibility of each federal state</i>	92
4.4.2	<i>Music-school legislation in four Länder</i>	93
4.5	CONCLUSIONS	97
4.5.1	<i>Western and eastern perspectives on rights and freedom in education</i>	97
4.5.2	<i>Germany today: several Länder and one Association</i>	100

CHAPTER 5 CONCLUSIONS OF THE	
COMPARATIVE SECTION.....	103
5.1 SOME GENERAL REMARKS	104
5.2 RIGHTS AND FREEDOM IN GENERAL MUSIC EDUCATION	105
5.3 THE RIGHT TO MUSIC EDUCATION OUTSIDE GENERAL EDUCATION	106
5.4 FREEDOM IN MUSIC EDUCATION OUTSIDE GENERAL EDUCATION:	
A QUESTION OF INDIVIDUAL NEEDS	107
5.5 CONCLUSIONS: A BALANCE BETWEEN RIGHTS AND FREEDOM.....	110

PART TWO

REGULATION AS AN INSTRUMENT

OUTLINE	114
CHAPTER 6 THE ROLE OF THE STATE IN MUSIC EDUCATION –	
PHILOSOPHICAL PERSPECTIVES	117
6.1 THE BOUNDARIES AND LIMITS OF LEGAL REGULATIONS.....	118
6.2 THE STATE AND THE GOOD LIFE	120
6.3 THE STATE AND THE GOOD OF PEOPLE: FROM THE UNIVERSAL GOOD TO	
NEUTRALITY	124
6.3.1 <i>Practices and the good life</i>	124
6.3.2 <i>Liberal views: neutrality and the good life</i>	127
6.4 THE MARKET OR THE STATE? RIGHTS AND FREEDOM IN MUSIC EDUCATION...	132
6.4.1 <i>Music education as a public and a private good</i>	132
6.4.2 <i>The content of “the good” and aims in education</i>	134
6.4.3 <i>Rights and freedom in education: principles of equality,</i>	
<i>personal autonomy, and liberty</i>	136
6.5 JUSTIFYING MUSIC EDUCATION: SOCIAL AND INDIVIDUAL ASPECTS	139
CHAPTER 7 THE INSTRUMENTAL CHARACTER OF	
REGULATION.....	147
7.1 REGULATION AS INTERVENTION AND AN INSTRUMENT OF THE STATE	148
7.2 HYDÉN’S TYPOLOGY APPLIED TO THE DEVELOPMENT OF FINNISH MUSIC	
SCHOOLS	150

7.2.1	<i>Hydén's typology</i>	150
7.2.2	<i>The development of Finnish music schools</i>	152
7.2.3	<i>Some remarks on the current situation</i>	157
CHAPTER 8 REGULATION AS A MEANS TOWARDS BROADER		
AIMS IN MUSIC EDUCATION		
8.1	THE FINNISH LAW AND "CORRECT LAW"	162
8.2	FRAMEWORK LEGISLATION AND FLEXIBLE LEGAL NORMS	163
8.3	REFLEXIVE LAW	164
8.4	DIRECTING BY RESULTS	166
8.5	SOFT LAW.....	168
8.5.1	<i>The concept of soft law</i>	168
8.5.2	<i>Soft law and international treaties</i>	170
8.5.3	<i>The Constitution and by-laws of the International Society of Music Education</i>	173
8.6	THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD	178
8.6.1	<i>The principles of the best interests and autonomy of the child</i> ...	178
8.6.2	<i>The best interests of the child in music education</i>	180
8.6.3	<i>The right of every child to extra-curricular music education</i> ..	181
8.7	SUMMARY	183

PART THREE

MUSIC SCHOOLS AND THE ROLE OF THE STATE

CHAPTER 9 MUSIC SCHOOLS IN FINLAND.....		
9.1	BACKGROUND.....	190
9.2	GOAL-ORIENTATED EDUCATION – POSITIVE AND NEGATIVE ASPECTS.....	191
9.3	EDUCATING PROFESSIONALS OR AMATEURS?.....	194
9.4	THE PRESENT AIM: SELF-EXPRESSION AND A TRAINING GROUND FOR FUTURE PROFESSIONALS	195
9.5	THE PRINCIPLE OF EQUALITY AND THE RIGHT TO EDUCATION.....	196
9.6	CURRENT PROBLEMS: EDUCATION AND FREE-MARKET PRINCIPLES.....	199
9.7	NEW VISIONS OF MUSIC SCHOOLS.....	201
9.8	THE BASIC ARTS EDUCATION ACT (633/98).....	207

9.8.1	<i>Background: from music schools to arts education</i>	207
9.8.2	<i>Aims in basic arts education</i>	209
9.8.3	<i>The content of the present Act</i>	211
9.9	CONCLUSIONS	213
CHAPTER 10	TO REGULATE OR NOT TO REGULATE?	217
10.1	THE RIGHT TO EDUCATION	218
10.2	THE LAW AS AN INSTRUMENT IN PROMOTING EQUAL OPPORTUNITIES FOR EXTRA-CURRICULAR MUSIC EDUCATION	220
10.2.1	<i>The law as an instrument in German music schools</i>	220
10.2.2	<i>Finnish music schools: the law as a means of promoting the principle of equality</i>	222
10.2.3	<i>Equality in Sweden: rights without state regulation</i>	224
10.2.4	<i>Extra-curricular music education in England: no right</i>	225
CHAPTER 11	IF WE REGULATE, HOW SHOULD WE REGULATE?	229
11.1	FREEDOM IN EDUCATION: AIMS – THE NEEDS OF INDIVIDUALS AND GOVERNMENTS	230
11.2	INSTRUMENTS OF REGULATION – COMPARATIVE ASPECTS	234
11.3	LEGAL CONTRA FINANCIAL INSTRUMENTS	238
11.3.1	<i>The market or the state?</i>	238
11.3.2	<i>Elitism and paternalism</i>	240
11.3.3	<i>The role of law</i>	243
11.3.4	<i>Instruments of government intervention</i>	245
11.3.5	<i>From a “deluge of norms” to deregulation</i>	247
CHAPTER 12	SOME FINAL REMARKS	253
12.1	THE MARKET OR THE STATE? MUSIC EDUCATION IN TODAY’S SOCIETY	254
REFERENCES		260
1	LITERATURE	260
2	CONVENTIONS, CURRICULA, DOCUMENTS, LEGISLATION	282
3	BROCHURES, BOOKLETS AND WEBSITE MATERIAL	287
4	ARTICLES IN NEWSPAPERS AND JOURNALS	288
5	INTERVIEWS, DISCUSSIONS AND CORRESPONDENCE	294

Motto

Of all the fine arts, music has the greatest influence on passions; it is that which the law-giver must encourage most: a piece of music written by a master inevitably touches the feelings and has more influence on morality than a good book, which convinces reason without affecting our habits.

Napoleon 1797¹

¹ Grew 1940, p. 162.

Preface

This research examines the relationship between music education and law, and focuses on extra-curricular music education for children and adolescents. After examining music schools and music-education systems in Sweden, England and Germany, I turn to Finnish music schools, and especially the role of the state. The tension between the general (law) and the particular (individual needs of each pupil) is described. However, achieving harmony (consonance) is important both in law and in music. A composer may create a composite piece of music (order) out of fragments (disorder)² just as a judge creates order when he or she decides a legal case, or a law-giver enacts a statute that takes account of different kinds of interests of people usually represented by political parties or associations.

The concept of freedom is also important both in music and in law. It has been stated that there is no freedom without boundaries. In addition, there may be even more freedom (especially experienced freedom) when the boundaries are tight. An individual has to operate within boundaries consisting not only of legal but also of various other (moral, ethical and aesthetic) norms. In other words, he or she operates in a rule-bound situation within a structure of norms, within a culture. Furthermore, legal norms (that usually restrict the freedom of human behaviour) have an important role in creating freedom, for instance opportunities and circumstances for musical activities. This positive role of law has been the main function of legislation governing Finnish music schools.

This thesis was pursued at the DocMus Department of the Sibelius Academy, and it was written under the aegis of the Graduate School of Performing Arts (2000–2002) and the Research and Development Project on Music Schools. I have also derived a great deal of inspiration from the Helsinki University Law Department.

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² Kemp 1996, p. 207.

of London), Professor Hanne Petersen (University of Copenhagen) and Jarmo Kuitunen, M.A. (Helsinki University), for interesting discussions and encouraging comments. I remember with gratitude Dr Outi Korhonen and her helpful contacts at the University of Reading Law Department, and the inspiring seminars of the Law and Art Association.

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Finally, I would like to thank Harri Niemelä and Kari Kääriäinen for their computing help, and Joan Nordlund for her help with the language.

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Marja Heimonen

Introduction

Research subject

This study focuses on music education for children and adolescents offered by music schools receiving public financial support (from the municipality or the state). In Finland these schools are governed by law (Basic Arts Education Act 633/98) and a national curriculum framework issued by the National Board of Education.

The Finnish network of music schools is compared with the Swedish counterparts as well as with music schools in England and Germany. The aim is to promote understanding of the positive as well as the problematic factors in the Finnish system from other perspectives. Sweden was chosen because of the several similarities it has with Finland. Both countries are so-called Nordic welfare societies with the same kinds of educational and cultural policies. However, the Swedish and Finnish systems of music and arts schools are quite different from each other. Germany was chosen because of its strong tradition in classical music and its background of two different educational systems in the eastern and western parts of the country. The German system of music schools has similarities with the Finnish network, but several differences are also apparent.

British educational policy differs greatly from the educational policies in Finland, Sweden and the other Nordic countries, since the British system (or “non-system”) is mainly based on private tuition, peripatetic (visiting) teachers, Saturday music schools and a few specialist music schools for especially talented children and young people. The British “liberal” way of arranging music education for children and young people was chosen because it differs from the network system. Yet, the new trends in Finland (for instance, evaluation) as well as in Britain (attempts to strengthen state control) have brought these two countries closer to each other in spite of their different backgrounds.

Certain legal aspects related to music education are approached in the light of two principles: the right to education and freedom in education. In the last part of this study, the legal questions focus on music education for children and adolescents offered by music schools in Finland. The intention is not to solve all the problems addressed in this study (that lies outside the scope of this work), but rather to describe the legal and educational issues as they presently are, and in the process of doing this to raise certain philosophical questions.

Principal questions

The following questions are examined in particular:

1. How do the principles “the right to education and freedom in education” function in extra-curricular music education for children and adolescents?

Firstly, the music-education systems in Sweden, England and Germany are examined. The backgrounds, aims and principles, as well as the forms of organisation, financing and legislation, are explored and compared in the light of various traditions and solutions in different countries.

2. To regulate or not to regulate? If one regulates, how should one regulate?

Music as part of the human “good”, and the role of the state in securing prerequisites for the good life, are examined. The study supports the demand for public financial resources for music education in Finland and the necessary regulation involved.

In response to the second question (how to regulate?), regulation as an instrument is explored. A closer look is then taken at different kinds of instruments (means) of regulation, focusing on the principle of the best interests of the child. This principle refers to the right of every child to receive music education. How this principle works in practice is studied in the context of a municipal arts school (*kulturskola*) in Sweden offering extra-curricular education in music and other arts subjects for children and adolescents.

3. Is regulation an instrument in Finnish music schools?

The background of the Finnish music-school system (concerning the relationship between the state and these schools) is studied, as are the objectives of and justifications for state-supported music schools. The balance between musical skills (proper training for future studies) and personal autonomy (self-expression), between the common good and the needs of individuals, is explored.

One of the aims is to explore what kind of regulative model would be suitable, and would promote music education in Finland. The right to education refers to the right to music education, and to the duty of the state to secure the relevant conditions and circumstances, whereas freedom in education refers to individual needs and freedom regarding the content.

Some remarks on the main concepts

Concepts such as regulation, legislation, justice, law,³ music and “musics”,⁴ education, schooling and training can be interpreted in different ways. Therefore, the use of the two main terms in this study is briefly explained. The meaning of the concepts is also clarified by the context in which the terms are used.

1. Justice, law and regulation

In this study, regulation (legal, financial, etc.) refers to state intervention. Regulation as well as law (referring to legislation including acts and statutes) can be used by the state as an instrument in achieving justice, for instance.

2. Education

The concept “education” is used in a broad sense, and includes education, training and schooling.⁵

3. Extra-curricular music education

Extra-curricular music education refers to “out of school” instrumental and vocal tuition, usually offered by music schools.⁶

Regulation as an instrument – an outline

The subtitle of this study (Regulation as an instrument) refers to Aristotle’s thought on the law⁷ as a means in moral education. In Aristotle’s view, the state⁸ has to educate its individual citizens in the exercise of virtue, since living

³ Even “correct law” is used; see, e.g., Panu Minkkinen (1998): *Correct Law: A Philosophy of the Aporetic*; Ari Hirvonen (2000): *Oikeuden käynti. Antigonen laki ja oikea oikeus*.

⁴ See e.g., Kemp & Lepherd (1992); Elliott (1995); Regelski (1996).

⁵ According to Jorgensen (1997, p. 13), “education” means to develop, elicit, or to draw out; teachers (including music teachers) are like gardeners who arrange the conditions in which plants (in other words, their pupils) can grow. See also Winch & Ginger 1999, p. 70.

⁶ The use of the term “music school” is explained in Section 1.1.

⁷ The law is a translation of the Greek word “nomos”. In Ancient Greece the word “nomos” was used to mean both law and a piece of music. It has been claimed that, in the past, legal texts were presented by singing them because people (who usually were not able to read) could memorise the text easily through music. (Michaelidas 1978, p. 222; Comotti 1989, p. 16; Anderson 1994, p. 54.) See Section 6.1.

⁸ See Aristotle: *The Politics*. Transl. by T. A. Sinclair. P. 42. The English word “state” is a translation of the Greek word “polis”, an ancient Greek city-state (Pol. P. 21–22). According to Copleston (1985, I, p. 352), “Aristotle’s horizon was more or less bounded by the confines of the Greek City-State”.

according to virtue means living in harmony with one's own nature, this being the proper end of the individual. Aristotle referred to virtue as a disposition that demands long and careful exercise. Thus, for him and his followers, the law became an instrument in moral education.⁹

Aristotle argued that moral education was one of the functions of music¹⁰ because music has the power of forming character.¹¹ He was of the opinion that virtues manifest themselves in forms of activity. For instance, in order to acquire "correct" musical taste and judgement, free men should learn to play musical instruments; music education should include participation in actual playing. In general, Aristotle stressed the importance of education: "It is clear then that there should be laws laid down about education, and that education itself must be made a public concern."¹²

Aristotle's thoughts on the good life have become the basis for many thinkers, especially "communitarians". Therefore, ideas put forward by Alasdair MacIntyre will be analysed. In addition, liberal concepts presented by Ronald Dworkin, for instance, will be examined and compared with communitarian conceptions of "the good" and the role of the state in promoting it.¹³ It has also been claimed that the liberal and communitarian approaches may be integrated. For instance, the aim of "moral individualism" is to find a way to promote the moral development of an individual in a pluralistic, multicultural society.¹⁴

The integration of communitarian and liberal views is explored in this study. This integration should help in finding a way to justify a positive role for the state in producing conditions and circumstances for a good, flourishing life. The content of a good life should not be directed by the state, although in practice it cannot be completely neutral. Thus, according to this study, music is a part of the good life. Yet, music as a part of one's life has to be a so-called "real option" that the state must provide for its citizens.

⁹ EN I, 1, 1094a1–3; Rhet. I, 6, 1362a23; Knuutila 1989, p. 214; Haapala 1990, p. 8–9; Sihvola 1994, p. 61.

¹⁰ On the meaning of "music" in ancient Greece, see Section 6.5.

¹¹ Pol. VIII, 2, 1339a18–20; Pol., p. 461.

¹² Pol. VIII, 2, 1337a33.

¹³ According to Mulhall and Swift (1992, p. viii), identifying liberalism and communitarianism is complicated because these terms mean "different things to different people". Liberals are stated to emphasize the freedom and autonomy of the individual, whereas communitarians stress the common good.

¹⁴ Hellstén (1997): *In Defense of Moral Individualism*.

One of the main arguments in this study is that music education has an important role when music is regarded as part of the good life. The aims (in this study, music education refers especially to education offered at music schools) should be holistic: music education should take a broad view of the way it relates to human experience.¹⁵ In principle, the aims should be left open by state authorities and legislators to be defined more closely in practice. Such holistic objectives resemble the legal principle of the best interests of the child, which is the most important principle in all actions concerning children in Finland, as well as over almost all of the world. The child's-best-interests principle is like an open concept, a "doughnut" (as Ronald Dworkin describes it).¹⁶ These concepts leave room for different kinds of interpretations.

This study considers the importance of the child's-best-interests principle from the perspective of music education. According to the findings, the applications of this principle must be determined on an individual basis. Thus, the state has to produce conditions and circumstances for music education, rather than to regulate the content. However, the following question may be asked: how can we leave the content open, and at the same time provide a structure for music education? This is a question of legislation, especially in Finland. Different legal instruments are examined in the study. Furthermore, both legal and financial instruments of various countries are analysed and compared in order to show how the law as an instrument in music education could help music educators to reach their principal educational aim: to promote music as part of the good life.

¹⁵ Kemp 1996, pp. 251, 255.

¹⁶ See Dworkin (1977): *Is Law a System of Rules?*

Abbreviations

ABRSM	The Associated Board of the Royal Music Schools
Art.	Article
BbgMSchulG	Gesetz zur Förderung der Musikschulen im Land Brandenburg (Act for the promotion of music schools in the state of Brandenburg)
DfEE	The Department for Education and Employment
EMU	The European Union of Music Schools
E.N.	Nichomachean Ethics
FJME	The Finnish Journal of Music Education
ISME	The International Society for Music Education
KM	Komiteanmietintö (Committee Report)
LEA	Local Education Authority
Lgr	Läroplan för grundskolan (The Comprehensive School Curriculum)
Lpf	Läroplan för de frivilliga skolformerna (The Curriculum for the Voluntary School)
Lpo	Läroplan för det obligatoriska skolväsendet, förskoleklassen och fritidshemmet (The Curriculum for Compulsory School, Pre-school and after-school recreation centres)
OFSTED	The Office for Standards in Education
SML	Suomen Musiikkioppilaitosten Liitto (The Association of Finnish Music Schools)
SMoK	Sveriges Musik- och Kulturskoleråd (The Association of Swedish Music and Culture Schools)
SOU	Statens offentliga utredningar (Official Reports of the Swedish Government)
UN	The United Nations
VdM	Verband der Deutschen Musikschulen (The Association of German Music Schools)

PART ONE

MUSIC SCHOOLS IN DIFFERENT COUNTRIES

Chapter one

A comparative study of music schools and their regulation

1.1 INTRODUCTION: THE MUSIC SCHOOL	26
1.2 COMPARATIVE LAW RESEARCH	27
1.3 COMPARATIVE MUSIC-EDUCATION RESEARCH.....	31
1.4 CHALLENGES IN COMPARATIVE RESEARCH.....	33
1.5 CONCLUSIONS.....	34

Chapter 1 A comparative study of music schools and their regulation

1.1 Introduction: The music school

The term “music school” is commonly used in almost all European countries. No binding international commitments have been laid down regarding the minimum requirements that a school called a “music school” should fulfil. In addition, the use of this term is seldom regulated by law; however, there are some exceptions.¹⁷

Membership of a national music association affiliated to the EMU (the European Union of Music Schools) entails certain prerequisites, concerning the subjects offered as well as the qualifications of the teachers, for example. In this way the national associations may try to distance “their music schools” from other, often commercial enterprises, which frequently also adopt the name music school.¹⁸ This kind of association has been established fairly recently in Sweden.¹⁹ Furthermore, in England there is no association that would qualify for membership of the EMU. The national associations of music schools in Germany and Finland (VdM and SML) are members of the Union.

In this study the use of the term music school is most problematic in the context of music education outside general education in England. No network of music schools has been established there; the term music school refers both to Saturday music schools as well as to specialist schools. In Sweden, several municipal music schools have changed their name to “culture school” (*kulturskola*), also translated as “school of arts”. Furthermore, the translation of the Finnish term “*musiikkioppilaitos*” into English is complex; in fact, it has also been translated as “music institute”.²⁰ However, “music school” has been declared to be the translation that best represents the nature of music education offered by these schools when the term is used in international and comparative contexts.²¹

¹⁷ For example, the use of the term music school is protected by law in Germany in Brandenburg (BbgMSchulG; see Chapter 4), Bayern and Sachsen-Anhalt (Statistisches Jahrbuch 1999, p. 10).

¹⁸ EMU 1995, p. 36.

¹⁹ SMoK, Sveriges Musik och Kulturskoleråd, was founded in 1996 at the annual meeting of the FSMK, föreningen Sveriges Musik och Kulturskolledare (which was founded in 1979 and liquidated in 1997). <http://www.smok.se/eng/ehistorik.htm> (27 April 2001)

²⁰ The Education System of Finland 2001, p. 112.

²¹ SML, Association of Finnish Music Schools. In Finland these music schools are granted state support by law.

1.2 Comparative law research

According to Legrand,²² the fundamental nature of comparative law research is expressed in the words of Montesquieu:

It is not the body of the laws I am looking for, but their soul.

Comparative research should therefore not merely concentrate on legislation and the legal norms of different countries; the surrounding social context, including the cultural, historical, administrative, political and ideological factors of the research subject, should also be taken into account. According to Legrand, studies on the nature of knowing and of observation conducted in other fields, for instance in social anthropology and psychology, are of relevance to cross-cultural research in comparative law. The researcher should study the nature rather than the structure of the law. In other words, the focus should not be on “law as rules”, in the form of legal texts and regulations, but on “law as culture”. This means that the hidden ideologies behind the legislation should also be taken into account.²³

In this study, law as culture is more important than law as rules due to the fact that, in some countries (such as Sweden and England), there are no acts governing music education offered by music schools. In addition, when the law governing music and music education is studied, confining oneself to the very surface of the law would not provide an accurate picture of the research subject. On the other hand, “law as culture” is such a wide expression that its meaning has to be clarified. This study focuses on two principles concerning law and music education: the right to music education and freedom in music education. These principles are closely connected to the principle addressing the best interests of the child, which is stated to be the most important legal principle in matters affecting children, and could be regarded as belonging to the surface of the law; in

²² Legrand 1996, p. 81; Sutela 2001.

²³ Legrand 1995, p. 272; Sutela 2001, p. 76; Legrand 1996, p. 56. Legrand states that culture derives from historical experience and so do legal rules. Furthermore, rules are not the whole of the law; the “legal” cannot be separated from the “non-legal” reality of society since the aforementioned worlds are linked to each other. (Legrand 1996, pp. 56-58).

other words, “law as rules”. Yet, it is also involved with “law as culture”, in other words, the “deeper” levels.²⁴

One of the aims of comparative research is to acquire knowledge of foreign legal systems; therefore, the structure of the music-school system and the law of different countries are explored. These may be used as examples, for instance, if recommendations are made in order to develop the legislation of the home country of the researcher.²⁵ In this study, the aim of the comparative component is to shed light on the system of Finnish music schools. Exploring countries with different backgrounds – such as England, which is a common-law country,²⁶ and Germany in which each state (*Land*) enacts its own laws – offers a new perspective on the positive as well as the problematic factors of regulation governing music schools in Finland.

Functionality is stated to be the basic methodological principle of comparative law.²⁷ The theoretical and methodological perspectives of this approach are also functional; in other words, the main question is how a problem has been solved in different countries. The approach is systematic. Music schools are explored from the outside, the backgrounds of the institutions as well as their regulation (including, for instance, legislation and other official documents) are described first, then certain elements involving the aforementioned principles are compared.

According to the theory of “legal families”, the legal systems of the world are divided into a few large groups called legal families.²⁸ The traditional legal family has been subdivided into Romanistic, Germanic, Nordic, Common Law, Socialist and the so-called non-western (e.g., Islamic) legal cultures. The idea of this

²⁴ According to Tuori’s theory of the multi-layered structure of law, three levels can be defined: (1) the surface level (statutes and other legal regulations, court decisions and legal dogmatic work), (2) the level of legal culture (expert culture of legal professionals), and (3) the deep structure of law (the fundamental normative principles and the basic legal categories of the type of law in question) (Tuori 2000; 1997, pp. 432-436). See also Tolonen (2001) and Siltala (2000a, pp. 157–158) on the questions when “levels” in law are defined; the “deeper” levels are regarded as particularly problematic.

²⁵ Sutela 2001, p. 77. C.f. Tate 2001; Lephherd 1992; Kemp & Lephherd (1992) on the problems and dangers of cultural borrowing and the need for adaptation.

²⁶ Common law has been created by the judiciary through the decisions in the cases. On the other hand, statute law has been created by Parliament in the form of legislation. There was a significant increase in statute law in England in the 20th century. (Slapper & Kelly 1999, p. 5.)

²⁷ Zweigert & Kötz 1998, p. 34.

²⁸ Zweigert & Kötz 1998, p. 63.

kind of traditional grouping has recently been criticised. One reason for this is the rapid developments and the significant changes within societies, exemplified by the disappearance of most socialist members of the family. The law family can also be divided into groups on a different basis. For instance, nowadays membership of the European Union could be regarded as a factor that unifies several countries, so that the legal systems of these countries could be regarded as a separate group.²⁹ According to the idea of the traditional law family, Finland and Sweden belong to the Nordic, Germany to the Romanic-Germanic – the former East Germany to the Socialist – and England to the Anglo-American (common-law) legal cultures.³⁰

The factors according to which legal systems are explored, compared with each other and put into groups have raised several questions. It is argued that the focus should not be on historical development, legal content and observable techniques concerning the rules of law, but rather on whether countries have the same legal culture, in other words whether the citizens' attitudes to law and their expectations of it resemble each other.³¹ Furthermore, it is argued that the criterion for comparing and grouping should be the "style" of the legal systems. "Style" as a concept originates in the literary and fine arts, including music, and this is also used in law. Factors corresponding to different legal styles are numerous, but not all of them are important or essential as differentiating qualities. Yet, there is no final proof of what could be regarded as important and essential by a scholar: the scholar makes his or her own judgements concerning how (and how many) styles are identified. However, the following factors are said to be crucial for a style of legal system or legal family:³²

1. *Historical background and development* determine the style of most legal systems. One example is the development of the common law that has, for instance, been described as "the law of the common people of England"³³. The use of the term common law refers to all the legal systems (for instance, the systems of the United States and many other Commonwealth – or former Commonwealth - countries) that have adopted the historic English legal system.

²⁹ Sutela 2001, p. 89-91.

³⁰ See also Tuori 1997; according to him, legal culture consists of the expert culture of legal professionals and the general legal culture of ordinary people. The expert culture comprises general doctrines of law, canons of interpretation and patterns of argumentation.

³¹ Legrand 1995; op.cit. Zweigert & Kötz 1998, p. 67.

³² Zweigert & Kötz 1998, pp. 68-72.

³³ Slapper & Kelly 1999, p. 3. Development of common-law in England (Slapper & Kelly 1999, pp. 3-5).

2. *The distinctive modes of legal thinking.* For instance, enacted statute law (“civil law”) consisting of abstract norms is used in continental European legal systems, whereas common law is case-centred and hence judge-centred; it has gradually developed from decision to decision. In short, the English “improvise”, whereas the Continentals draw up rules and systemise them. In reality, the aforementioned view is an extreme over-emphasising of the extent to which the common-law judge may impose his discretion. The doctrine of *stare decisis*, or binding precedent, refers to the fact that judges and courts are bound by previous decisions of courts.³⁴
3. *Distinctive legal institutions* (such as trust in common law) lend a characteristic style to a legal system.
4. *Sources of law* and the methods of interpreting them mark the style of legal systems.
5. The style may be marked by an *ideology* (political or religious). This factor is important in the study of Islamic and Hindu law, for instance.

In conclusion, all classifications have a utility and function depending on the perspective chosen by the researcher and the aspects most interesting to him or her. Furthermore, a detailed method for a comparative study cannot be laid down in advance; a method may be taken as a hypothesis, but it is followed through only by gradual trial and error.³⁵

In this study, the criteria for different legal styles are used as a means to explore extra-curricular music education for children and adolescents in Sweden, England, Germany and Finland. The historical background is explored, as are the distinctive modes of legal as well as cultural and educational thinking. For instance, enacted law governing music schools is used in Finland and Germany, but not in England or Sweden. A systematic network of music schools has been established in Finland and Germany, whereas small societies and associations for music teachers and musicians of various instruments are typical in England. No formal decision has been made to establish a network of music schools in England – nor in Sweden, although there is a municipal music or arts school in almost every Swedish municipality. Distinctive educational institutions such as specialist music schools lend a characteristic style to the English system. The style of the Finnish system is marked by the way in which legal and other regulations (including curricula) are interpreted. The ideology behind the educational policies in various countries is also explored, since educational aims, as well as public financing of music education, are affected by ideological factors.

³⁴ Slapper & Kelly 1999, pp. 3, 64; Zweigert & Kötz 1998, pp. 68-72.

³⁵ Zweigert & Kötz 1998 pp. 33, 73.

1.3 Comparative music-education research

It has been suggested that studying aspects of music education in different countries helps the researcher to reflect and better understand such education in his or her home country. However, comparative music education as a field of research is also valuable in its own right. At least the following major contributions have been made to this field. The importance of the systematic collection of data, interpretation and juxtaposition leading to comparison, as well as the need to acquire experience in the foreign culture under investigation, were stressed by Bereday in the 1960s.³⁶ Quantitative methods were favoured by Noah and Eckstein in the late 1960s, for instance, since they argued that objectivity in comparison could be reached through minimising cultural bias.³⁷ Other researchers were critical of approaches emphasising quantitative methods, since statistical methods lose the critical perspective that is linked to the cultural background of the researcher. Holmes argued in the 1980s that the problem-solving approach of Dewey could be applied in comparative research.³⁸

Since the early 1980s, the methodological debate has shifted towards the acceptance of wider approaches of a broader character. In other words, it is unlikely that there is one ideal way to conduct comparative research. The growing interest in other research traditions such as anthropology and ethnology has also led to the development of alternative approaches. The purpose of the research is crucial when the method is chosen; a variety of methods may even be used in one study.³⁹

Kemp and Lepherd provide a model or framework for the classification of international music education that can be applied either to single-system or comparative studies. Global statements, as well as distinctions between systemic and non-systemic cultural transmission, are included in this framework. Global statements are studies that address issues related to music education that are of relevance to an international audience (for instance, philosophical issues such as music as a universal language – or nowadays more often, musics as languages).⁴⁰ Systemic studies focus on formal systems of music education that exist within national systems (“in school”), whereas non-systemic studies focus on music education that does not involve formal tuition in schools. Of course, both of these systems can also be studied, for instance in terms of the relationship between

³⁶ Bereday 1964.

³⁷ Eckstein and Noah 1969; Tate 2001.

³⁸ Holmes 1981. See also Tate 2001, p. 225-234.

³⁹ Tate 2001.

⁴⁰ Elliott 1995 and the so-called praxial philosophy of music education (e.g. Regelski, Alpersen).

systemic and non-systemic instrumental tuition in school and out of school. Systemic education research is divided into the overview and the thematic in a national context. These studies are either single-system or comparative studies, but in practice most of them have been single-system studies including only informal comparisons. Unlike comprehensive overviews, smaller studies may focus on particular themes (or they may include brief overviews).⁴¹ According to Lephherd, thematic comparisons may cover assessment procedures in different music conservatories. National systems may also be the focus for comparison.

One conceptual framework for nation-state comparison is provided by Holmes. According to him, one of the aspects to be studied concerns the aims of education, in terms of constitutions, legislation, curricula and professional associations. Aims have been divided into child-centred, society-centred, and subject-centred aims, and the comparative interest is in the degree to which they are stressed in various countries. Another category to be explored is administration, especially the relationship between the national, provincial and local levels. The financing of education (for instance, government provisions), the organisation of music-education, curricula, and teacher education are also worthy of study.⁴² In conjunction with the aforementioned model, the comparative method developed by Bereday is useful when national systems are in focus. According to Bereday, national systems have to be described and interpreted (for instance, according to the model of Holmes). Juxtaposition and preliminary comparison ending in detailed comparison then follow.⁴³

The approach of this study embraces both comparative law and comparative music-education research. It begins with an investigation of extra-curricular music education in different countries, and then a closer look is taken at the music-school system in Finland. Quantitative methods are not used. The framework of Kemp and Lephherd is applied, and adapted to the research questions. For instance, music schools in Finland acquiring law-based public support are part of the formal education system (although studying there is voluntary). In other countries such schools do not necessarily belong to the formal education system, although they may have considerable collaboration with the official schools (even more than in Finland). Finnish music schools are educational institutions that resemble official schools to some extent. Thus the approach of this study is characterised as systemic and thematic (focusing on two principles: the right to education and freedom in education), and also includes a brief overview of the music-education systems of each country in question. In addition, Holmes'

⁴¹ Kemp & Lephherd 1992, pp. 775–786; Tate 2001, p. 228–229.

⁴² Holmes 1981.

⁴³ Bereday 1964; Lephherd 1992, p. 33-39; Kemp & Lephherd 1992, pp. 777–778.

framework is used and adapted when different music-school systems (including educational aims, administration, finance, structure and organisation, and teacher education) are explored.

According to Lephherd, breadth and currency of sources, which include official government and media publications (newspaper articles) and discussions, are crucial for making comparisons. Furthermore, primary sources in the original language should be obtained.⁴⁴ Thus, legislation, national curricula and other government documents in the original languages (Swedish, German, English and Finnish) are used as sources. Newspaper articles were scrutinised and interviews in music schools conducted in order to obtain a picture of the way official government policy is implemented and perceived in reality.

1.4 Challenges in comparative research

One of the basic problems in comparative research (regarding both law and music education) is the question of what is comparable. Satori refers to apples and pears; in some respects they are comparable (fruits), but in other respects they are not (shape). According to Satori, only entities that share similarities as well as differences (although not too big differences) can be compared with each other. Careful classification is an effective instrument for differentiating what is similar and what is different.⁴⁵

The political use of comparisons of educational achievement is significant, although not as common in music education as in other subjects such as mathematics, reading and writing. For instance, in the late 1980s, English politicians began to refer to comparisons; generalisations such as “England beats France in mathematics” may be used to confirm the existing education policy (or vice versa). Therefore, researchers should minimise the tendency to oversimplify and to make inappropriate generalisations in comparative studies.⁴⁶

The cultural background of the researcher may limit the objective study of other cultures. Therefore the values of the researcher should be made explicit in order to avoid ethnocentric bias in the interpretation of the findings. Another related issue is the extent to which educational practices in one country may be “borrowed” and implemented in another. Adaptation is necessary for cultural borrowing and transplantation. For instance, Kodály himself suggested that American folk songs

⁴⁴ Lephherd 1992, p. 39-40.

⁴⁵ Satori 1994; Lephherd 1992, p. 41.

⁴⁶ Tate 2001, p. 231.

should be used when his method was adopted in America.⁴⁷

The use and meaning of language need to be carefully considered in comparative research (as well as in other fields of research), since some terms may be difficult or even impossible to translate because they do not exist, or they have differing meanings, in the countries that are being compared. Comparisons may also be problematic due to differences in the structure and organisation of schools. For instance, it is difficult to give cross-cultural meaning to concepts such as secondary school, comprehensive school, high school, college and music school. A challenge for comparative research is that national systems are often divided into different kinds of sub-systems; for instance, some nations consist of numerous autonomous states, each with its own education policy.⁴⁸

1.5 Conclusions

The aforementioned challenges for comparative research also have to be dealt with in this approach. For instance, the use and meaning of the term “music school” is different in various countries, especially in England (as mentioned in Section 1.1).⁴⁹ It is not only such translation problems, but also the different structures and organisations regarding general education, music education and music schools, that create challenges for comparison. For instance, Germany is divided into several *Länder*, four of them with their own music-school legislation.⁵⁰ Yet, differences (if not too extensive) between entities are necessary as well as fruitful for comparative research. Even if one factor (such as a Music School Act) is missing, this will raise further questions such as *why* another country has created such legislation.

Choosing countries and systems to be compared is a crucial aspect of comparative research. The purpose of the study, the importance of certain legal or music-education systems, as well as the interests of the researcher, are relevant when the choice is made. In this study, the following countries are explored: Sweden as an example of the Nordic countries representing an ideology of “music for all”, England as an Anglo-American counterpoint with specialist music schools for especially talented children, Germany with a background of an Eastern Socialist system and a liberal Western system, as well as a long tradition in classical music, and finally Finland with a younger tradition but with a systematic structure and network of music schools covering the whole country. There are similarities,

⁴⁷ Kodály 1974; Tate 2001, p. 232; Lopherd 1992, p. 42.

⁴⁸ Lopherd 1992, p. 41-42; Tate 2001.

⁴⁹ See Section 1.1.

⁵⁰ *Länder* is an abbreviation of *Bundesländer* (see Chapter 4.5.2).

between Finland and Sweden, for instance (Nordic systems with a common history – Finland has been part of Sweden), as well as between Germany and Finland (acts governing music schools). Differences are also apparent; for instance, two of the countries compared do not have acts governing music schools. These differences are of relevance when questions concerning the necessity of legal regulation governing music education is explored.

The institutional level is especially focused on in this study, and the way in which legislation or national curricula are applied in practice on the micro level (in the classroom) is not explored. Future studies could offer insights into the actuality of education in practice. Both kinds of approach benefit from each other. Two themes, the right to education and freedom in education, form the key threads of the approach. These principles are relevant internationally, and the tension between them in each of the countries is explored.

One step in the process of comparative research is to build a system, preferably a very loose but coherent one.⁵¹ As mentioned earlier in connection with comparative music education, successful cultural borrowing needs adaptation. The same point could be made when a researcher is choosing a method or a perspective. This study applies the frameworks or models developed by Kemp and Lephed and Holmes, which are nevertheless adapted to the research questions. Legal style as a criterion of systematisation and comparison, as presented by Zweigert and Kötz, is also applied and adapted here. However, as mentioned earlier, a method can only be taken as a hypothesis. Whether it is suitable or not to a particular approach must be discovered by gradual trial and error.

⁵¹ See Lephed (1992) about the problems if the system is too strict.

Chapter two

Sweden

2.1 BACKGROUND: VOLUNTARY MUSIC ACTIVITIES AND CREATING A WELFARE STATE: <i>FOLKHEMMET</i>	38
2.2 LOCAL SELF-GOVERNMENT: DIFFERENT KINDS OF ORGANISATIONS AND NO SPECIAL LEGISLATION	41
2.3 COLLABORATION AND THE PRINCIPLE OF EQUALITY	43
2.4 AIMS AND CURRICULA: LOCAL DECISION MAKING	45
2.5 ÖREBRO CULTURE SCHOOL	46
2.5.1 <i>General Background</i>	46
2.5.2 <i>Collaboration</i>	47
2.5.3 <i>Forms of regulation</i>	48
2.5.3.1 Financial regulation and curricula	48
2.5.3.2 Conventions, declarations, visions, and aims	50
2.5.3.3 Challenges	51
2.6 CONCLUSIONS	52
2.6.1 <i>The right of every child</i>	52
2.6.2 <i>Autonomy – Freedom within boundaries</i>	54

Chapter 2 Sweden

2.1 Background: voluntary music activities and creating a welfare state: *Folkhemmet*

Music education has been offered in municipal music schools in Sweden since the 1940s.⁵² It was provided in about 50 municipalities in the 1950s, and has gradually expanded to nearly every municipality.⁵³ Municipal music and arts schools (*kommunala musik- och kulturskolor*) became the “general arena for instrumental teaching” in the 1960s and 1970s.⁵⁴ In the 1980s, a music school existed in 282 of the 284 municipalities.⁵⁵

There are various reasons for the growth of municipal music schools in Sweden: the main idea has been to create an opportunity to learn to play an instrument or to sing regardless of the social and economic background of the child.⁵⁶ In line with the growth of the nine-year comprehensive-school curriculum (which was instituted in 1961), local authorities felt the need to organise the teaching of instrumental music. The popular education movement, the attempt to strengthen the musical life of the municipality, and the involvement of enthusiastic individuals have also influenced the increase in the number of these schools. No special statement on establishing a network of municipal music schools has been made by the state authorities. Voluntary musical activities have been the basis for these schools in most municipalities.⁵⁷

⁵² Finansdepartementet 1999, p. 129. See also *Den kommunala musikskolan* 1976, p. 10; music circles existed in the 1930s, and musical activities in these circles have been regarded as the basis for municipal music schools (referring to voluntary municipal music education).

⁵³ Stålhammar 1995, pp. 34, 261; in 1966, the number of municipal music schools was 318, with 98 343 pupils (SOU 1968: 15).

⁵⁴ Stålhammar 1995, p. 261; Graneheim 1994, p. 4; *Den kommunala musikskolan* 1976, p. 10. According to the EMU (1995, p. 237), there are 283 music schools with over 300 000 pupils and almost 6000 teachers in Sweden.

⁵⁵ Gustafsson 2000, p. 202.

⁵⁶ According to Olsson (1993), during the early 70s the general aim of the cultural policy in Sweden was to make the arts more accessible to people. See also SOU 1954:2; “democracy” does not only refer to politics or economics; on the contrary, it also has a cultural content. All citizens should have an opportunity to take part in music (SOU 1954, p. 19.)

⁵⁷ Persson 1998, pp. 1-3; Stålhammar 1995, pp. 260-261; Gustafsson 2000, p. 203.

In the 1960s (during the time of a lively popular-education movement in Sweden),⁵⁸ different kinds of cultural projects were granted considerable financial resources. This continued in the 1970s, yet the concept of culture as a basis for these investments widened. The Statement in which eight goals in the field of cultural policy were formulated by Parliament has been considered of great importance. According to this Statement, cultural policy should:⁵⁹

1. promote the right to free expression and create factual preconditions for the realization of this right;
2. create opportunities for creative activities of people as well as promote contacts between them;
3. counterbalance negative impacts of commercialism in the field of culture;
4. promote the decentralization of activities and decision making in the field of culture;
5. take account of the needs and experiences of existing groups;
6. enable artistic and cultural renewal;
7. secure the maintenance of earlier culture as well as keeping it alive;
8. promote the exchange of cultural experiences and ideas both nationally and internationally.

According to the 1976 Statement “Music – the Human Being – Society” (*Musiken – människan – samhället*), music is regarded both as a form of art essential for the development of individuals and as a means of communication with crucial functions in society. This view of music as an instrument of communication should have an effect on teacher education, as well as on the training of future orchestra musicians. According to the Statement, one of the aims of municipal music schools was to offer a basis for future professional studies. Therefore, special study programmes should also be available. In short, the social functions of music and music education were emphasised by Parliament. In addition, creativity and improvisation were stated to be of great importance, and several poems are included in this official Statement.⁶⁰

⁵⁸ See SOU 1968: 15. The importance of the social functions of music education was stressed. For instance, playing in an ensemble (instrumental or vocal) was suggested to be good for training pupils to listen and follow the voices of the other members of the group (SOU 1968: 15, p. 19).

⁵⁹ SOU 1976:33 pp. 50-52.

⁶⁰ SOU 1976:33, pp. 78, 155, 207.

*A class should be an hour
of a thousand discoveries.
For this to happen, the
teacher and the student
should first discover each
other.⁶¹*

In line with the goals of the preceding Statement, the book *Den kommunala musikskolan* (The municipal music school) was published in 1976 by the Association of Swedish municipalities (*Svenska kommunförbundet*). It includes a lot of information about the cultural ambitions the Association should promote. This volume is recommendatory rather than legislative, but the objectives and activities of music schools are stated to be close to the aims of education in comprehensive and upper-secondary school formulated in the Education Act (*Skollagen* §1). On the other hand, local autonomy should also be promoted.⁶² The economic development of the municipalities was not as positive as the local governments had planned, and fewer duties for music schools were set out in the second edition (1984) of this volume.⁶³

Another publication of great importance with regard to the development of Swedish cultural policy was *Forskning om kultur: Rapport från en arbetsgrupp inom HSFR* (1984) (Research as culture: the report of a working group within the Swedish Council for Research in the Humanities and Social Sciences, *HSFR*). The concept of culture was divided for the first time (into aesthetic and anthropological culture). According to the report, studies of everyday culture and value systems in society (the anthropological concept of culture) should be developed and priority should be assigned to those that focus on the connection between traditional cultural manifestations and the everyday life of people. A culture of active people was regarded as better than one of passive people, and the old expert-driven culture was criticised because it was not considered the best for promoting active citizens. In other words, this report reflected the left-wing climate of the 1970s.⁶⁴

⁶¹ R. Murray Schafer, composer and pedagogue, Vancouver, Canada: "The Rhinoceros in the Classroom." In SOU 1976:33. See Schafer 1986.

⁶² *Den kommunala musikskolan*, Stockholm: Sv. Kommunförbundet 1976, pp. 3–4, 15.

⁶³ *Den kommunala musikskolan: en resurs i kulturlivet*, Stockholm: Sv. Kommunförbundet 1984.

⁶⁴ *Forskning om kultur: Rapport från en arbetsgrupp inom HSFR* (1984).

After the Second World War, Swedish pedagogical discussion was closely linked to *Folkhemsbygget*, the building of the welfare state. The municipal music school was introduced at this time. A close relationship between politics and pedagogy existed during the time the municipal music school and the curriculum of the comprehensive school were being established. This cultural policy changed in the 1990s. The comprehensive school and the upper-secondary school were brought under municipal ownership in 1992, and after a few years the “free school” was introduced. At the same time, music schools suffered from economic depression. However, these schools were “saved” by the activity of people at the local level. The concept the “arts school” (*kulturskola*) was introduced at this time.⁶⁵ A radical democratic perspective (referring to the idea of democratic discussion presented by Habermas) arose when Swedish cultural policy was analysed in the late 1990s. Promoting the right to free expression and creating opportunities to exercise this right, as well as supporting active participation, were mentioned as aims in official documents.⁶⁶

2.2 Local self-government: different kinds of organisations and no special legislation

The concept of the municipal music school (*kommunal musikskola*) refers to different kinds of organisations: joint stock companies (for instance, in Solna, owned by the municipality), associations (in Ekerö), music and dance schools (in Kiruna) and arts schools. The teaching costs are mainly financed by municipal tax revenue in all of these cases.⁶⁷ According to the statistics provided by the European Union of Music Schools, Swedish music schools have been financed up to 90–92% by public subsidies.⁶⁸

There is no special legislation governing music schools in Sweden.⁶⁹ The Local Government Act (*Kommunallagen*) refers to municipal music schools, but only a few paragraphs affect (indirectly) these schools.⁷⁰ Yet, the principle of equality – as well as other legal principles – is also applied to municipal music schools.⁷¹

⁶⁵ Bouij 2001 (unpublished material). See Persson (2001, pp. 331–332, 373); he describes the situation of municipal music schools during the recession in the 1990s.

⁶⁶ Löfberg 2000, pp. 22–25. The idea of democratic discussion refers to the idea of a community that constitutes itself on the basis of a “discursively achieved agreement” (a rational discourse between free and equal participants devoted to building a consensus) (Habermas 1987; 1996, p. 137).

⁶⁷ Persson 2001, p. 4.

⁶⁸ EMU 1995, pp. 110, 236. C.f. Skoglund 13 Febr. 2001; 8 May 2001.

⁶⁹ EMU 1995, p. 238.

⁷⁰ See Kommunallag (1991:900) 3 kap. §§9–10, 6 kap. §§33–34; Tivenius 2001.

⁷¹ Persson 1998, p. 4.

The activities of municipal music schools are not directed or controlled by national regulatory instruments. Furthermore, no national statement has ever been made with regard to the establishment of these schools. Municipal documents may regulate them, but the effect of these documents on music-school activities is not invasive.⁷² The reason for this kind of direction (which differs significantly from the formal control of general education) may be the fact that music schools have developed from private as well as municipal activities and music circles, in other words, from voluntary musical activities. Furthermore, the aforementioned local traditions varied in different municipalities.⁷³

A lively discussion concerning the demand to introduce a special Act for music and arts schools took place in several Swedish newspapers throughout the 1990s when financial support for these schools was reduced in several municipalities. An Act covering music schools was passed in Denmark in 1991, and Norwegian music schools are covered by a special Act of their own.⁷⁴ Most writers, refusing to accept the idea of introducing legislation, referred to the strong and long Swedish tradition of local decision making and local self-government.⁷⁵ Furthermore, the heads of private arts schools complained that financial support based on legislation would only benefit a limited number of schools, and the competition between private and municipal arts schools would become unfair.⁷⁶ One of the fears of passing a new Act was that local politicians might reduce support for municipal arts schools to the minimum level under the law. On the other hand, it was stated that a minimum level is better than no support.⁷⁷

During the 1990s, municipalities tended to reduce (or even discontinue) their financial support, especially of activities that were not based on law (such as music education offered at municipal music and arts schools). As many as 67% of all music schools were faced with threats of closure, mostly due to a lack of funding.⁷⁸ The principle of equality, the real option for every child to attend a municipal music or culture school, regardless of his or her social background,

⁷² Skoglund, 13 February 2001.

⁷³ Gustafsson 2000, p. 202; Stålhammar 1995, p. 261; *Den kommunala musikskolan* 1976, p. 10.

⁷⁴ In Finland, the first act governing music schools came into force in 1969, yet none of the Swedish writers referred to the Finnish acts.

⁷⁵ Häggroth & al. 1999, pp. 7, 35-36.

⁷⁶ Private schools also criticised the Local Government Act for the same reason, unfair competition (Billgren 1998).

⁷⁷ Car Gunnar: "Musiklivet förtvinar" in Svenska Dagbladet (26.10.1996); Bojs 1996.

⁷⁸ Persson 2001, p. 373. Most threats of closure were not carried out. Furthermore, local support protected the music schools against the aforementioned threats. (Persson 2001, p. 373.)

suffered when the schools were obliged to raise their fees.⁷⁹ The education of future professionals was discussed when the group sizes became bigger and queues for municipal music schools longer (in some municipalities children had to wait for three or four years before getting in). Furthermore, no programme for young students especially interested in music and aiming to become professionals is offered in conjunction with professional music education at university level. The Association of Swedish Music and Arts Schools (SMoK) was in favour of a special Act; in short, an Act of Parliament was regarded as a more secure basis for public support than the promises of local politicians.⁸⁰

No special Act for music and arts schools was introduced in Sweden. The Swedish idea of democracy is put into practice through local self-government, and passing a music school Act is regarded as a violation of that fundamental principle.⁸¹

2.3 Collaboration and the principle of equality

The principle of equality is the most important principle in cultural and educational policy in Sweden. Therefore, music education provided by municipal music schools has to be offered to every child, although studying at a music school is, of course, voluntary.⁸² This principle of offering every child the opportunity to study at a music school may mean, for instance, that every pupil has to take a preparatory course for a year, after which the “talented” pupils are selected for the music school. Yet, the principal idea in the 1960s and 1970s was that the music education given at these schools was offered to anyone who was interested in music and not only to the musically talented.⁸³ No entrance or other examinations are normally set at these schools.⁸⁴

Collaboration between music schools and compulsory (as well as upper-secondary) schools has been very common in Sweden,⁸⁵ often in the form

⁷⁹ Bergendahl & Claesson 1998; Franzon 2000; Zetterström 1996. To what extent fees can be raised is a matter of discussion.

⁸⁰ Abrahamsson 1998; Lundberg 1996; Bojs 1996; Cederberg 1992; Ahlqvist 1992.

⁸¹ Zetterström 1996.

⁸² Persson defines the term *kommunal musikskola* (municipal music school) as voluntary, organised music education completely or partly financed by municipal resources at the local level (Persson 2001, p. 4).

⁸³ Persson 1998, pp. 55, 97; 2001, pp. 265, 377.S

⁸⁴ Gustafsson 2000, pp. 209–210. E.g, everyone is accepted at Örebro Kulturskola, although some courses require passing an entrance examination.

⁸⁵ Music schools and comprehensive schools co-operate in 95% of the municipalities (Stålhammar 1995, p. 8).

of paid services offered by music schools.⁸⁶ According to the Curriculum for the Comprehensive School (*Lgr 69*),⁸⁷ pupils were in certain cases, allowed to attend music-school lessons for 20 minutes per week during lesson time at comprehensive school. This right to attend a music school during school hours was not included in the next Curriculum, but the right of pupils to receive a certain number of lessons in different subjects was secured. Music lessons for children at comprehensive schools are often given by music-school teachers and classroom teachers (working collaboratively). Collaboration is also common regarding school orchestras and choirs, which are often conducted by teachers in music schools. In addition, music schools organise concerts for schools.⁸⁸

Music schools also collaborate with local orchestras. For instance, teachers in music schools playing in an orchestra have been allowed (since 1969) to reduce their teaching load. In addition, local orchestras have organised concerts for children and the young. They have also given concerts together with music-school pupils. Conductors of student orchestras at music schools sometimes also conduct local choirs or orchestras. These conductors help the local orchestras to attract new members and, at the same time, they offer an opportunity for the pupils to continue their musical activities after studying at the music school.⁸⁹

One of the aims of this kind of collaboration (“music everywhere”) has been to give the municipal taxpayers value for their money. Concerts and instrumental lessons may sometimes be given free of charge to schools, companies and churches, for example. One of the principal aims has been to make the activities at the music school better known, because there is always the danger that local authorities will reduce their subsidy. According to the ideology of the Social Democratic Party, cultural activities should be within reach of everyone. Therefore, concerts have been arranged at workplaces and shopping centres, and music-school students and teachers have even performed in local prisons.⁹⁰

⁸⁶ EMU 1995, p. 110; Skoglund and Tivenius, 8.5.2001.

⁸⁷ Läroplanen för grundskolan. Lgr 69 sid 111; Persson 1998, p. 70.

⁸⁸ Persson 1998, p. 70; Stålhammar 1995, pp. 8, 118-130.

⁸⁹ Persson 1998, pp. 60-64

⁹⁰ Persson 1998, pp. 63-79; 2001, p. 315. The Social Democrats have had some 30 percent of the seats in Parliament since the 1998 election, and have been in office since 1994 (Bogdan 2000, p. 36). This party has its most important strongholds in the industrial municipalities of central Sweden and in the northern part of the country (Häggroth et al. 1999, p. 99).

2.4 Aims and curricula: local decision making

According to Stålhammar, the curricula for general education in Sweden (for example in comprehensive schools) are the results of political compromises. Therefore, the contents as well as the aims of education are not neutral. On the contrary, they are connected to political issues.⁹¹

Municipal music schools are not directly regulated by the state. They may develop their own curricula, and outside authorities do not control the education there. Yet, local authorities and political representatives may affect the content of education by regulating financial support from the municipality. The threat of reduced subsidies affects the aims and activities in the music schools. Thus, the aims are preferably in line with the ideology of the political party that has the majority of representatives in the local government.⁹² Therefore, music-school education is connected to local political considerations. For instance, pop and rock music were introduced when the music education offered was criticised for being directed only at those interested in classical music. In the 1980s, several local authorities (the cultural boards) had a special budget for immigrants, resulting in the introduction of multicultural music education.⁹³

In short, a municipal music school serves the expectations of the municipality. Pupils learn to play an instrument, as well as to sing and dance, and they find new friends at these schools. Some of them prepare for future professional studies in music.⁹⁴ For musicians, the schools provide an opportunity to earn additional income by teaching music. Local authorities regard the municipal music schools as an instrument with which to raise the standard of musical life in the municipality.⁹⁵

The educational aims of the state authorities may sometimes indirectly affect the music schools. For instance, according to SOU 1972: 26 (*Barnstugeutredningen*), music education influences the development of pre-school-aged children in several ways.⁹⁶ The teachers are instrumental in fulfilling the seven aims referred

⁹¹ Stålhammar 1995, p. 35.

⁹² Skoglund, 8 May 2001.

⁹³ Persson 1998, pp. 70-71.

⁹⁴ According to Brändström (1997, p. 18), almost all students at a higher level (aiming to become professional music teachers) have studied and received their basic education at a municipal music school. Cf. Bouij (1998, p. 348), who states that 78% of the students in his research had attended a municipal music school. His study focused on the progression of a music student out into professional life (Bouij 1998, p. 345).

⁹⁵ Persson 1998, pp. 1-44.

⁹⁶ SOU 1972:26, pp. 211-213.

to that can have an effect on child development. Concerts and singing events for small children have been arranged in public libraries, for instance. In addition, musical events organised by music-school teachers have been arranged at play-schools, pre-schools and hospitals, and “babysinging” for parents with their babies has been organised by music schools.⁹⁷

There is a tendency for subjects other than music – such as dance and theatre – to be available at music schools, and indeed, several music schools changed their name to “arts school” (*kulturskola*) during the 1990s. These schools offer a variety of subjects and collaborate with other schools and institutions.⁹⁸

2.5 Örebro Culture School

2.5.1 General Background

Örebro Culture School (*Örebro Kulturskola*) has been running since 1957. It was originally mainly a music school called the Municipal School of Music, and was renamed the Örebro Culture School in 1993 (also translated as the School of Arts).⁹⁹ This school is the second biggest arts school in Sweden,¹⁰⁰ with over 8500 pupils each year. The school offers instruction in:

1. Music.

Music instruction (individual or group lessons) includes singing and instruction in most instruments. Instruction is given in classical, pop, jazz, and rock music. All pupils are given a private lesson of 18 minutes once a week. The lesson is longer if there is more than one pupil. The pupils may join an orchestra or an ensemble if they wish to do so. The school also offers advanced music courses for skilled pupils. These pupils are given approximately four lessons a week, including tuition in a major and a minor subject, music theory and orchestra practice. The advanced music courses are for selected pupils who aim to continue studying music at a professional level.¹⁰¹

2. Dance (from classical ballet to “hip hop”). The school also offers advanced courses for skilled students in dance.
3. Theatre and drama. Advanced courses are also available.

⁹⁷ Persson 1998, pp. 57-59.

⁹⁸ EMU 1995, p. 112; Persson 2001.

⁹⁹ <http://www.orebro.se/kulturskolan/nyheter/engelskv.html>. (18.2.2001)

¹⁰⁰ The biggest school is in Stockholm (Skoglund, 13 Febr. 2000), and was established in 1961 (Gustafsson 2000, p. 206).

¹⁰¹ Skoglund 19 Febr. 2001; Örebro Kulturskola, brochure, p. 7.

4. Art and design (oil painting, drawing, film, computer arts).
5. Music theatre and musicals (advanced training and performance).
The pupils are selected for this two-year programme by means of an entrance examination.¹⁰²
6. Cultural management.¹⁰³

The school has 70 orchestras and ensembles, including a symphony orchestra, a chamber orchestra, brass bands, rock and jazz groups, and steel pan bands. It also has several choirs for children and young people of various ages, as well as theatre and dance groups. Around 300–600 concerts and performances are produced and arranged each year, attracting a total audience of approximately 85,000 persons. Professional culture is available to more than 13,000 pupils each year in the form of free theatre performance, films and concerts.¹⁰⁴

2.5.2 Collaboration

Örebro Culture School co-operates with ordinary schools (both primary and secondary), for instance by organising educational programmes for them. The aim is to develop the process of learning through art. In addition, music-education programmes are arranged for young children in nursery schools, as well as for disabled children. At the time of writing (February 2001), the school has projects in five ordinary schools; the aim is to develop these schools into cultural Centres.¹⁰⁵

This school collaborates with professional orchestras, including the Swedish Chamber Orchestra, theatres (e.g., local theatre institutions, the Regional Theatre), and museums. It co-operates with several schools and organisations in Latvia, Spain, Lithuania, Finland, Norway and China. For instance, the collaboration with Latvia has entailed: (a) teachers from Örebro Culture School visiting Latvian schools and giving workshops in rock and jazz; (b) the head of Örebro Culture School giving lectures in Latvia and initiating the conference “A Culture School in a Multiethnic Society” in Riga; (c) children from Riga Dome Choir School and the Culture School of Latvia being educated in Örebro; (d) the symphony orchestra of Darzin giving a concert in Örebro; (e) Örebro Culture School participating in a Leonardo-financed project with Riga Dome Choir School and

¹⁰² Örebro Kulturskola, brochure, p. 7.

¹⁰³ Skoglund (2001): *Örebro Culture School – A Culture School for the Future*. Unpublished paper.

¹⁰⁴ Ibid.; Örebro Kulturskola, brochure.

¹⁰⁵ Ibid.

the Culture School of Latvia; (f) Örebro Culture School arranging lectures and workshops in musicals and rock and jazz music at the Darzins Music School and Bolderaja Culture School within the framework of “Swedish Children Culture on Export”; (g) pupils and teachers participating in the summer camp of Riga Art School. Furthermore, (h) Örebro Culture School has financed the education of Latvian cultural administrators. New Leonardo projects are planned to start after this project.¹⁰⁶

Örebro Culture School has also started a Culture and Development Centre (KULE) within its own organisation. This centre:

1. organises festivals (e.g., a dance festival in 2000 and an international flute festival in 2001);
2. arranges courses for ordinary schools and other cultural schools;
3. gives consultations;
4. develops new educational methods in the field of art;
5. co-operates with different types of institutions (such as municipal theatres and museums).

The vision of Hans Skoglund, the former Head of this school, is to give cultural education to all the 2000 teachers and directors at the various schools in Örebro. The aim is for every school in Örebro to become a cultural school; all children should have the opportunity to find their artistic expression.¹⁰⁷

2.5.3 Forms of regulation

2.5.3.1 Financial regulation and curricula

Municipal support was SEK 21.8 million for the year 2001, although the threat of cutting back the subsidy is always present. In addition, approximately SEK 12 million per year is collected in student fees and from school concerts and projects. The cultural school is a voluntary form of educational establishment (*frivillig skolförm*); in other words, the municipality is not obliged to finance it.¹⁰⁸

The cultural school itself can mostly decide how to use its resources. Certain duties have been assigned to this one, e.g., it has to give one theatre and one music performance every year for the pupils of the comprehensive school. The

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.; Skoglund, 19 Febr. 2001.

¹⁰⁸ Skoglund, 13 Febr. 2001.

costs of these performances are approximately SEK 1.7 million. In addition, the municipality has given special resources for certain projects.¹⁰⁹

There is no National Curriculum. The management at Örebro Culture School expects the instrumental and vocal units to design their own curricula. For instance, the stated aim of the curriculum formulated by the wind unit is to inspire and direct the work in the unit, and to inform colleagues (in other units) as well as others about the content of the education. This curriculum is very specific and includes:

1. visions of a better job, grateful pupils, a musical attitude to music;
2. general aims, e.g., the pupil should have a sound and a creative attitude to musical activity, artistic practice and culture;
3. specific aims, e.g., the pupil should be capable of improvising and composing, and he or she should achieve a good quality of sound with his or her instrument.

In addition, attributes such as the right attitude, autonomy, creativity and the will to practice are also referred to.¹¹⁰

The education is organised on five levels; the first is for children of 9 to 10 years and the fifth for 14- to 20-year-old pupils. After this the pupils should be prepared to enter some kind of professional music education. The aims and content of the education are prescribed for all these levels and include one major subject, solfège and theory, practice, matters concerning attitude and autonomy, taking care of instruments, creativity, improvisation, playing in an ensemble and listening. For instance, at level five the pupil should think: I will become skilful as a¹¹¹

¹⁰⁹ Ibid.

¹¹⁰ Läroplan -96. Blåsenheten vid Örebro Kulturskola, pp. 1-10.

¹¹¹ Ibid., pp. 11-25.

2.5.3.2 Conventions, declarations, visions, and aims

The municipality of Örebro has published a “Vision for Children”, which is based on the United Nations Convention on the Rights of the Child. The Örebro declaration states:

Every child in Örebro, without exception, has the right to live and develop under circumstances that promote the best interests of the child and, depending on age and maturity, take account to his own will and opinions.¹¹²

Örebro Culture School is a municipal authority (“*kommunal myndighet*”) and operates under the Board of Education of the Örebro town council. Therefore, this Vision is one of the declarations on which the activity of the school is based.¹¹³ The importance of equality is stressed: studying at the cultural school should be the right of every child in Örebro.

. . . we talk about the rights and participation of every child and not only of those whose parents are interested, or who are strong enough to take the initiative themselves. (my translation)¹¹⁴

The work at this cultural school is based on the UN Convention on the Rights of the Child. Article 31 of this Convention is especially mentioned:

State Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

A shortened version of this convention, including almost all the articles, is to be found in the www.brochure of this school. The concept “child” refers to every person who is under 18 years old (Art. 1). The principle of the best interests of the child is declared to be the most important one: “*barnets bästa skall alltid komma i första rummet*” (Art. 3).

The school does not set examinations or issue diplomas. Skoglund describes the “philosophy” of this kind of system after a visit to Latvia:

¹¹² Örebrovisionen antagen av kommunstyrelsen. December 2000.

¹¹³ Skoglund, 13 February 2001; <http://www.orebro.se/kulturskolan/nyheter/engelskv.html>. (18.2.2001)

¹¹⁴ Skoglund, 19 February 2001. Translated from Swedish by the writer.

No, we don't have any examinations or diplomas, which shocked the Latvian listeners . . . when they heard the results we have managed to achieve. Well, they're bound to the concept of equality coloured by elitism (*"rätt elitistisk likformighet"*). I watched a short TV programme on the Finnish education of conductors yesterday evening . . . they think just as we do. Namely to start from the individual and his or her qualities and not to create a norm to be reached by everyone. (my translation)¹¹⁵

The individual is the starting point; his or her goals and dreams are most important. One of the aims of the education given at the school is to nourish these dreams and keep them alive. In addition, the principle of equality is interpreted so that there is room for everyone and for different dreams.¹¹⁶ The goal is to offer all children and young people the best possible educational opportunities to develop their own cultural expressions and artistic talents. The school aims to provide the means for democracy and freedom of speech, diversity and perspective; in other words, the aim is to lay the foundations for a positive journey through life.¹¹⁷

2.5.3.3 Challenges

Örebro Culture School is declared to be a school for the future. Activities are (at least officially) directed by visions that are usually based on the visions and declarations of the municipality. These may be based on international declarations and treaties, such as the UN Convention on the Rights of the Child.

According to Skoglund, the state does not regulate these schools at all. The subsidy and the framework budget (*bidraget / ramen*) are the regulatory instruments used by the municipality. Municipal documents covering aims and visions may also influence policy. However, these documents are said to be very general and the school itself is able to determine how they are applied. Even the Association (SMoK) for these schools does not influence the activity of this school.¹¹⁸

The challenge that this kind of decentralisation (schools deciding for themselves) poses concerns, for example, *who* – local authorities by financing the school,

¹¹⁵ Skoglund, 19 February 2001. Translated from Swedish by the writer.

¹¹⁶ In the 1990s, cultural and education policy emphasized the diversity of educational practices; e.g. a new phenomenon within compulsory education, the "free school" (friskolan), was introduced in the middle of the decade.

¹¹⁷ <http://www.orebo.se/kulturskolan/syheter/engelskv.html>

¹¹⁸ Skoglund, 13 Febr. 2001. See: www.smok.se

the Head or the teachers – has the right to decide the aims of the education. Furthermore, the teachers may be unaware of the aims and plans of the Head of the school or of the local politicians on the municipal boards. A gap between teachers and pupils and those who make the decisions and plans may exist in spite of efforts to inspire all members of the organisation to take part in the realisation of the visions.

One of the challenges also relates to possible bias and fixed attitudes of teachers at music schools. These professionals have been practising their main subjects for years, and have mainly been trained to become performers, not teachers. The gap between their visions and the reality at a music school may cause conflicts.¹¹⁹ For instance, the principle of equality may be interpreted in several different ways. The teachers may not always be willing to emphasise the right of every child to attend a music or cultural school. They might prefer to teach selected pupils instead of giving only 18 minutes personal tuition a week to every child who wants it.

2.6 Conclusions

2.6.1 The right of every child

According to Gustafsson, Swedish municipal music schools are unique in the world; no similar schools with the same kind of background or aims exist in other countries. The aims of the “*Musikschulen*” in Germany, as well as of the specialist music schools in England, have been stated to be narrow in comparison, since schools in those countries have mainly prepared students for higher education in music. The principal aim of the municipal music schools in Sweden has never been to find and select the most talented pupils or potential future professionals. On the contrary, a broad range of activities, as well as an attempt to offer music education to as many pupils as possible, has characterised them. There has also been active and intense collaboration between the music schools and the general educational establishments. However, this co-operation has also caused problems, for example, with regard to the attitudes as well as the education of music-school teachers, for example.¹²⁰

Gustafsson also explored the polarity between the Child and the Music in his dissertation on music education in Sweden (including all fields of music education). He asks: “Should music be brought to the child, or should the child be brought to music?” During the 20th century, the emphasis was on the child: in

¹¹⁹ See, e.g., Brändström 1997, pp. 13-15, 18; Bouij 1998; 1999.

¹²⁰ Gustafsson 2000, p. 211; Brändström 1997; Bouij 1998; 1999.

other words, developing the capacities of children was more important than the earlier focus on cultural preferences that were set in advance.¹²¹ As the former Head of Örebro Culture School stated, the starting point was the child and his or her capacities, not a general norm with standards that everyone should reach. Yet, this child-centred view of education with broad aims (including not only imposing musical skills but also improving self-confidence and social skills¹²²) should also affect higher music education for potential teachers. Otherwise, the official vision and pedagogical reality may never meet in the classroom situation.¹²³

No special legislation has been enacted covering Swedish music and cultural schools. A few paragraphs in the Local Government Act covers the aims (and the right to decide them), but even these paragraphs, and indeed the whole law, have been characterised as inconsistent and difficult to interpret and apply. Therefore, culture and tradition – and local politics – have taken over the role of the legal text. This has been regarded as practical and acceptable, yet there is always the danger of the misuse of power.¹²⁴ Legal regulations may function as control instruments, but they may also be the means of protecting the weaker party. Teachers at these schools may even consider themselves the “weaker party” compared with local politicians or heads of schools.

In any case, the question of interpretation always remains. For instance, the UN Convention on the Rights of the Child may include the right of every child to participate. Furthermore, it may also refer to the principle of the best interests of the child (Art. 3) in the right to receive sufficient tuition. If the extent of instrumental teaching at a municipal music or cultural school is limited to 18 minutes per week, pupils may be obliged to take private lessons paid for by their families. In other words, the principle of social equality may not work in practice. Of course, special courses for skilled pupils are offered at most music schools. Nevertheless, the very basic education may be the most important part of musical studies in terms of acquiring the basic skills. Thus, more private tuition may also be needed for beginners. For instance, Örebro Culture School declares that its aim is to give pupils both “roots and wings”.¹²⁵ Yet, is it possible to teach the

¹²¹ Gustafsson 2000, p. 312.

¹²² The aims of Örebro Culture School, <http://www.orebro.se/kulturskolan/nyheter/engelskv.html>

¹²³ See, e.g., Bouij 1998; 1999; Brändström 1997. Bouij states that a brass teacher in a municipal music school, for example, is often responsible for the whole brass family. A broad view of music and music education is therefore an asset for music teachers (Bouij 1999, p. 90; 1998).

¹²⁴ Tivenius 2001.

¹²⁵ This refers to child-centred aims in education. The individual dreams and aims of each child are nurtured.

pupil musical skills (roots) as well as to nurture his or her own ideas and dreams (wings) if the available time for a particular child is limited to 18 minutes? This child-centred aim may perhaps not be as child-centred as it first sounds.

2.6.2 Autonomy – Freedom within boundaries

According to Olsson, the term “autonomy” refers to freedom, which is always a relative concept. Institutional activities in music and cultural schools thus have to be related to the frames that direct and limit them. The degree of freedom in an institution cannot be taken out of its historical context. A high degree of autonomy enables an institution, such as a school, to arrange education according to its own internal values and aims, in other words, it is under internal control. On the other hand, strong external direction and control derive from a very limited degree of autonomy. For example, according to Hans Skoglund, the former Head of Örebro Culture School, external control is minimal at this school. The state does not control the school at all, the only Association covering such schools has nothing to do with the inner life of the school, and the directive documents of the municipality are loosely worded. The threat of reducing the subsidy is the only control instrument used by the local government. Generally, the activities as well as the aims of education can only be controlled by financial means, mainly by the local budget.¹²⁶

Very limited external control indicates strong internal control. For example, the curricula at Örebro Culture School are formulated by units of instrumental or vocal teachers. The detailed curriculum developed by the teachers of the wind unit even aims to control the attitudes of pupils towards music.¹²⁷ Thus, external control may give to a particular teacher even more freedom to decide educational aims and methods than very strong internal control.¹²⁸

The complexity of the concept of autonomy cannot be explored if only its extent is studied. It is not only formal control and direction, but also strong informal control and direction that are typical of educational institutions. For instance, the background, values and aims of the teachers are important in the teaching of music, as well as in formulating the curricula. Furthermore, the degree of autonomy is always in flux; some educational activities may be given more autonomy, while control in another sector is increasing. The demands of people

¹²⁶ Olsson 1993, p. 202; Skoglund, 13 and 19 Febr. 2001.

¹²⁷ See Section 2.5.3.

¹²⁸ See Bouij 1998, p. 238 (the story of “Annika” is an example of strong internal control used by colleagues). Olsson 1993, p. 202; Läroplan – Blåsenheten i Örebro Kulturskola.

– the tension between those who insist on change and those who prefer the status quo – are related to the degree of autonomy. In short, autonomy as well as freedom of activity at educational institutions are relative: they depend on the context¹²⁹ and they have to be related to the boundaries that limit the activities.¹³⁰

National Curricula are the regulatory instruments of the aims and contents of music education at comprehensive schools. Although no special curriculum for all music schools has been formulated, the national curricula for comprehensive schools sometimes also affect the collaboration between the two. The curricula known as Lgr 62 (curriculum for the Comprehensive School, 1962) and Lgr 69 formed the basis for classroom teaching in music up to 1980. The aesthetic goals of Lgr 62 have been expressed in terms of “an effort towards understanding”, and in Lgr 69 as “an effort towards involvement and social activity”. According to Lgr 80, the school has to reflect the present, and also to have a historical perspective. The Lpo 94 curriculum has a policy rubric “from school music to music in school”. In short, there is progression from school singing (before the 1960s) and school music to music in school.¹³¹ Music education was built on the interests of children: when earlier curricula stressed singing, listening and musical theory, the new curricula emphasised music making, improvisation and composition.¹³² Municipal music schools also underwent the same kind of development: from school music to music in school. Stålhammar states that “after a phase of progressively ordered songs for children and specially arranged pieces of classical music, the music school developed gradually into a part of the pupil’s own world. The music school became a part of the society, which furthermore in the 90s has led to its development from music school to cultural school.” Thus, the music education offered at municipal cultural schools and comprehensive schools has become closer and closer.¹³³

The Swedish term, curriculum (*“läroplan”*) has generally been given the meaning of a directive document regulating the contents, quantity and distribution of education. On the other hand, the term “curriculum” has a broader meaning in the English language and includes the philosophy as well as the views behind the curriculum content. The fear of too strict direction and control of education

¹²⁹ Referring to external and internal control.

¹³⁰ Olsson 1993, pp. 202-203.

¹³¹ The new curriculum for secondary education in 1994 (Läroplan för de frivilliga skolorna 1994 - Lpf 94) also entailed a much greater emphasis on freedom of choice and diversity. The aim was to develop the pupil’s ability to take personal responsibility for his or her studying (Karlsson 2002, summary).

¹³² Nilsson 2002, p. 213.

¹³³ Stålhammar 1995, pp. 7, 260-261.

has been common in England.¹³⁴ Yet, even following the significant national educational reform in 1988, the document “Music in the National Curriculum” included more directive and concrete examples than the Swedish curriculum (Lgr 80). In addition, Swanwick aimed to create a theory that would help the formulation of a curriculum. The same development from school music to music in schools is noticeable in both of these countries although, the means of reaching the same goal are different. In England there is a tendency to strengthen the control of education, while in Sweden (after Lgr 69) more freedom is allowed and the curricula (*kursplaner*) include fewer concrete directives than before.¹³⁵

When assessment (national evaluation) was introduced into Swedish comprehensive schools in the late 1980s, music as a school subject was also evaluated. These results affected the planning of new curricula, although the formulations were left rather open.¹³⁶ The principle of local autonomy is important: no “list” of compositions that ought to be taught is given, and folk songs, rock or Bach may be chosen by the music teacher. This kind of music education based on playing and singing all kinds of music is also offered by the municipal music schools. This broad view has affected the role and the requirements of teachers: particularly since the 1990s, the importance of a wide range of capabilities in teachers has been stressed when music schools have widened their subjects and activities, even changing their names to cultural and arts schools.¹³⁷

When there is no law, or if there are merely a few legal regulations governing activities – as in the Local Government Act – other kinds of norms take the place of formal ones. For instance, tradition or political interests may replace the

¹³⁴ Stålhammar 1995, p. 63.

¹³⁵ Stålhammar 1995, p. 64.

¹³⁶ The control of education has changed: assessment indicates control (management) by results. Aims are no longer stated in plans (*kursplaner*); they may be determined at the local level. Yet, the problem of evaluating music education (e.g., the “product” or the “process”) remains. (Heiling 1995, p. 7.)

¹³⁷ Heiling 1997, pp. 88-97.

law. The aims of different kinds of interest groups are discussed publicly. For instance, a lively discussion between local politicians and the Head and teachers of a cultural school can be followed in the local newspapers of Örebro.¹³⁸ Yet, this kind of “selling music by words” (giving written arguments for the justification of music and music education in a local community) has also been criticised; words have become more important than sounds when the justification of music education is discussed nowadays.¹³⁹

¹³⁸ Tivenius 2001.

¹³⁹ Heiling 1997, p. 105.

Chapter three

England

3.1	INTRODUCTION: NO NETWORK OF MUSIC SCHOOLS	60
3.2	BACKGROUND: FROM TEACHER AUTONOMY TO GOVERNMENT CONTROL.....	62
3.3	LEGISLATION, CURRICULA AND ASSESSMENT	64
3.3.1	<i>General remarks</i>	64
3.3.2	<i>The National Curriculum</i>	66
3.3.3	<i>Music examinations</i>	68
3.4	ELITISM OR EQUALITY?.....	73
3.5	AIMS IN MUSIC EDUCATION.....	76

Chapter 3 England

3.1 Introduction: no network of music schools

Great Britain is not a member of the European Union of Music Schools (EMU). Furthermore, no network of music schools exists in the country, nor are the educational systems similar in England, Scotland and Wales.¹⁴⁰ Whilst this chapter focuses on educational policy in England, some reference to Scotland and Wales might be beneficial. Deborah Harris, Director of the North London Colourstrings Centre, describes the British system in the following terms:

Scotland has a different system. Ireland has a different system. England's system, I think, is similar to the Welsh system. . .¹⁴¹

In Britain, instrumental tuition is given in the homes of private teachers or at Saturday music schools. These Saturday schools are usually provided by local authorities.¹⁴² Specialist music schools are available for students especially talented in music. Students are selected for these schools (the Menuhin School, the Purcell School, Wells Cathedral School and Chethams in Manchester) by audition. Some music colleges and academies also offer tuition for children and young students.¹⁴³ Instrumental tuition is given at some primary and secondary schools within school hours, provided by peripatetic (visiting) instrumental specialists. In discussing instrumental tuition at school, Harris recalls:

I started recorder . . . when I was five at school. This is a very common thing. At five or six children in England play recorder, and then at seven I was offered with some other children the opportunity to learn the violin at school. So, a teacher visited the school once a week. This was common also. They are called peripatetic teachers.¹⁴⁴

¹⁴⁰ E.g., The Welsh National Curriculum and the English version have some differences (Swanwick 1999, p. 77). The National Curriculum is compulsory in maintained (but not in independent) schools in England, but not in the same form in other parts of the UK (Aldrich and White 1998, p.48).

¹⁴¹ Deborah Harris, Director of The North London Colourstrings Centre. 16 November 2001.

¹⁴² LEA / County schemes. EMU 1995, p. 254-255; Harris, 16 November 2001.

¹⁴³ E.g., The Guildford School of Music and Drama, Trinity College of Music, The Royal College of Music, The Royal Academy of Music.

¹⁴⁴ Harris, 16 November 2001.

In Scotland two music schools receive state funding: the Music School of the Douglas Academy in Glasgow, and the Lothian Specialist Music School in Edinburgh. In addition, St Mary's Music School in Edinburgh offers Government-aided places for pupils who are unable to afford tuition fees. Two of the aforementioned Scottish music schools are attached (physically) to a mainstream school, and tuition in the "specialist music units" is concentrated predominantly within school hours (9.00 a.m.–3.30 p.m.), thus being included in the school timetable of many children. Entrance to state-funded music schools is normally through audition. For instance, each of the two state-funded Scottish music schools has only 30 places. The music school in Glasgow provides tuition for pupils between the ages of 11–18 (secondary). The school in Edinburgh is joined to both a primary and a secondary school and therefore provides tuition for all age groups. Both schools also provide the facility to "board".¹⁴⁵

No special legislation or National Curriculum governs instrumental or vocal instruction. The state does not control this kind of education. The qualifications of private teachers vary. According to Harris, anyone may give private lessons in his or her home, and private music schools may choose their teachers according to their own criteria:

She [the violin teacher of Harris] had not had . . . professional training. . . . There is a very strong amateur class of people who do this for love. Some are very good, some are not so good, . . .¹⁴⁶

Efforts to raise the standards of private teaching as well as to enhance the status of professional private teachers, have been made by the United Kingdom's professional association for musicians, called the Incorporated Society of Musicians (ISM). This society has arranged a Postgraduate Diploma Course for professional instrumental and vocal teachers in collaboration with the School of Education at the University of Reading. Students who have this diploma are able to enrol for the MA in music teaching in private practice (Mtp).¹⁴⁷

¹⁴⁵ Weatherstone, 4 and 6 March 1998.

¹⁴⁶ Harris, 16 November 2001.

¹⁴⁷ The Mtp diploma is a modular course taught through distance learning (Mtp diploma, Univ. of Reading, brochure).

3.2 Background: from teacher autonomy to government control

Several educators recall the period before the arrival of the Educational Reform Act in 1988 as a time of freedom and autonomy in educational institutions.¹⁴⁸ Music as well as other subjects flourished when schools were able to decide themselves about their aims and subjects. Only guidance on the design, content and implementation of music programmes was provided by the local or government authorities; otherwise control of the curriculum was in the hands of individual music teachers (this has been called the principle of teacher autonomy).¹⁴⁹ Harris recalls this period as follows:

In my primary school, my junior school, we were very lucky to have one full-time music teacher and one part-time. And lots of visiting teachers for violin, flute and so on, trumpet. . . . At that time all of the education including music was funded by the government and the local council.¹⁵⁰

National examinations constrained the freedom, although these had to be taken only at the age of 16 (O levels) and 18 (A levels).¹⁵¹ The teachers had the power to determine the aims, but there were problems to do with the power of head teachers or senior teachers (or teachers teaching subjects other than the arts) imposing their own views. However, the times before government legislation had not always been so positive for a subject like music. According to the findings of the Schools Council in 1968, music seemed to be unpopular as a classroom activity, and music teachers were afraid that their subject would be further marginalised, or even pushed out of the curriculum.¹⁵² In addition, the following question has been raised: how can the rights of the teachers – which might be called professional control – be justified? It has been argued that teachers are working close to the ground, they know what works best for a particular student in a particular situation. Yet, individual teachers may also protect their own subject (and their own career) without thinking too much about the wholeness of the curriculum from the pupils' perspective.¹⁵³

¹⁴⁸ Odam, 6 July 2000; Smith, 30 June 2000.

¹⁴⁹ Plummeridge 1996, p. 2, 27, 30. This power had been given to them by the curriculum deregulations of 1926 and 1945 (Aldrich & White 1998, p. 6).

¹⁵⁰ Deborah Harris describes music education provided in schools in the late 60s.

¹⁵¹ This power had been given to them by the curriculum deregulations of 1926 and 1945 (Aldrich & White 1998, p. 6).

¹⁵² Plummeridge 1996, p. 27.

¹⁵³ Aldrich & White 1998, p. 6-8.

The child-centred view of the 1970s suggested that no adult preferences about what should be learnt should be imposed on children. This “Summerhill view”¹⁵⁴ was the vogue in only one or two locations and it did not last long. After turning to teachers and children, the views of academic experts on education were emphasized. The theories of psychologists such as Piaget¹⁵⁵ and Howard Gardner,¹⁵⁶ as well as of philosophers such as Peters¹⁵⁷ and Hirst,¹⁵⁸ had an effect on education and curriculum planning. This was regarded as control by expertise.¹⁵⁹

A market-based system is often seen as an alternative to political control of the curriculum. Consumers – in other words, families – determine the aims and content of education, and this might be called consumer control. This is, in a way, a child-centred view, although children are not usually allowed to decide for themselves: it could be said that parents should have the right to decide since they are supposed to know what is best for their child. Even this view may raise problems, however, since parents may have strong (as well as narrow) views concerning how they want their children educated. Sometimes children may need protection against their own parents, who may impose their own narrow visions of life. In fact, who is the customer in regard to this educational market? The parents may pay for the schooling, but actually the child attends the school. In discussing the educational market and music lessons, Harris comments:

It [government funding] changed in the late 70s, early 80s. So, it is very rare now in England to find . . . a primary school with a full-time music teacher. I say there are probably none . . . That has gone in a way down, . . . Because with the Margaret Thatcher’s government the way schools were funded was changed, and schools . . . were given their own money and they decide what to buy with this money. . . If they need to save money they cut music, arts, drama, whatever, . . . So, many schools cut music because they had to buy this music from the council.¹⁶⁰

¹⁵⁴ Neill 1960 (translated into Finnish by Markku Lahtela in 1968).

¹⁵⁵ See, e.g., Piaget 1951.

¹⁵⁶ Gardner (1983): *Frames of Mind – The Theory of Multiple Intelligences*.

¹⁵⁷ Peters, R. S. (1970): *Ethics and Education*.

¹⁵⁸ See, e.g., Hirst (1974): *Knowledge and the curriculum*.

¹⁵⁹ Aldrich & White 1998, pp. 9-12.

¹⁶⁰ Harris, 16 November 2001.

After the 1988 Educational Reform Act, the power shifted to the government, and in practice to the authorities in control of education policy. The aims were stated in The National Curriculum as follows: to “promote the spiritual, moral, cultural, mental and physical development of pupils at schools and of society; and prepare such pupils for the opportunities, responsibilities and experiences of adult life”. These new legal requirements were difficult to interpret and apply in schools. A group of politicians had replaced the professionals; in other words, the power had shifted from professional control to government control.¹⁶¹

3.3 Legislation, curricula and assessment

3.3.1 General remarks

State assessment of educational institutions (such as general schools and universities, but not private music schools or private instrumental teachers) has been strong since the Educational Reform Act of 1988 and the School Inspections Act of 1996.¹⁶² Before the Act, the schools themselves could determine what their aims and curricula should be, although in practice they were constrained by the requirements of public examinations, for example.¹⁶³ An effective educational-control instrument is assessment, although since 1988, when the National Curriculum was introduced in the aforementioned Act, state control by curricula has also become stricter. Assessment combined with the National Curriculum is an effective state-control instrument. Autonomy in the educational institutions gradually diminished in the 1990s, at the same time as Government control increased. Behind this was the idea of growing economic effectiveness and attempts to apply the same kinds of operational principles that are used in the business world to educational institutions – aims, results, measurement: in short, management by results.¹⁶⁴

School inspections are governed by the School Inspections Act, which came into force in 1996 (and has been amended by more recent legislation). According to this Act, schools must be inspected every sixth year. The assessment system of schools and universities organised by the Government has recently been

¹⁶¹ Aldrich & White 1998, pp. 6-7.

¹⁶² The Secretary of State's Proposals 1999.

¹⁶³ Aldrich and White 1998, pp. 1-5.

¹⁶⁴ Odam, 6 July 2000; Aldrich 1996, pp. 125–127. In 1995, the principal aim of the Government for education was: “To support economic growth and improve the nation’s competitiveness and quality of life by raising standards of educational achievement and skill and by promoting an efficient and flexible labour market.” (DfEE 1995: 1, op.cit. Aldrich and White 1998, p. 43.)

privatised.¹⁶⁵ The inspection reports are published in order to inform the public about the quality of education offered at the school. In addition, they provide evidence for national evaluation and the annual report of Her Majesty's Chief Inspector of Schools in England.¹⁶⁶ The whole educational institution (separate units and departments, teachers etc.) is evaluated within a grade from one to five.¹⁶⁷ According to the Inspection Act, the educational standards, the quality of the education, as well as the efficient management of financial resources, must be reported by the inspectors. In addition, they must also evaluate the spiritual, moral, social and cultural development of the pupils.¹⁶⁸ A teacher at a junior school said that the inspectors visit the schools for about one week (sometimes only a few days). They observe lessons and go through the written documents prepared by teachers each day and inspected by the head teacher. Before the visit, the schools have to self-evaluate themselves and send these documents to the inspectors.¹⁶⁹

Besides the school inspections governed by the School Inspection Act, attainment targets and the assessment of pupils by teachers and national tests are regulated by the Education Act. As defined in this Act of 1996 (Section 353a), an attainment target sets out the knowledge, skills and understanding that pupils are expected to have achieved by the end of each key stage. These targets usually consist of eight levels of descriptors, which provide the basis for making judgements about the performance of pupils at the three first key stages (at ages 7, 11, and 14). At the fourth key stage, attainment is assessed in terms of national qualifications. By this stage, music has become optional.¹⁷⁰

¹⁶⁵ The timing of the inspection is decided by the Office for Standards in Education (OFSTED) (The Secretary of State's Proposals 1999). OFSTED enters into contracts with inspection contractors, which form a wide-ranging group of organisations including private companies as well as public-sector organisations. These contractors must work in fair competition with each other. Thus, there is competition for inspection work. (The Secretary of State's Proposals 1999.)

¹⁶⁶ The Secretary of State's Proposals 1999.

¹⁶⁷ Odam, 6 July 2000; Smith, 30 June 2000. Before the educational reforms, students were evaluated in national tests at the ages of 16 (O levels) and 18 (A levels). Now they are also tested at the ages of 14, 11, 7, and 5. (Odam, 6 July 2000).

¹⁶⁸ The Secretary of State's Proposals 1999.

¹⁶⁹ Smith, 30 June 2000. Odam, 6 July 2000; see also The Secretary of State's Proposals (1999) about detailed instructions for inspections. According to this proposal, the "inspection window" should usually last for a five-week period (in some schools a shorter inspection period is allowed).

¹⁷⁰ The National Curriculum for England, Music, 1999.

3.3.2 The National Curriculum

In England, the National Curriculum provides the legal framework for the school education of all children except those who are educated privately. According to the National Curriculum (1999), at level one pupils “recognise and explore how sounds can be made and changed. They use their voices in different ways such as speaking, singing and chanting, and perform with awareness of others. They repeat short rhythmic and melodic patterns and create and choose sounds in response to given starting points. They respond to different moods in music and recognise well-defined changes in sounds, identify simple repeated patterns and take account of musical instructions”. Levels two and three are described as carefully as level one, and the majority of seven-year-old pupils at the key stage one should work at all these three levels. For instance, a seven-year-old at level three should:

1. sing in tune with expression and perform rhythmically simple parts;
2. improvise repeated patterns and combine several layers of sound with awareness of the combined effect;
3. recognise how the different musical elements are combined and used expressively;
4. make improvements to their own work, commenting on the intended effect.¹⁷¹

The National Curriculum also includes further directions for teachers on how to attain the aforementioned targets. First, controlling sounds should be taught through performing skills, singing and playing. Thus, pupils should be taught how to use their voices expressively by singing songs and speaking chants and rhymes, playing tuned and untuned instruments, rehearsing and performing with others (for example, starting and finishing together, keeping to a steady pulse). Second, creating and developing musical ideas should be taught through composing skills (such as creating musical patterns). Third, responding and reviewing should be taught through appraising skills (exploring and expressing ideas and feelings using dance and movement, for instance) and fourth, listening and applying knowledge and understanding through listening with concentration, and recalling sounds with aural memory.¹⁷²

Music is also said to promote other aspects of the National Curriculum, such as:

¹⁷¹ The National Curriculum for England, Music, 1999.

¹⁷² Ibid.

1. thinking skills, which should be developed, for instance, through analysis and evaluation of music;
2. enterprise and entrepreneurial skills: pupils should be encouraged to arrange concerts (with ticket selling etc.), form groups and perform;
3. work-related learning: for instance, by working with professionals outside of the school.¹⁷³

In addition, music should promote:

1. *spiritual* development, for instance, by helping pupils use music to express their feelings;
2. *moral* development, for instance, through recognising the effect of music in advertising and propaganda;
3. *social* development, for instance, by recognising the need for different roles in ensembles;
4. *cultural* development, by relating music to the context in which it was created.¹⁷⁴

In addition, music provides opportunities to develop communication (through the discussion of ideas with others), the application of numbers (through recognising rhythmic relationships), information technology (e.g., by composing), working with others (through playing chamber music etc.), improving their own learning and performance and problem solving.¹⁷⁵

At the end of each key stage, teachers should judge their pupils' performance. Thus, a seven-year-old child is judged according to the descriptions covering all three first levels.¹⁷⁶ The professional community of music educators and researchers has taken part in the discussion and offered comments on the government documents. Swanwick states, for instance, that people do not normally approach music in the way it is described in the English National Curriculum (1995), in which a list of musical elements is given; "pitch, duration, dynamics, tempo, timbre and texture; with "structure" uncomfortably added on at the end and appearing conceptually out of place".¹⁷⁷ According to Swanwick, music is heard as a whole, otherwise it becomes unrecognisable and deconstructed.¹⁷⁸ It is no wonder that the "byzantine scheme" of national assessment has been regarded

¹⁷³ The National Curriculum for England, Music, 1999.

¹⁷⁴ Ibid.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Swanwick 1996a, p. 7.

¹⁷⁸ Swanwick 1996a, p. 7.

as the cause of so many of the problems in British education.¹⁷⁹

“Equality of opportunity” is a fundamental principle of the National Curriculum in England. Music as a part of this Curriculum ensures that musical studies are available to all pupils; in other words, music is not a special subject suitable only for the talented minority.¹⁸⁰ From September 2002 this curriculum will also include education in citizenship (and democracy). Thus, music will also have a role in helping pupils to develop a full understanding of their responsibilities as citizens in a modern democracy.

3.3.3 Music examinations

Music schools and instrument teachers have not been evaluated by the state, although assessment systems including graded examinations are organised by bodies such as the Guildhall School of Music and Drama, Trinity College of Music and the London College of Music, and by the Associated Board of the Royal Music Schools (ABRMS). This Board was established as early as 1889 by an agreement that was made between the Royal Academy and the Royal College of Music.¹⁸¹ The aim was to conduct local music examinations and thereby improve the standard of musical performance. King Edward VII was the first President of the Board. In 1999, the Prince of Wales succeeded Her Majesty Queen Elizabeth the Queen Mother (who had been the President for 46 years).¹⁸²

External examinations are the main form of assessment. These examinations also affect the content of education; furthermore, they may also become an aim of the studies. The repertoire (syllabus) for these “grades” (Outline Plan of the ABRMS Syllabus appendix) is given, for instance, by ABRMS, which is the main organisation arranging examinations in Great Britain as well as in many other countries around the world that operate to the same standards as applied in the United Kingdom.¹⁸³ The syllabi are periodically renewed and published. The examination syllabi include the current compositions and a separate booklet with instructions on each piece for the teachers:

¹⁷⁹ Aldrich & White 1998, p. 40.

¹⁸⁰ Plummeridge 1996, p. 2.

¹⁸¹ The Royal Scottish Academy of Music and Drama and the Royal Northern College of Music later became part of the constitution (ABRSM: Exam. reg. p. 5).

¹⁸² ABRSM: Examination Regulations 2000, p. 5; Annual Review 1999, p. 4. Guildhall School of Music and Drama and Trinity College of Music publish repertoire requirements for their own examinations.

¹⁸³ See ABRSM, Annual Review 1999, p.8.

Chatterpie by Carol Barratt (1945-)

key: F major

technique: staccato

musical character: phrase shapes

This cheeky piece lies entirely under the hands without change of positions offering a good opportunity for checking a good hand shape. The interpolation of triple time gives the piece its rhythmic character: each first beat should be noticeable but without distorting the phrase. In effect it is a 7/4 bar culminating with the slurred minims.

The contrast between staccato and legato in the l.h.¹⁸⁴ will help achieve the character, especially if reinforced by the dynamic levels. The tenuto in the final bar is a way of placing the notes as in singing. A slight lift – a very short breath – is therefore appropriate.

*(Notes on Piano Pieces by Trinity College London)*¹⁸⁵

Music examinations are not obligatory, and almost all of them are open to candidates of all ages. Very few candidates play the pieces from memory, and in fact, according to the “Helpful Hints” given by ABRMS, playing from the music is encouraged. Most examinations consist of three pieces, chosen by the candidate and the teacher from the current syllabus, scales and arpeggios, sight-reading and aural tests. Harris comments on the pieces in the following terms:

Again, the boards vary a great deal but very often they [the pieces] are arrangements, a flute piece arranged for violin, for example, or a modern piece. I say modern but maybe ragtime or popular style to try to encourage children who don’t hear classical music to keep them practising.¹⁸⁶

The total marks available in individual practical examinations are 150 (100 marks are required to Pass, 120 to pass with Merit and 130 to pass with distinction). A Basis of Assessment is also included in the ABRMS publication,¹⁸⁷ with a table that illustrates the basis of the marking system:

¹⁸⁴ l.h. = left hand.

¹⁸⁵ Wright 1998, p. 3.

¹⁸⁶ Harris, 16 November 2001.

¹⁸⁷ Taylor (1998, p. 31): These Music Exams. ABRMS.

Table1 THE BASIS OF ASSESSMENT¹⁸⁸

	Grades 1–5	Grades 6–8
PASS (20–23)	General security of notes and rhythm	Overall security at a suitable and sustained tempo.
	Suitable tempo	
	A reasonable sense of continuity	Evidence of musical awareness e.g. appropriate dynamics, phrasing and articulation.
	Evidence of careful preparation	
	Prompt recovery from any slips	
MERIT (24–26)	Attention to dynamics and phrasing	Awareness of style shown by good use of dynamic range, shape of phrasing and rubato.
	Evidence of tonal awareness and control	Tonal control contributing to the musical character
	A suitable, sustained tempo	A musically convincing tempo
	Sense of the character of the piece	Attention to the musical detail
	Good sense of rhythm	
DISTINCTION (27–30)	Technical fluency	Musically authoritative playing, showing a high level of technical assurance
	Confident sense of performance and tonal control	Sensitive use of tonal qualities and rubato where appropriate
	Sensitivity to musical detail and mood	An instinctive and communicative sense of performance
	A musically convincing tempo	

Examinations are not always passed, and the common causes of failure are also listed as follows:¹⁸⁹

¹⁸⁸ Taylor 1998, p. 31.

¹⁸⁹ Taylor (1998, p. 32): These Music Exams. ABRMS.

Table 2 COMMON CAUSES OF FAILURE¹⁹⁰

	Grades 1–5	Grades 6–8
(18–19)	Just under the acceptable standard in general accuracy.	As listed in Grades 1–5 but also: Absence of dynamic / phrasing awareness
(16–17)	Serious difficulties with notes and / or time	Unsuitable or unsustained tempo
(10–15)	Halting or incomplete performance	Absence of musical detail. Lack of tonal control.

A typical Grade 1 piece lasts about one minute. During this time a full assessment, reflecting the mark and giving guidance has to be finished by the examiner. Usually the assessment is carried out by one examiner who is appointed and trained by the Associated Board (ABRSM), which has local centres for conducting examinations. The examiner may also travel to different parts of Britain as well as abroad (e.g., Sweden, Norway, Denmark and Iceland). Usually the teacher or college has several candidates before the examination is arranged because the examiner's travel costs and time have to be paid for. Fees have to be sent with the entry forms to the Board before the examination takes place.¹⁹¹ In discussing the number of members in the jury, Harris comments as follows:

With some boards there are two [listeners in the jury], in some just one. With Guildhall School . . . they . . . have one, but he is a specialist in this instrument. At Trinity College of Music you have two examiners and at least one is a specialist in that instrument. At the Associated Board of the Royal Schools of Music you have one examiner and he could be any instrument.¹⁹²

Although these examinations are voluntary, they are indeed very popular. The Associated Board conducts over 550 000 each year in over 80 different countries.¹⁹³ Pupils studying with private instrumental or vocal teachers, as well as at music schools, regularly take them. Professional examinations may also be taken after the 8th Grade, and consist of an Advanced Certificate followed by a Licentiate of the Royal Schools of Music. The available branches are: Composition, Music in the School Curriculum, Teaching (Instrumental or Voice),

¹⁹⁰ Taylor 1998, p. 32.

¹⁹¹ For instance, Grade 1 practical: 19.90 pounds; Grade 8: 46.20 pounds (ABRSM 2000).

¹⁹² Harris, 16 November 2001.

¹⁹³ ABRSM: Annual Review 1999, p. 1.

Performance, and Piano Accompaniment. Successful candidates are issued with a certificate and are allowed to use the letters LRSM (Licentiate of the Royal Schools of Music) after their name.

The Associated Board uses the phrase “Enjoyment through Achievement” when it advertises the examinations. The Chief Examiner of this Board states that music exams offer:

1. motivation and inspiration, working from a structured syllabus towards a definite goal;
2. a measure of personal progress and attainment against internationally recognised benchmarks;
3. an objective guide to improve musical skills;
4. assessment by a respected and independent musician who has been highly trained and is constantly monitored;
5. sympathetic encouragement;
6. performance opportunities;
7. a real sense of achievement.¹⁹⁴

Yet, some questions remain. Is it possible for an examiner to fulfil all these roles when a piece lasts for one minute and the time for assessment is very limited? Is a jury consisting of only one person able to give an “objective” assessment? Furthermore, there is always pressure to keep to time (when time costs money), and candidates are warned in the ABRMS publication that “it is no wonder that examiners sometimes suffer from writer’s cramp!” Furthermore, whether the suffering examiner is still able to give “sympathetic encouragement” is questionable. “The exam assesses the candidate’s achievement, not potential” – but would it not be encouraging also to comment on potential?¹⁹⁵ Harris describes the criteria of assessment as follows:

And the criteria by which they decide you are good or . . .
pass may be very different according to the board that you
enter . . .¹⁹⁶

This system of assessment is market-based: it incorporates continuously renewed syllabi published by the Board (or the Guildhall School of Music and Drama or Trinity College of Music), together with CD records that are sold to teachers and students, private tuition, and examinations that are officially voluntary but in practice taken by all. The syllabus also directs the teaching because it consists

¹⁹⁴ Taylor 1998, p. 7.

¹⁹⁵ Harris, 16 November 2001.

¹⁹⁶ Harris, 16 November 2001.

of CD records and detailed instructions for the teaching of pieces. When the performances of the candidates are evaluated by these “norms”, the control of the Board is quite intensive. On the other hand, The Associated Board has managed to create a systematic structure and to give support to music teaching by these standards for over 100 years. A critical view is presented by Harris:

What I think . . . is that all this exam taking is very profitable. . . Makes lots of money in selling books and tapes and all things. . .¹⁹⁷

3.4 Elitism or equality?

The right of every child to receive instrumental tuition has been realised through primary and secondary schools. Some 30–40 years ago, instrumental tuition was connected to the political will and the economic state of the local governments. Instrumental teachers were often engaged by local governments, and pupils obtained tuition free of charge. These teachers used to give instruction during school hours. Musical activities (such as orchestras and choirs) flourished in some schools, although not in all. The British way of arranging instrumental teaching for children differed significantly from the German music-school system (*Jugend Musik Schule*), for instance.¹⁹⁸ Harris comments:

I think it is an English thing to be individual.¹⁹⁹

The National Curriculum – which officially governs music education during statutory education only – also affects instrumental teaching since they have been linked together. The new Educational Reform Act of 1988 had a great impact on the activities of educational institutions. The number of lessons in different subjects (“minute control”²⁰⁰) was regulated in the National Curriculum, thus affecting the former system that allowed pupils to take instrumental lessons during school hours and to miss lessons in other subjects. When schools became economically independent, instrumental tuition given to pupils free of charge ended. According to Professor Odam at the Guildhall School, Margaret Thatcher emphasized mathematics, languages and science. As a result of a lively public

¹⁹⁷ Harris, 16 November 2001.

¹⁹⁸ Odam, 6 July 2000.

¹⁹⁹ Harris, 16 November 2001.

²⁰⁰ Aldrich & White 1998, p. 39.

discussion in the 1990s – in which even Simon Rattle took part – music was taken into the National Curriculum.²⁰¹ Harris recalls this period in the following terms:

At first when the National Curriculum was introduced music and art were not compulsory subjects and there was a big big fuss about this. And eventually they said, well, it should be there somehow . . . Also because schools cannot afford to buy the extra teaching they need in music.²⁰²

The Curriculum that is now in force is not as favourable to the arts as it is to other subjects. The number of music lessons has decreased: music is taught only for 45 minutes a week from year one to seven, after which it is an optional subject.²⁰³ Although the National Curriculum ensures that music education is available to all pupils (in this way this curriculum provides the basis for the right of every child to receive music education), music lessons have indeed been reduced: the number of lessons in music as a classroom subject has decreased, and at the same time, instrumental tuition has become liable to charges.²⁰⁴ A teacher at a junior school reported that when she was a child, instrument teachers used to come to schools. She was taught the violin in that way. If that happens nowadays, the parents have to pay for the lessons. One little girl in her class plays the violin and she attends a music school on Saturdays.²⁰⁵ Harris describes the present situation as follows:

So, from 11 years down to 4 years . . . there is very little music in schools unless a teacher who is a classroom teacher can play piano or an instrument and maybe then do singing . . . And then in secondary schools peripatetic teachers are common.²⁰⁶

Music schools – often called Saturday Music Schools – have been established to give instrumental tuition. In addition, “Music Services” have also been established by local governments. Schools may buy instrumental tuition for their pupils from these services. However, since the schools became economically independent and

²⁰¹ Odam, 6 July 2000; Aldrich 1996, p. 24. The 1988 National Curriculum included English, Mathematics., Science, History, Geography, Foreign Languages, Art, Physical Education, Technology, Music (Aldrich and White 1998, p. 48).

²⁰² Harris, 16 November 2001.

²⁰³ In September 2000 a new law proposal may be made with music as a compulsory subject (Odam, 6 July 2000).

²⁰⁴ Instrumental tuition given at schools is still very common (but no longer free of charge). The schools may, for example, buy instrumental tuition for their pupils from a centre called “music services”. (Odam, 6 July 2000)

²⁰⁵ Jane Smith, teacher at a Junior School, 30 June 2000.

²⁰⁶ Harris, 16 November 2001.

have been allowed to decide on their budgets themselves, parents have usually been obliged to pay for these lessons.²⁰⁷ As Harris puts it:

So, if you go to one of these schools [Saturday music schools] as a child you have an hour of theory . . . and you have a lesson on your instrument, sometimes in a group, sometimes individual. I think you have to pay a small amount for this. There may be an orchestra or wind band and sometimes you do quartet or small-group music. It's from 9 until 1 [pm] . . . once a week.²⁰⁸

A new fund called the “Youth Music Fund” was set up in 1999. The aim of this fund is to divide money among local authorities to support music education. This has resulted in instrumental teaching now being provided in every county (although, to varying standards). This kind of market-based tuition by private teachers, or tuition supported by funds or local government with no external control, has been typical in England. In practice, parents (who pay for the tuition) decide on matters concerning the studies of their children, including the instrument to be chosen. According to a professor at the Guildhall School, guitar, rock, pop and world music are very popular, and strings have suffered most from a shortage of pupils.²⁰⁹

Specialist music schools offer education and training for musically talented children and young people especially interested in music, and often aiming at a future profession in music. These schools, which also provide boarding facilities and school subjects other than music, may operate on principles of economic equality. For instance, The Purcell School offers government-aided places. However, the number of such schools is very limited, and there are only four specialist music schools in England. This means that only especially gifted children and young people can be admitted to these schools through audition. Harris declares:

Sometimes there is [financial] support from the [specialist music] school itself . . . I think sometimes the council will pay something to help the child to go to one of these schools. But the schools themselves are originally privately founded and funded.²¹⁰

²⁰⁷ Odam, 6 July 2000.

²⁰⁸ Harris, 16 November 2001.

²⁰⁹ Odam, 6 July 2000. Joan Last, a well-known British piano teacher, states in her book “The Young Pianist” that parents who pay for piano lessons have the right to know what their child is taught during the lessons. (Last 1972 / transl. into Finnish 1982)

²¹⁰ Harris, 16 November 2001.

Junior departments at music colleges and academies offer education and training, usually on Saturdays, for children of school age. An entrance examination has to be passed before the children are admitted to study in these departments. However, a more intensive study programme in music is given at the specialist music schools.²¹¹ Harris comments:

They [Junior Departments] are on Saturdays, sometimes all day. You do chamber orchestra, symphony orchestra, . . . You have a piano lesson, a violin lesson, your theory lesson, and so on. Everything on one day.²¹²

3.5 Aims in music education

Swanwick argues that music is not a visible problem until it becomes formal and institutionalised: “. . . the inclusion of music in an institutional curriculum is when the trouble begins, where the selection of materials or methods and the identification of aims and objectives can come an ideological battleground.”²¹³ A description by a professional percussionist about what music is, is quoted in the National Curriculum for England:

Music is our daily medicine which aids far better communication with others and ourselves.²¹⁴

In Britain – as well as in many other countries such as Finland and Sweden – there is continuing discussion concerning the concept “music”. It has been claimed that, in the past, classical music has emphasised the objective, “iconic” value of the art work, in other words, “music” has been understood in terms of a “*work of art*”. Therefore, teaching music has mainly consisted of teaching particular works of music. The training of future professionals in particular “has been bedevilled by a narrow view of technical excellence, which has resulted in artistic tunnel vision and a lack of concern for the creativity, flexibility and breadth of outlook that are necessary for music to be a living force in society.”²¹⁵

Swanwick argues that private music teaching does not have to be “a string of individuals passing through, as if visiting the dentist.”²¹⁶ Yet, if music is

²¹¹ Interview at the Purcell School, Director of Music Jeff Sharkey, 2 July 2001.

²¹² Harris, 16 November 2001.

²¹³ Swanwick 1996b, p. 41.

²¹⁴ Evelyn Glennie OBE, Percussionist. In the National Curriculum for England, 1999.

²¹⁵ Renshaw 1995, p. 255.

²¹⁶ Swanwick 1999, p. 106.

not understood as a work of music, what is it that the teachers should teach when they are supposed to teach music? Music has also been regarded as a medium for personal and communal transformation. For instance, it may have a therapeutic place in the self-development of individuals. This view also affects music education: a balance has to be maintained between music as a medium and music as a finished work of art.²¹⁷

The musical environment has changed: different world music traditions as well as music technology, integrated arts work, and multi-media projects are increasing and changing the role of the traditional musician. Therefore, the skills of musicians and of music educators should be developed within a broad area; music plurality is a crucial and contemporary issue for teachers. Furthermore, the management as well as the organisational culture of educational institutions should also be open to new influences from society.²¹⁸

A new form of art education has been developed in Britain. This involves the running of educational projects for children and adults by professional groups such as orchestras. These projects (in which professional artists work together with pupils) have sometimes been devised especially for immigrants or other kinds of special groups that seldom visit arts institutions. One reason for educating new audiences has been the decreasing state support for art institutions. Therefore, institutions such as orchestras have to take into account the needs of the surrounding community and educate a broad audience themselves if music education is not otherwise sufficiently effective.

The value attributed to music is reflected in music education. Are attitudes to music determined by relative social or by universal values? The idea of intrinsic and invariant universals, unchanging absolute forms, essences that lie behind uncertain images, goes back as far as Plato. For him, knowledge could be obtained through philosophical deliberation, which is not appropriate for everyone but only for the “chosen élite”. According to Swanwick, if we follow this line, we would attempt “to initiate students into those *musical works* that embody eternal values.”²¹⁹

One alternative to the aforementioned view is the “praxial” view, which also has a long history stretching back to Aristotle. The meaning and value of music can never be intrinsic or universal. In other words, music is a diverse human practice, good in special social contexts depending on how well it works in action. A new praxial philosophy of music education has recently been put

²¹⁷ Renshaw 1995, p. 254.

²¹⁸ Renshaw 1995, p. 254; 1993, p.4-5; Swanwick 1999, p. 106.

²¹⁹ Swanwick 1999, p. 24.

forward, emphasizing “musics” instead of music. This involves a broader view, accepting and valuing different kinds of musics in music education.²²⁰ In addition, taking the view that music is always good *for* something, musical activity (e.g., performances by students) should be valued for its specific use in a particular context and for its function in promoting the “right results” (*phronesis*) for humans. Furthermore, the variety of these “goods” (benefits) should be recognised by music teachers, who should be concerned with music in this broader sense. All forms of musical activity – from the purely recreational to amateurism, entertainment, therapy, ceremony – should be advanced through music education. According to Regelski, music is praxially “good time”.²²¹

In spite of claims that all forms of musical activity are valued, the praxial philosophy in music education has been criticised as being too narrow. Its proponents – such as Elliott, Regelski and Alperson – have taken the “aesthetic” philosophy of music education as an example of old-fashioned education stressing only the importance of listening to musical works of intrinsic and internal value (indicating certain musical works in the western classical tradition). However, this has been regarded as a misunderstanding, as Swanwick states: “Aesthetic awareness is a necessary but not a sufficient condition for artistic understanding”.²²² Participation in traditions is also needed. Moreover, both Elliott and Swanwick agree that music is a distinctive form of discussion, a conversation. All discourse takes place within a cultural context giving the possibility for individuals to make a contribution.²²³

The aforementioned views regarding music and its values have implications for music education. The broader view incorporates the teaching of different kinds of music(s): jazz, rock and world music are often stressed because classical music is regarded as already having a strong position. Furthermore, composing and improvising have been introduced into music lessons.²²⁴ “Authentic music education” implies that pupils should be able to work alongside professional

²²⁰ See also Kemp & Lephherd 1992, p. 775. According to Kemp & Lephherd, one of the most important trends has been the increasing importance of world music, and the term “musics” is often used.

²²¹ Regelski 1996, p. 25, 36; Elliott 1996, p. 11; Elliott 1995, Swanwick 1999, p. 24.

²²² Swanwick 1994, p. 32; op. cit. Swanwick 1996b, p. 44.

²²³ Swanwick 1996b, p. 44.

²²⁴ See Odam (2000): *Composing in the classroom. The creative dream*. According to Odam (2000, p. 7), composing has had a central place since 1988 when music was included in the school curricula of England, Scotland, Wales and Northern Ireland. In some national curricula of the United Kingdom it is known as “inventing”. However, the intention is the same: to enable pupils to explore sound in a creative way.

musicians, composers and performers. Participation in creating musical events in the community is important.²²⁵

In short, the broad view should also accept former activities and practices, otherwise it will become a narrow view in spite of the good intentions. Context-bound values may also indicate that the “goods” for humans in the USA (where Regelski and Elliott come from) differ from those in Europe. Perhaps we should also accept the fact that music is not always “good time”, but that it is, indeed, most valuable.

The importance of music – especially music as communication and as a part of culture – is also stressed in the National Curriculum for England (1999). This describes music as a powerful and unique form of communication that can even change the way pupils feel, think and act. In addition, music:

. . . brings together intellect and feeling and enables personal expression, reflection and emotional development. As an integral part of culture, past and present, it helps pupils understand themselves and relate to others, forging important links between the home, school and the wider world. The teaching of music develops pupils’ ability to listen and appreciate a wide variety of music and to make judgements about music quality. It encourages active involvement in different forms of amateur music making, both individual and communal, developing a sense of group identity and togetherness. It also increases self-discipline and creativity, aesthetic sensitivity and fulfilment.²²⁶

If teachers can provide all this through teaching music within specified national targets and judgements, then music – although offered not daily but weekly – could be said to be a wonder-working medicine. Yet, the importance attached to music in the National Curriculum is valuable for musical activities and musical life in general, although the question of controlling the means (assessment and targets) remains problematic.

²²⁵ Swanwick 1996b, p. 42-45.

²²⁶ The National Curriculum for England, 1999.

Chapter four

Germany

4.1	BACKGROUND: MUSIC SCHOOLS IN EAST AND WEST GERMANY	82
4.2	ORGANIZATION AND FINANCE: MUNICIPAL AND NON-PROFIT ORGANIZATIONS FINANCED BY PUBLIC RESOURCES AND PUPIL FEES	85
4.3	CURRICULA AND AIMS: THE FRAMEWORK SYLLABUS OF THE VdM ASSOCIATION	88
4.4	EDUCATIONAL LEGISLATION.....	92
4.4.1	<i>The responsibility of each federal state.....</i>	92
4.4.2	<i>Music-school legislation in four Länder</i>	93
4.5	CONCLUSIONS.....	97
4.5.1	<i>Western and eastern perspectives on rights and freedom in education</i>	97
4.5.2	<i>Germany today: several Länder and one Association</i>	100

Chapter 4 Germany

4.1 Background: music schools in East and West Germany

In Germany, the concept of music schools has its roots in the Youth Music Movement and the Guild of Musicians (*Musikantengilde*), as well as in other associations founded around 1917. In addition, reform pedagogy with its vision of educating “new human beings” through popular education (*Volksbildung*), as well as the idea of music as promoting artistic capabilities in individuals, influenced the foundation of music schools. Numerous music schools for the general public (many of them former academies for general and continuing education) were established in the 1920s. The first institution offering training in general and youth music was founded in 1930 in Berlin, but it was taken over by the National Socialists (Nazis) in 1933. A significant number of music schools for young people and the general public were established “under the aegis of the Youth leadership of the German Reich”.²²⁷ Yet, the original ideal of these institutions was making music non-professionally (so-called “*Hausmusik*”).²²⁸ The oldest music school in Germany – *Städtische Musikschule Waldkirch* – was established in 1741:

In fact, this music school in Waldkirch was first mentioned in chronicles of 1741, and therefore may be even older than it “officially” is said to be. Education was very probably offered in the 15th century. The school was founded in conjunction with the Collegiate church and convent of St. Margaretha. Music education served the needs of the church: for instance, educated choristers were needed for the services. In the 19th century, education at the music school was offered free of charge in subjects related to church music. A small study fee was collected for other subjects.²²⁹

In the former West Germany, 13 music schools together formed the Association for Youth and Folk Music Schools in 1952. The task of these music schools (established at this “second stage” of their development) was to offer music education through singing as well as music making at a basic level. Since then, qualified instrumental instruction given in private lessons has increased, partly

²²⁷ “*Unter dem Dach der Reichsjugendführung.*”

²²⁸ VdM: Statistisches Jahrbuch der Musikschulen in Deutschland 1999, p. 6.

²²⁹ 250 Jahre Städtische Musikschule Waldkirch 1741–1991, pp. 6–7, 13–14. My free and shortened translation.

because of the criticisms (*Kritik des Musikanten*) the philosopher Theodor W. Adorno directed against youth music.²³⁰

Guidelines and recommendations, as well as study courses for directors and teaching personnel, were created by the aforementioned Association, and connections with municipal associations and ministries were established. The Association was renamed the Association of German Music Schools (*Verband deutscher Musikschulen*, VdM) in 1966, and it produced a structural plan and curricula in the late 1960s. A total number of 284 music schools were members of this association by 1970.²³¹

A “Plan for the Development of Music Schools” (*Plan zum Ausbau der Musikschulen*) was formulated by the German Music Council in 1967. The Educational Reform of the 1970s also influenced the music schools, which were connected to educational and cultural politics in their educational planning, for instance. The training of music-school teachers was established in Music Academies (*Musikhochschulen*). New music schools were founded, and by the end of the 1980s there were 778 of them. The Association (VdM) also influenced the contents of education through model projects in subjects such as Early Education (1969), Working with Pupils with Special Needs (1979), Instrumental Instruction in Groups (1980) and Adult Education in Music (1990).²³²

In the former East Germany the state took over responsibility for the municipal music schools for the general public, and regulated their development in guidelines (1952) and a decree governing them (1955). Sixty-three institutions had been established by the end of the 1950s. The Order Governing Music Schools (*Anordnung über Musikschulen*) of 1961 stressed the importance of promoting talented pupils, and also emphasized social aims.²³³ A network of music schools was created in the 1970s. Pre-education for 5- to 6-year-old children was introduced, making music in groups and ensembles continued to have a firm place in education, and the study programme of preparation for future professional studies was made more intensive. The pianist and piano teacher Jan Czajkowski describes the provision in the following terms:

²³⁰ Statistisches Jahrbuch 1999, p. 6.

²³¹ Ibid.

²³² Ibid.

²³³ Specially gifted pupils studied at so-called “special schools” (which also offered boarding)

They had this kind of eastern or socialist thing that was called *Spezialschulen*. These schools were especially for young talented musicians, they could go to school there and they lived there. They had a very good orchestra and the students were very well prepared. There were several schools like that, of course, also in Warsaw and Moscow. Classical music was not forbidden; on the contrary, you could not find American pop music in the shops but you certainly were able to buy Bach.²³⁴

The state of the GDR recognized the importance of education given at music schools. The financial security of these schools was guaranteed by the state and the decree was enacted on a legal basis. An association for East German music schools was established in 1989, although it was soon dissolved, in 1990, when its 157 member schools were given the opportunity to join the VdM. The number of members of the VdM increased to over 1000, but decreased soon after due to the reforms in the new federal states (in former East Germany).²³⁵ After the reunification of Germany the former state-owned East German music schools became local-authority institutions. Czajkowski recalls this period in the following way:

No, we had no contacts with them [the music schools of East Germany]. Of course, after -89 there was a little bit of exchange of teachers and concerts and also pupils; for instance, we went from Karlsruhe to Weimar and played a concert there . . .²³⁶

A new period of collaboration commenced after the unification of Germany in 1989, and a music-school network now covers the whole country. Music schools are public educational institutions with a regulated structure. However, differences also exist between them, since the authorities in each federal state (*Land*) are responsible for their own educational and cultural matters. For instance, one of the several special music schools of the former East Germany still exists in Weimar.²³⁷ Furthermore, some former East-German music schools have changed their profile, whereas others still aim to prepare “good musicians”. The pupil fees in these schools are still low, the traditional idea of bringing *Kultur* to all people as a common good still being a relevant argument.²³⁸

²³⁴ Jan Czajkowski, pianist and piano teacher, 26 March 2001.

²³⁵ Statistisches Jahrbuch 1999, p. 6.

²³⁶ Czajkowski, 26 March 2001.

²³⁷ Czajkowski, 26 March 2001.

²³⁸ Wüster, 17 April 2001.

In general, the tasks of the music schools include providing the opportunity for children, young people and adults to make music, and giving them qualified instrumental or vocal instruction in order to open up opportunities for them to take part in music making at school and at home, as well as in the several fields of non-professional music making in the community. In addition, especially talented individuals interested in music are offered preparation for future professional studies.²³⁹

4.2 Organization and finance: municipal and non-profit organizations financed by public resources and pupil fees

The German network of music schools consists of about 1000 schools with places for approximately one million pupils.²⁴⁰ About two-thirds of these schools depend on the municipalities, and one-third on non-profit making organizations.²⁴¹ Czajkowski describes the music school of his home town in Bavaria:

I first studied at the Musikschule der Hofer Symphoniker in a small town of about 50 000 inhabitants in Bavaria [Bayern]. This is the only music school in Germany that is owned by a symphony orchestra. Normally, the municipality, the town, owns the music school.²⁴²

According to EMU statistics, the main proportion (about 60%) of German music-school finances are collected from public resources, mainly from municipal budgets, and about 40% from pupil fees. These fees vary according to the school and the kind of teaching.²⁴³ Compared to Finland, studying at a municipal music school in Germany is expensive:

Our children have studied at municipal music schools in Bonn and in Berlin (in Berlin there is a municipal music school in every sector of the city). The fee is 145 DEM per month including one hour's tuition per week. In Bonn, theory lessons are compulsory for pupils over 10 years,

²³⁹ Ibid.

²⁴⁰ These are public (municipal) music schools and they are members of VdM. VdM Musikschulen, brochure & www.

²⁴¹ Almost all of the music schools in Berlin and in the "new federal states" (in other words, in the former East-Germany) depend on municipalities.

²⁴² Czajkowski, 26 March 2001.

²⁴³ EMU 1995, p. 68; Statistisches Jahrbuch 1999, p. 10, 12-17.

and these lessons are included in the fee. The fee also has to be paid during the summer holidays.²⁴⁴

Music schools are run and funded by local authorities, and thus can be shaped individually according to local needs. In general, no entrance examinations have to be taken: every child has the right to attend a music school. As Czajkowski says:

Everyone can join the music school. But you have to pay. It is about 100 DEM per month. There's a waiting list if they can't take in everyone. Pupils normally get 45 minutes tuition a week. Some schools give lessons in groups of three children; it's also cheaper.²⁴⁵

According to the Association of German Music Schools (VdM), all public music schools comply with its recommendations in the *Strukturplan* and on other structural matters in the curriculum (*Lehrplan*), and on the qualifications of the pedagogical staff. The Association is also involved with projects such as *Neue Kammermusik*, *Kontrabass-Förderung* and *Qualitätsmanagement*, with the German music-school orchestra, with publications and further education. VdM is partially funded by the *Bundesjugendministerium* from a budget for cultural education (*Kulturelle Jugendbildung*).²⁴⁶

The state is not responsible for supporting music schools at the national level in *Bundesrepublik Deutschland*. Yet these schools are almost all supported at the federal level (*Länder*), and usually follow the VdM membership conditions in their budget guidelines. The recommendations of this association have a strong influence on music schools, and the representatives of VdM almost regard themselves as so-called “law givers”.²⁴⁷

If you like, you may interpret the self-containment that our German music schools have achieved in their association VdM as a kind of democratic legislation that is being thousandfold confirmed by the public authorities' decision to follow those “laws”.²⁴⁸

²⁴⁴ Hilikka Heimonen, Kindergarten teacher, 5 February 2001. C.f. Bruhn (7 April 2002); according to Bruhn, lessons in German music schools have become more expensive in recent years as subsidies are being cut. However, these lessons are still subsidized and thus cheaper than lessons offered by competent private teachers.

²⁴⁵ Czajkowski, 26 March 2001.

²⁴⁶ Wüster, 5 March 2001; VdM Musikschulen <http://www.musikschulen.de>

²⁴⁷ Wüster, 5 March 2001.

²⁴⁸ Wüster, 5 March 2001.

The justification for state support lies not only in the school-like structure and contents of education, but also in the important position music schools have in cultural and educational politics. These schools belong to the municipal institutions of education and culture, and they react to the needs of the local community. New teaching methods are developed and new societal groups are invited to their activities. Music schools also work in collaboration with ordinary schools and cultural institutions, as well as with other institutions and groups. Social aspects are taken into account in the education given at these schools.²⁴⁹

Member schools of the Association of German Music Schools (VdM) are obliged to function as institutions of public utility: in other words, being a non-profit organization is one of the preconditions for membership. Music schools are not allowed to make a profit, but the rising costs of the teaching staff have caused difficulties, especially when the amount of state support is often based on the number of lessons given per year. A tendency to decrease state support has also emerged. For instance, in 1994 student fees accounted for 38.6% and state support for 60.4% of the costs, and in 1999 the proportion of state support had decreased to 54% and student fees increased to 44.6%. The VdM has tried to encourage the idea of state investment rather than state support.²⁵⁰

²⁴⁹ Statistisches Jahrbuch 1999, p. 8.

²⁵⁰ Statistisches Jahrbuch 1999, p. 35-37. Since 1988/90 in compulsory education, too, most "Länder" have introduced means of limiting expenditure on teaching staff by increasing their workload and the number of pupils per class, for example. The constant increase in public expenditure on education may be due to the reunification of Germany in 1990. In 1992/93 the "Länder" of former East Germany adopted school legislation to introduce the differentiated (former West German) system of secondary education, and an increasing number of pupils choose schools with a more academic curriculum than before. (Key topics in education in Europe 2000, p. 326.)

4.3 Curricula and aims: the framework syllabus of the VdM Association

The pianist Jan Czajkowski recalls his music-school studies in the 1980s:

When I studied at the *Musikschule Hofer Symphoniker* in the 80s, there were no levels and no examinations. Every Monday there was a concert where you could play. I know that in other cities, at other music schools, they have to play one examination each year. It is just to prepare them for concerts; nobody is kicked out if he plays badly.²⁵¹

Nowadays VdM member schools have to apply the structural plan adopted by the Association as well as the curricula for the various subjects. These curricula are periodically revised. The aims and tasks of the music schools are described in the structural plan as follows:²⁵²

Music schools are institutions devoted to the education of children, young people and adults. Their tasks include providing basic music training . . . for amateur and non-professional music practice, identifying and promoting the specially gifted as well as preparing them, as the case may be, for professional studies.²⁵³

The curricula (syllabi) set out the general aims of education at music schools for different kinds of instrumental or vocal subjects, music theory as well as jazz and orchestra, but the teaching methods are left open.²⁵⁴ The instruction includes the following four levels:

1. The basic level (*Grundstufe*)
This starts at preschool age (*Musikalische Früherziehung* / Early Education in Music) and lasts for two years. *Grundstufe* is available for everyone (in other words, there is no entrance examination).

²⁵¹ Czajkowski, 26 March 2001.

²⁵² EMU 1995, p. 70.

²⁵³ Ibid.

²⁵⁴ <http://www.musikschulen.de/seiten/musikschulen/lehrplan.html> (February 2001). In Finland there is quite the same situation: general aims of music education are stated in the National Framework for Curricula given by the National Board of Education.

2. The lower level (*Unterstufe*)
This includes instruction in one main subject (instrumental or vocal) as well as in one ensemble or complementary subject. The pupils get individual lessons or instruction in groups or in a class depending on the subject and the level. The educational goals and the contents of instruction follow the “framework syllabus” (curriculum) given by the Association.
3. The middle level (*Mittelstufe*)
The content of education resembles the content offered at the previous level, but is at a higher level.
4. The upper level (*Oberstufe*)
Progression from the middle to the upper level depends on passing an examination.²⁵⁵ However, the content of these examinations varies. In some schools a small concert is given by the pupil in front of a “real” audience and the evaluating teachers, whereas in others only certification of attendance is required. In addition, formal reports are written in some schools. Formalized examinations and “the idea of the strict development of young musicians” were typical in the former DDR, and “even today many music schools in East Germany cling to this tradition”.²⁵⁶

The teachers in the music schools have generally graduated from “higher music academies”,²⁵⁷ and have specialized in teaching music. For instance, according

²⁵⁵ EMU 1995, p. 70; Richtlinien / VdM; See also BbgMSchulG, §3.

²⁵⁶ Wüster, 17 April 2001.

²⁵⁷ Germans study at the following institutions: university, “Musikhochschule”, or “Konservatorium”. Recently a fourth institution has been established, “Musikfachschule”. Only academic subjects are studied at university (primarily music history, music theory, music education “as a theory”). The above-mentioned subjects are studied at the Musikhochschule (but with more emphasis on praxis), as well as instrumental and vocal performance, conducting and composition. The difference between the Musikhochschule and the Konservatorium is one of emphasis: the Musikhochschule requires a high-school diploma that allows access to university-level education (Abitur), and confers a “university-level degree”, whereas the Konservatorium is an academy that selects its students exclusively on the basis of their musical talents, without regard for grades in high-school subjects, and its degrees are not regarded as “university-level”, but rather as vocational. A typical music school has many teachers educated at a Konservatorium, some from a Musikhochschule, and some (in folk music instruments etc.) with no special certificate but long years of experience. (Bruhn, 7 April 2002.)

to BbgMSchulG, a “university degree”²⁵⁸ is required of the majority of the pedagogical staff. The music-school teachers have been covered by a special collective agreement within the civil service since 1987.²⁵⁹ Czajkowski describes the study programme at the *Musikhochschule* of Karlsruhe as follows:

The system in our *Musikhochschule* is: first you have the basic studies, then a diploma for teaching, a pedagogical diploma, and in the end you have the *Konzertexamen*; somewhere else it is called *Solistenklasse*, in Munich, I think, it is *Meisterklasse*. I went through all three of them and I got a Concert Pianist Diploma. . . . At the moment I’m trying to find a teaching job. Of course, you can do it privately but it’s better to find a place . . . in the *Hochschule* would be nice; naturally, not first as a Professor.²⁶⁰

The Association has taken numerous initiatives that have influenced the contents of music-school activities. For instance, the “curriculum for early education in music” has served as a model for many music schools in various countries. As a result of a pilot programme for disabled persons, about one quarter of German music schools offer special courses for children and adults with special needs. Interdisciplinary subjects such as dance, theatre and drama are offered increasingly, and in the future music schools will pay special attention to adults.²⁶¹ Czajkowski comments:

Verband der Deutschen Musikschulen? No, I don’t know about that. But there is an association for each musician: *Deutscher Tonkünstlerverband e.V.* I’m a member of it because I teach privately. This association arranges a national competition called *Jugend musiziert*. First, a competition is arranged in every town; if you succeed, you can take part in a competition at the level of *Länder*; finally, you can play at the National Competition. If you win the first prize you’ll be offered concerts. This is quite important for music schools because teachers try to enter their pupils for this competition.²⁶²

An additional programme called “preparatory instruction for higher studies” is available for specially gifted pupils and for those planning to take higher-level

²⁵⁸ See footnote 31.

²⁵⁹ EMU 1995, p. 70.

²⁶⁰ Czajkowski, 26 March 2001.

²⁶¹ EMU 1995, p. 72.

²⁶² Czajkowski, 26 March 2001.

studies in music. Talented pupils are specially promoted, and they may be prepared for future professional studies. About 400 music schools offer this kind of education, called *studienvorbereitende Ausbildung*, and 3459 students have taken part in it (1999). In discussing the content of this kind of programme, Czajkowski declares:

The idea is to help young musicians with the theoretical part of the entrance examinations of the *Hochschule*. Whoever wants can join this programme. Normally your instrumental teacher recommends you to go there.²⁶³

Although preparing pupils for future professional studies is a minor part of the tasks of music schools, it is especially important to the outside world. Yet, according to the VdM, the differences between this kind of education and studying music must be recognized when dealing with state authorities.²⁶⁴ Czajkowski agrees with this and suggests:

There are students who want just to learn an instrument and there are students that want to study and they are all together. And if you're teaching there, normally you have some talented . . . and then you have others of which you know they won't study but they like learning. Some of the teachers like to teach children and are somehow specialized in children. Some others prefer to work with older pupils who maybe would like to study music.²⁶⁵

The aims of music schools are wide: they are institutions of cultural education, they aim to raise the standard of urban living and they do preventive youth work. The VdM has promoted these tendencies, and issued the declaration "Open Music Schools" in 1989. Nowadays (2001), the most important task of this Association is to secure the quality of music schools, and projects and models of excellence have been created to that end. One of the means by which it promotes the quality of education is to recommend schools to engage full-time teachers, since music education is regarded as a long-term process.²⁶⁶ In discussing the position of teachers, Czajkowski comments:

²⁶³ Czajkowski, 26 March 2001.

²⁶⁴ EMU 1995, p. 23.

²⁶⁵ Czajkowski, 26 March 2001.

²⁶⁶ EMU 1995, p. 8.

Normally, at a music school there are quite a few teachers, sometimes they are working only on a half-time basis. About the other part . . . private lessons or they have children.²⁶⁷

4.4 Educational legislation

4.4.1 The responsibility of each federal state

Since the “peaceful revolution” of 1990, Germany (the Federal Republic of Germany) has been made up of 16 states, or *Länder*. Educational legislation and administration are primarily the responsibility of the ministries of each federal state (*Land*). The educational responsibilities are divided between the authorities of these states and the local authorities (municipalities). As far as compulsory education is concerned, the authorities of the federal states (*Länder*) are responsible for internal school affairs, such as defining the curricula, the content and structure of the system, and teacher training and assessment, while the local authorities take responsibility for external school affairs (including teaching materials, building construction and maintenance, as well as operational expenditure).²⁶⁸ According to Czajkowski, the *Land* owns the *Musikhochschule* and the municipality the music schools:

There is one exception, in Nürnberg the town owns the *Hochschule*. Therefore, everything varies. For instance, in *Baden-Württemberg* we have five *Musikhochschulen*, in Bavaria there are only two (plus one in Nürnberg); in eastern parts of Germany they often have only one per *Land*, Sachsen has two, one in Dresden and another in Leipzig.²⁶⁹

In the 1990s many of the federal states (*Länder*) launched several reforms designed to grant financial autonomy to schools aiming at greater educational autonomy, but also to improve cost-benefit ratios and effectiveness. Awareness of the need for evaluation systems (not only for teaching but also for analysing the effectiveness of resources) has developed. Since 1995, recommendations by experts have been implemented in order to give municipalities greater responsibility in matters involving the quality of education. The aim of these reforms is to enable schools to develop areas of specialization and to become more open to the local community, especially with regard to the resources

²⁶⁷ Czajkowski, 26 March 2001.

²⁶⁸ Key topics in education in Europe (2000), pp. 326-328.

²⁶⁹ Czajkowski, 26 March 2001.

available in addition to public funds (for instance, in the search for sponsors). Yet, according to the Constitution (Article 7), the entire school system is under the supervision of the State. The federal states maintain school systems that are run publicly, but they have to aim at ensuring equal opportunities in education throughout Germany. Therefore, opening up schools to the market and to sponsors should be viewed in relation to the requirements of the German Constitution (*Grundgesetz*) and the principle of equality.²⁷⁰

4.4.2 Music-school legislation in four *Länder*

Following the principles of general education, no unified legislation governing cultural affairs, music education and music schools exists in Germany. Four states (*Länder*) within the Federal Republic – Baden-Württemberg, Bavaria (Bayern), Brandenburg and Sachsen-Anhalt – have safeguarded the music-school system by law or law-like acts (such as decrees). However, nearly all of the federal states (*Länder*) contribute to supporting public music schools financially.²⁷¹

According to the Youth Education Act 1975 (*Jugendbildungsgesetz*) of *Baden-Württemberg*, the education of young people aged up to 25 outside the general school system is a part of the education system as a whole. Contributing to the promotion of the development of youth is a public duty. This kind of education must be directed by the interests and needs of young people. One of the aims is to make them capable of acting as responsible citizens. According to the Youth Education Act:

Extra-curricular youth education should be determined by the interests and needs of young people. With means that are adequate to youth, it should contribute to enabling young people to realize their potentials, assume responsibilities, and share in the shaping of society.²⁷²(Translated by Siglind Bruhn)

According to section two of the aforementioned Act, Baden-Württemberg is obliged to support the officially recognized music schools, which must be public

²⁷⁰ Key topics in education in Europe (2000), pp. 326-328.

²⁷¹ Wüster, 5 March 2001. C.f. EMU 1995, p. 68; Legal regulations governing the structure, requirements and financing of music schools have been introduced (1995) in two of these states, Baden-Württemberg and Bavaria.

²⁷² *Jugendbildungsgesetz* 1975, B-W, §1. Die außerschulische Jugendbildung wird von den Interessen und Bedürfnissen junger Menschen bestimmt. Sie trägt mit jugendgemässen Mitteln dazu bei, den jungen Menschen zur Selbstverwirklichung, zur Verantwortlichkeit und zur aktiven Mitgestaltung der Gesellschaft zu befähigen.

corporations.²⁷³ Special presuppositions regarding the support of music schools are laid down in the ninth section. In addition, the general preconditions for “state support” are mentioned in the fourth paragraph, and also have to be taken into account. The qualifications of the teaching personnel is one criterion. In addition, the work at the school has to be educationally goal-orientated (systematic), and it has to be carried out under the auspices of a municipality or in collaboration with municipal authorities or institutions. According to the tenth paragraph, support must not fall below 10% of such costs. Special support for institutions of further education and Youth Orchestras, for example, may be granted under the provisions in sections eleven and twelve.²⁷⁴

A Decree governing the use of the terms Vocal School and Music School (*Verordnung über die Führung der Bezeichnung Singschule und Musikschule*) has been in force in Bavaria since 1984. According to this Decree, state support may be granted under the following conditions: the school has to offer tuition in at least the subjects stated in the Act (§2, §3), and it has to be directed by a specialist qualified in music education (§4.1). All teachers must be qualified, which normally means a certificate or diploma, a state examination or state recognition. The competence of folk-music teachers may be acknowledged in their many years of practical and working experience rather than in written certification (§4.2). The legal and economic position of full-time teachers must be sufficiently secure (§4.3), and written contracts of employment must be provided (§4.4). An Order for the internal working activity must be given by the maintainer (§5.1). Student fees may be collected, although social aspects must be taken account (§5.2). A competent supervisory authority may stop the activities of a school if the preconditions are not fulfilled (§7).²⁷⁵

A special Act for music schools was passed in the Federal State of *Brandenburg* in December 2000. This Act is called *Gesetz zur Förderung der Musikschulen im Land Brandenburg*, abbreviated to *Brandenburgisches Musikschulgesetz (BbgMSchulG)*. It comprises seven sections regulating the tasks of the schools, their maintenance and preconditions for state support, and protection of the name “music school”. The amount of state support, as well as the obligation of the maintainer of the school to contribute to the costs, are also specified; the users of the school should not be responsible for an unreasonably large proportion of these costs.²⁷⁶

²⁷³ Gesetz zur Förderung der ausserschulischen Jugendbildung (Jugendbildungsgesetz) 1975. Gesetzbeschluss des Landtags von Baden-Württemberg 24 April 1975. §1 and §2.

²⁷⁴ Jugendbildungsgesetz, B-W 1975, §9, §10, §11, §12.

²⁷⁵ Sing- und Musikschulverordnung, Bayern, 1984.

²⁷⁶ BbgMSchulG.

According to section one (BbgMSchulG), the term “music school” refers to educational and cultural institutions. The tasks of these schools are stated as follows:

1. To arrange music education for children and youth;
2. To identify and promote musically talented pupils;
3. To prepare pupils for potential professional studies in music in the future.²⁷⁷

Unlike the Act of Baden-Württemberg, the Brandenburg Act does not mention issues such as education for citizenship.

The music schools of Brandenburg are maintained by public *or private* corporations (§2). State support is granted under certain conditions that are specified in section three. For instance, the schools have to serve the aims of the public good, and the education provided must be continuing and educationally systematic. At least 150 lessons per week have to be given in (a) music education for 4–6-year-old children, (b) at three different levels in at least five different instrumental or vocal sections, (c) in ensemble and theory subjects. (d) Education for gifted students must also be available. The curricula (*Rahmenlehrpläne*) have to provide the basis for the education offered. The general structure of these curricula is regulated in a broad sense in the Act, but the educational methods are left open. The curricula may be drawn up at the schools, but existing ones (such as the *VdM* curricula) may also be adopted. The educational contents and methods described in the curricula indicate what educational opportunities are given. The majority of the educational staff must have a university degree in music or music education. In addition, the music school must be directed by a qualified person with working experience.²⁷⁸

The term state-supported music school is protected by law in Brandenburg. According to paragraph four (BbgMSchulG, §4), this kind of school may use the name *Anerkannte Musikschule im Land Brandenburg* (a recognized music school in the State of Brandenburg). This law also states the amount of state support to be received: DEM 6.5 Million per year. The amount of the support depends on the number of lessons given.²⁷⁹

²⁷⁷ BbgMSchulG, §1.

²⁷⁸ BbgMSchulG, §3.

²⁷⁹ *Ibid.* §5. The amount of state support covers all of the music schools, and it may be raised according to certain preconditions prescribed in §5.

The Music School Act of the federal state *Sachsen-Anhalt* (*Gesetz zur Förderung von Musikschulen im Land Sachsen-Anhalt*, 1997) is short; in fact, only one paragraph (§85) is added to the Education Act of 1996.²⁸⁰ This new section – which will come into force on 31 December 2006 – is headed “Music Schools”. It classifies music schools as educational institutions. Their main tasks are (a) to give basic education in music, (b) to educate pupils for making music non-professionally as a hobby, (c) to identify and promote talented pupils, and (d) to prepare pupils for potential professional studies in music. The music schools in Sachsen-Anhalt are *not* obliged to be municipally maintained, and are supported by the state (of Sachsen-Anhalt). However, more detailed regulations (statute / *Verordnung*) based on this act are provided by the Ministry of Culture.²⁸¹

The previous statute – named *Verordnung zur Förderung der Musikschulen* – includes several sections. For instance, the use of the name “music school” is protected under section one. This kind of school must offer long-term and systematic education in, at least, early education, instrumental education in various instruments and vocal instruction, as well as in ensemble playing and theory. The qualifications of the staff are regulated in the second section. The director must be qualified in music education and (in general) also have working experience in professional life, and the majority of teachers must be qualified in music education. The number of lessons per week must not fall below 50 (of 45 minutes each). In addition, as many lessons as possible must be given by teachers working on a full-time basis. The music schools that fulfill these requirements are financially supported, the amount of this support being determined in the “guidelines” (*Richtlinien*) provided by the Ministry of Culture.²⁸²

Regulations governing the recipient, preconditions and amount of state support are included in “Guidelines / Guiding Rules for the Allowance of Subsidy to Support Music Schools in Land Sachsen-Anhalt”.²⁸³ According to these Guidelines, the recipient of state support (the music school) must be a legal person under public or private law. In addition, the school has to be of public benefit and situated in Sachsen-Anhalt. The prerequisites for state support are stated in

²⁸⁰ Das Schulgesetz des Landes Sachsen-Anhalt in der Fassung der Bekanntmachung vom 27. August 1996 (GVBl.LSAS.281).

²⁸¹ Gesetz zur Förderung von Musikschulen im Land Sachsen-Anhalt 1997. This act added a new section to the Education Act: §85 (“Musikschulen”).

²⁸² Verordnung zur Förderung der Musikschulen; it senter into force in 1999 (and the end of it in 2003).

²⁸³ Richtlinien über die Gewährung von Zuwendungen zur Förderung von Musikschulen im land Sachsen-Anhalt.

the aforementioned Education Act (§85) and Decree, and the school must be approved as an institution of public benefit in terms of the Tax Code.²⁸⁴

The type, extent and amount of the subsidy are laid down as follows: it is a fixed deposit (§4.1), it is a project grant (§4.2), and it is granted for current expenses (§4.3). At the request of the maintainer of the music school, the amount may be granted according to the number of weekly lessons given per year. In this case, the assessment basis is the lessons given during the previous year. The maintainer is required to meet the costs to at least the same level as the state. The amount of subsidy also depends on the ratio of inhabitants per 100 square kilometers. In addition, state support may also be granted for the purchase and repair of instruments lent to pupils, as well as for special projects. Special support for “preparation for future professional studies” (*Studienvorbereitenden Ausbildung, SVA*) may also be granted within the limitations of the available budget. This allowance is a lump sum up DEM 2000 for every student who is prepared for an entrance examination to a *Musikhochschule*. These students must have at least one minor and one supplementary subject as well as their major subject.²⁸⁵

4.5 Conclusions

4.5.1 Western and eastern perspectives on rights and freedom in education

The right to education includes several aspects. First, it is connected to the public financing of these schools and the principle of equality, in other words, to the right of every child to attend a music school regardless of his or her social and economic background. Second, this right to education and the right of every child to attend a music school is reflected in the absence of entrance or other kinds of examination aimed at identifying talented pupils. Third, in order to become realized, the right to music education requires a network of such schools around the country. This also satisfies the principle of regional equality.

The principle of freedom in education could be considered from the two perspectives of freedom, “positive freedom” (indicating equal opportunities for people to take part in cultural activities, for instance) and “negative freedom”, which usually refers to public intervention that diminishes personal autonomy (for instance, according to legal regulations, children have to attend the nearest school, and teachers are directed to use particular books in teaching). Legal regulations may be used as an instrument to achieve positive freedom by creating

²⁸⁴ Richtlinien (Sections 2 and 3).

²⁸⁵ Richtlinien (1 January 1999-31 December 2001).

opportunities for people and structures for activities. Yet, very often these legal regulations diminish personal autonomy.

The principle of the best interests of the child is connected to both of the aforementioned principles. It refers to the right of every child to attend a music school regardless of his or her economic or social background, or place of residence. It also includes the right of all children – not only the musically talented – to be accepted in the school. Children with special needs should also be taken into account. On the other hand, the rights of especially talented young people interested in music should not be ignored. On the contrary, such children should be offered a thorough education that may lead to a future in the music profession. The right of the child to attend a music school is closely connected to positive freedom and the role of the state as creating prerequisites for music-school activities.

The principle of the best interests of the child is also closely connected to the autonomy of the child, involving the right to decide and to be heard in matters of his or her own concern. This principle is realized, for instance, through educational planning and curricula, and is also connected to negative freedom (for instance, examinations and curricula requirements through which state or local authorities restrict the autonomy of teachers and pupils). The question of *who* has the right to decide the content of this principle is also relevant here – the state or the local authorities, schools, parents or children? Furthermore, the best interests of each child may also include the right to receive *qualified* music education; in other words, legal regulations may impose restrictions and diminish the autonomy of the child by regulating the content of education, but at the same time these regulations may provide a systematic structure for long-term education by qualified teachers.

The historical background of Germany, with its separation and recent reunification (1990), is remarkable. In former East Germany, the right to education – which in most countries refers only to compulsory education – also included music education given at music schools. The state took over the responsibility for music schools and the financial security of these schools was confirmed by legislation. Teacher training was arranged to produce a qualified teaching staff. In other words, legal regulations were the means of creating opportunities and circumstances for music-education activities.

At the same time as the state was creating the structure for these activities and supporting this kind of “positive freedom”, it was also regulating the content of education. The aims were formulated by the state authorities, and opportunities were not available to every child, only to a selected group of specially talented

children. Education aiming at professionalism in music was stressed, and aims such as “citizenship education” were also included. Music making alone non-professionally was not in the interests of the state authorities.

In short, the principle of equality in the former East Germany meant that children had the right to attend a music school regardless of their social or economic background or place of residence. Yet, the network of music schools aimed to identify and select the most musically gifted pupils. Education aiming at professional studies (including citizenship education) was the main aim. The curricula and contents of the education were formulated outside of the schools, which meant that the freedom of the child (parents and teacher) to decide the direction of his or her music studies was minimal. Even if the concept of freedom is relative and always has to be understood within “frames of boundaries”, these boundaries, consisting of legal and other kinds of state regulations, were strict.

The right to receive music education at music schools was not as strongly promoted by the state in the former West Germany as in East Germany. The federal states (*Länder*) within West Germany had the right to decide on their own educational matters, and there was no unified legislation governing all of the music schools. The right to receive music education was put into practice in various ways depending on the local authorities (municipalities) and authorities in each *Land*. Neither did the state determine the content of the education.

The music schools themselves formed an association in the 1950s, which took responsibility for formulating recommendations, guidelines, structural plans and curricula in West Germany. This “intervention” in the autonomy of schools indicated the diminishing of freedom in education. Nevertheless, the aims were not limited to promoting musically gifted pupils. On the contrary, preparation for future professional studies was only a minor part of the curriculum. Non-professional studies aiming to educate amateurs were mentioned as one of the principal tasks of these institutions, although attention to the needs of the especially talented was also given. The structural plan of the Association was school-like, however, with examinations to be passed in order to move up to a higher level. Furthermore, the state support of music schools was connected to membership of this Association. In short, the positive freedom (state support creating circumstances for music-school activities) increased at the same time as the negative freedom (freedom from public intervention) decreased.

4.5.2 Germany today: several *Länder* and one Association

The nature of regulations governing the German music schools of today (2001) is different in the various states (*Länder*). Acts have been passed in three of these 16 states (Baden-Württemberg, Sachsen-Anhalt and Brandenburg), and decrees in Sachsen-Anhalt and Bavaria. Sachsen-Anhalt also has “guidelines” governing state support for music schools. One of the Acts, namely the Youth Education Act (1975) of Baden-Württemberg (also governing music schools), as well as the Song (Vocal) and Music School Decree (1984) of Bavaria, were passed before reunification. Furthermore, one so-called “law-giver” is the Association of German Music Schools (VdM). This Association draws up guidelines, recommendations, curricula and structure plans, although these recommendations are not “law” in the same sense as the aforementioned acts and decrees. Nevertheless, music schools have to comply with the documents provided by the VdM in order to fulfill the preconditions for membership of the Association. Furthermore, the governmental guidelines of the states (*Länder*) follow the VdM membership conditions. Therefore, in practice, the music schools that are members of VdM also fulfill the criteria for state support.

The role of the state to secure positive freedom by creating opportunities for music-school activities is one of the main functions of the regulations governing the German music schools of today. According to these regulations, states are obliged to support music schools, although the amount of support varies. The Baden-Württemberg Act states that state support must not fall below 10% of the costs (§10). In Brandenburg (according to *BbgMSchulG*) as well as on the request of the maintainer of schools in Sachsen-Anhalt, the amount of state support depends on the number of weekly lessons given per annum. According to statistics (1999) collected from music schools around the country, state support provided 54% of the costs. Five years earlier (1994), the figure had been larger, namely 60.4%. Therefore, a tendency to decrease state support has been noted in the field of music schools as well as in general education.

The principle of equality is stressed in educational matters. According to the German Constitution, this principle must be taken into account in all of the Federal States (*Länder*), although they have the right to decide on their own educational legislation. The regulations governing music schools also emphasize this principle; for instance, the Decree of Bavaria (§5.2) states that social aspects must be taken into account when pupil fees are collected. According to the *BbgMSchulG* of Brandenburg, pupils should not be responsible for an unreasonable proportion of the costs, although according to the latest statistics (1999), fees increased from 38.6% of the costs in 1994 to 44.6% in 1999. This implies a tension between the principle of equality and the right of every child to

attend a music school regardless of his or her economic and social background. There is clearly a danger that some talented pupils will drop out for financial reasons.

Legal regulations governing music schools also promote the principle of equality by stating that only non-profit organizations can obtain state support. The VdM membership preconditions also require that music schools are not allowed to make a profit. The Baden-Württemberg Act (§§ 1, 2) also states that these schools have to be public corporations, although private corporations are accepted in Brandenburg (BbgMSchulG §2). According to the Guidelines of Sachsen-Anhalt, schools have to be legal entities under public or private law, and must be approved as institutions of public benefit in the light of the Tax Code. Commercially orientated enterprises are not accepted as receivers of state support. Promoting the principle of social, economic and territorial equality has been one of the principal aims of the network of German music schools, although the latest discussion on opening up educational institutions to market forces, as well as the continuous decrease in state support, threaten the application of this principle in practice.

The right of specially talented pupils to be given tuition in preparation for a career in music is involved with positive as well as negative freedom. In other words, the regulations and state interventions that promote the rights of the talented are usually seen as restricting the rights of all the other pupils. Yet, if the curriculum is formulated only for “ordinary” pupils, the especially talented feel neglected. The aim of the music-school network in former East Germany was to identify and select musically gifted pupils and prepare them for a professional life in music, whereas in West Germany the main aim was to make music non-professionally. However, tuition for the especially talented pupils was also available in many West German music schools. According to the Association of German Music Schools (VdM), the main aim should not be to educate professionals, although the structural plan of this Association includes different levels with examinations to be taken in order to pass from one to another. Compared with Swedish municipal music schools, for instance, the German music-school system is more systematic and it includes factors that promote the studies of, if not the most talented, at least goal-directed individuals.

Chapter five

Conclusions of the comparative section

5.1	SOME GENERAL REMARKS	104
5.2	RIGHTS AND FREEDOM IN GENERAL MUSIC EDUCATION	105
5.3	THE RIGHT TO MUSIC EDUCATION OUTSIDE GENERAL EDUCATION	106
5.4	FREEDOM IN MUSIC EDUCATION OUTSIDE GENERAL EDUCATION: A QUESTION OF INDIVIDUAL NEEDS	107
5.5	CONCLUSIONS: A BALANCE BETWEEN RIGHTS AND FREEDOM.....	110

Chapter 5 Conclusions of the comparative section

5.1 Some general remarks

This study focuses on two basic principles in education: the right to education and freedom in education. Positive freedom – the state creating prerequisites for educational activities – is closely connected with the right to education. Negative freedom – state intervention diminishing the autonomy of people – in educational matters is connected with curricula planning and public financial support, for instance. Both of the aforementioned principles are involved in the principle of the best interests of the child (UN Convention, Art. 3).

The principle of the best interests of the child encompasses the notion that every child has a right to education. The Constitutions of the European States usually promote this right: every child, including those with special needs, has a so-called subjective right²⁸⁶ to education for a certain number of years. On the other hand, the right to compulsory education also includes the obligation to attend school for a certain number of years. The right to education is one of the basic rights in Sweden, Germany and England, and indeed in all civilized countries.

The right to education has philosophical and even political implications for curricula planning, for instance. Education is a broad concept, involving decisions that need to be made concerning what kind of education, in turn leading to decisions about what lessons should be included in the curricula of compulsory education. Rights and obligations are also closely linked together. To take a rough example, while every child has the right to study mathematics and music, all children are also required to study mathematics and music. This raises the legal-philosophical question of who has the right to decide about the contents of education. This right has been held by the state authorities in Sweden as well as in other Northern welfare states, and the national curriculum has been an effective control instrument. However, the tendency is now to decentralize more power to the schools. On the other hand, the autonomy of schools and teachers was strong in England until the educational reforms and the Education Act of 1988. Now the tendency is to strengthen state control. Inspections and school assessment are typical control instruments, which ensure the satisfactory implementation of the national curriculum.

In Germany, each Land is responsible for its own educational matters, although a general tendency to decentralise power to schools has been observed. One of the aims of decentralisation is to make schools economically more effective. For

²⁸⁶ Subjective right is a statutory right (a right that is based on the law).

instance, the right to decide about the budget (autonomy of schools) includes the obligation to be responsible for the finances of the school. It seems that, at a time when state support for education is decreasing, the real possibilities and options to make decisions at schools are also diminishing.

Officially, the nominal autonomy of schools may increase at the same time as their real autonomy is decreasing. State support is an effective control instrument, and the increasing number of written documents such as acts, national curricula and inspection regulations has significantly reduced the autonomy of educational institutions and teachers. This is particularly true in England.

5.2 Rights and freedom in general music education

In many countries there are two more or less distinct strands to music education. On the one hand, music is taught to all children within general education. Alongside this general education, instrumental and vocal tuition is offered by music schools or other institutions, as well as by music services and private teachers.

The positioning of music within general education shows that the right to music education is secured for all children during the period of statutory education in all of the four countries covered in this study. The amount of music per week may vary. In fact, arts teachers complain that arts subjects are not emphasized as much as mathematics and languages by governments and state authorities. The importance of mathematics, literacy and science is stressed particularly in England.²⁸⁷

In all of the countries investigated, the freedom in general education depends mainly on the national curriculum and the assessment or inspection system used by the government. In some countries, a schools assessment system is considered unnecessary if state control by the national curriculum is very strict. For instance, before the 1990s, the Finnish government controlled education through a national curriculum without assessment or evaluation. The national curriculum consisted of detailed rules, and covered teaching methods as well as books and other material used by the teachers. New legislation introducing the evaluation of educational institutions appeared in the 1990s, and at the same time, state control

²⁸⁷ A lively discussion is taking place in Finland about the new proposal by the Ministry of Education (Perusopetuksen uudistamistyöryhmän muistio 11: 2001) in which the number of music lessons is set to be reduced (or made voluntary) at comprehensive schools in Finland.

through the national curriculum became looser than it had been before. On the other hand, in England, there is a tradition of school inspection rather than state control by national curriculum. Both of these state-control instruments are currently becoming stronger, and are manifested in the present English National Curriculum, for example, in the detailed key stages and targets for different subjects, including music.

The dualistic nature of the national curriculum is not only in that it creates positive freedom with opportunities for all children to receive music education, but it also restricts this freedom by regulating the contents of education. Furthermore, at the same time it guarantees a certain quality of music education. Classroom teachers are not always very competent in teaching music, especially in the general education of young children, and therefore a curriculum with detailed regulations and instructions about what and how to teach may be helpful. It is claimed that a national curriculum is fundamental in raising educational standards. Yet, the effect of detailed targets and instructions may well be restrictive and controlling when music is taught only by specialist teachers.

5.3 The right to music education outside general education

The right to music education outside general education is an issue of economic equality of opportunity. For instance, in England, extra tuition outside of the statutory National Curriculum is usually paid for by parents. Furthermore, Fletcher states that the idea of teaching music to all children is unrealistic because music education is essentially elitist. However, equality of opportunity is not only a question of (a) economic equality (to pay and play), but it also involves (b) gender, (c) an emphasis on Western classical music, and (d) a selected system stressing the importance of musical ability.²⁸⁸

Economic and social equality of opportunity has been an important aim in Finnish educational policy, and this also applies to music education outside the general school system. For instance, one of the aims of the Finnish network of music schools is to create opportunities for children to study music regardless of their economic and social background. The principle of economic and social equality is especially emphasised in the Swedish version of the welfare state (*folkhemmet*).²⁸⁹ As a result, music education outside general education offered by cultural or

²⁸⁸ Philpott 2001, p. 156-158; Fletcher 1987, pp. 59–75, 141; Green 2001, p. 52; Sharkey, 2 July 2001.

²⁸⁹ See Chapter two (“Sweden”). *Folkhemmet* refers to the idea of the Social Democratic Party that the country is like a home for all kinds of people.

music schools is supported by local governments. Finnish music schools receive public financial support from the state and local governments.²⁹⁰ In Germany, each Land is responsible for its own educational matters, and music schools are usually supported by public finance, although the amount of support varies. Student fees cover just part of the costs of the tuition offered in music and cultural schools in these countries.²⁹¹

Local Educational Authorities (LEAs) in England have delegated funds to schools in order to provide services such as instrumental tuition, and to offer more equality of opportunity. Yet, a published comparison of instrumental provision in English schools between 1993 and 1998 showed that more parents are having difficulty in paying for lessons. In addition, one in five schools does not spend such funds on buying in local music services, and does not offer free or subsidised instrumental tuition for pupils.²⁹²

5.4 Freedom in music education outside general education: a question of individual needs

Positive freedom referring to the role of the state or government in creating conditions and circumstances quite often indicates that state authorities also have an interest in controlling the activities that are subsidised by public resources. State control was minimal in Finland when the first act that secured law-based financial support for certain music schools came into force in 1969. However, state regulations increased and became stricter, and the Music School Statute of 1977 was quite different from the earlier Act. The same phenomenon occurred in connection with English specialist music schools when, in the 1970s, the government decided to support the education and training of especially talented children and young people in specialist music schools (even up to 100% depending on the parental income). No special evaluation or inspection of instrumental tuition was required at that time. However, a system of evaluation has now (2001) been introduced.²⁹³

Evaluation and assessment usually mean that music education is measured. Furthermore, for adequate measurement to take place, measurable targets must

²⁹⁰ Kurkela & Tawaststjerna 1999, p. 111. See Chapter 9.

²⁹¹ EMU 1995; Skoglund, 8 May 2001

²⁹² The positive news of the comparison was that in 1998 the English schools offered a wider range of instruments as well as more opportunities for instrumental tuition than in 1993. Philpott 2001, p. 158-159; Odam, 6 July 2000.

²⁹³ Sharkey, 2 July 2001.

be clearly identified for the benefit of the schools. The positive effects of these kinds of targets, stages and regulations that are introduced, for instance, in a national curriculum, are that the quality of the education can be controlled. In Finland, the national curriculum strictly regulated educational issues until the whole educational system, including the music-school system, was constructed and developed. At that point, the tight and rigid control system was loosened.²⁹⁴ The present English National Curriculum appears to have the same kind of function: the key stages and detailed descriptions aim to advise primary-school teachers how to teach music as an integral part of the curriculum.

Nowadays, equality of opportunity does not only refer to economic and social equality; on the contrary, musical ability, gender, and what is taught as music have a major effect on whether music education is viewed as elitist or not. The selective view is particularly apparent in the four English specialist music schools, as only the especially talented are accepted in by audition, musicality tests and interviews.²⁹⁵ The Finnish system is also selective: pupils are accepted by entrance examination. It should be noted that the number of music schools is much greater than in England, comprising 140–150 schools, of which 89 receive law-based state support.²⁹⁶

No entrance examinations are held in Sweden. If there are not sufficient places for every applicant, pupils are put on a waiting list. Group teaching is stressed and the duration of individual tuition is frequently limited to about 20 minutes per week. In Finland, those offered a place in the music schools are given approximately one hour of individual tuition in their main subject per week, and are usually allowed to take a minor subject as well. There is even more individual tuition in English specialist music schools. For instance, at the Purcell School, where the main aim is to educate future professionals, pupils are offered about three hours of individual tuition per week. In Sweden, on the other hand, the aims of music and cultural schools are broad and cater for the needs of each individual child.²⁹⁷ German music schools do not have entrance examinations either. Yet, the education is systematic with its different levels (Stufen) and a curriculum (Rahmenlehrplane) created by the Association of German Music Schools.²⁹⁸

²⁹⁴ Heinonen 1995.

²⁹⁵ Sharkey, 2 July 2001.

²⁹⁶ The Association of Finnish Music Schools (26 August 2002); Palonen 1993.

²⁹⁷ Skoglund 8 May 2001. A small specialist music school called Lilla Akademin has been established in Stockholm.

²⁹⁸ EMU 1995.

The right to differentiated education for those especially interested in preparing for a professional life in music has been questioned in Sweden. Special programmes have been developed at music and cultural schools, yet children cannot be accepted into these programmes. Furthermore, no junior departments have been established at college or university level. In Germany, on the other hand, music schools offer special programmes for those aiming at higher levels, and these students have the opportunity to study at Musikhochschulen.²⁹⁹ Finland has its junior department for especially talented children and young people at the Sibelius Academy. Many of the English music universities and colleges also have this kind of department, in which instrumental instruction is offered (mainly on Saturdays) to a wider range of pupils than in the specialist music schools.

The rights of talented pupils to receive differentiated music education raises several questions. For instance, who has the right to identify and adopt the criteria for what is perceived as talent? According to a director of a specialist music school in England, the processes for selecting children are sometimes questionable and mistakes are frequently made.³⁰⁰ In Sweden, any kind of elitism regarding music education is considered negative. No one is turned away, and the child-centred approach adopted emphasises the right of every child to a place in a music or cultural school. A wide range of music, including pop and jazz, is taught, and other arts subjects are also available. Many Swedish music schools have even changed their names to cultural schools (*kulturskolor*).³⁰¹

The need for a wider range of teaching at music schools has been discussed in England and also in Finland. Especially in the past (but also today), instrumental tuition has often focused on the development of technique on a musical instrument to meet the requirements of the ABRMS graded examinations, for instance, which have been favoured by English teachers. In Finland, graded examinations are set by the Association of Finnish Music Schools. Swanwick used humour to criticise this tradition by comparing a music lesson with visiting a dentist. Hallam showed his dislike of the teacher-led and limited teaching style. In short, the need for instrumental teaching that embraces creativity and sensitivity, and adopts a wider range of pedagogical styles, has been recognised by several writers.³⁰² The high status of Western classical music has also been criticised. Multicultural music education and a praxial approach to music education have been introduced in general music education in particular, but also in music schools. For instance, schools in Finland and Germany have widened the styles of music on offer.

²⁹⁹ Musikhochschule is an educational institution at university level at which music is studied.

³⁰⁰ Sharkey, 2 July 2001.

³⁰¹ Skoglund, 8 May 2001; EMU 1995.

³⁰² Philpott 2001, p. 161; Hallam 1998; Swanwick 1994.

In Finland, the need for a wider curriculum ensuring the right of all pupils with very different needs and aims has been acknowledged.³⁰³ Such a curriculum should exist not only on paper, but also in practice. Nevertheless, a balance between structure and freedom is critical. On the one hand, a teacher putting too much emphasis on skills and technique for their own sake stifles the imagination and creativity of pupils, but on the other hand, freedom without control results in incoherent musical outcomes or even musical anarchy. According to Fletcher, instrumental playing is a skill. It is much more than merely a skill, although many may agree with Fletcher that such skills should be taught correctly from the very start.³⁰⁴

5.5 Conclusions: a balance between rights and freedom

The balance between positive freedom (equality of opportunities) and negative freedom (music education taking into account individual needs) has been discussed in this part of the study.³⁰⁵ The philosophical nature of these questions indicates that there is no one right answer. Therefore, the aim is to clarify the problems from the different perspectives and the solutions found in various countries.

The unique role of music in human life and the concept of equal opportunities for all children are questions that need further research. Moreover, the aim of music education, especially instrumental tuition outside general education, is closely connected to its justification. In practice, questions related to justification are often connected to public financial support.

The next part of this study takes a closer look at the justification and aims of music education, and at different kinds of regulatory instruments. The perspective is theoretical, with examples taken from the Finnish music-school system. At this point, the aim of music education is expressed in the following way: “music education should contribute to the humanity of all children so that its impact is sustained throughout their lives.”³⁰⁶ Negative freedom refers to the claim that music education should meet individual needs, while positive freedom refers to the needs of all children.

³⁰³ Helasvuo 1983; Kuusisaari 1998; 2002; see Section 9.7.

³⁰⁴ Fletcher 1987, p. 141; Witchell 2001, p. 197.

³⁰⁵ Positive freedom is “freedom to” (e.g., equal opportunities in the form of social security and education), whereas negative freedom is “freedom from” (such as freedom from state intervention) (Berlin 1969, pp. 122-123).

³⁰⁶ Witchell 2001, p. 204; see also Dewey 1916; Kemp 1996.

PART TWO

REGULATION AS AN INSTRUMENT

Outline

In the field of education (including music education), a market-based system is often regarded as an alternative to government control and legal regulation. Therefore, this part first explores the views of different philosophers such as Aristotle, John Rawls and Ronald Dworkin regarding the role of government. Should the state be completely neutral regarding the content of the good life or the content and aims in education, as Dworkin states? Is the duty of the state to create conditions and circumstances for the good life, equal opportunities for education, arts education and even voluntary music education for children and adolescents? The justification for music education is examined in conjunction with the aforementioned questions.

Aristotelian thoughts on the role of the state (*polis*) are examined in Section 6.2; in short, the good life of citizens was regarded as the principal aim of the state. On the other hand, the title of Section 6.3 refers to liberal conceptions stressing the rights of each individual to decide what is “good” as well as the right to live according to values of his or her own. It is in this context that the so-called welfare liberalism put forward by Rawls is explored. State intervention is justified in Nordic welfare societies, when equal opportunities (such as rights to education and culture) are secured for all.

Both subjective and private features related to music, as well as its importance for society as a whole, are explored in Section 6.5. State financial support for music education is justified by arguing that music is part of the good life (which is regarded as an aim of music education), and that the role of the state is to secure conditions and circumstances for the good life. On the other hand, music is both a private and a public matter, and a special regulation model is needed for musical activities and music education.

In the field of music education, the regulation model could be based on Aristotelian conceptions of freedom, which have been stated to resemble the idea of positive freedom introduced later by Isaiah Berlin. Both negative freedom (referring to the neutrality of the state and the responsibility of every citizen for his or her good life) and positive freedom (the duty of the state to create conditions for the good life in all respects) are connected to democracy by Aristotle. As a result, a flexible regulation model that secures state financial support for music education, but at the same time leaves space for autonomy of activities, is supported in this work. In other words, (and with apologies to Shakespeare): To regulate or not to regulate: that is the question.

The instrumental character of the law is also explored. The main question in

Chapter 7 concerns how to regulate. Firstly, the concept of “regulation” is explored. It has been defined as state intervention (directed, for instance, at the free market), and as an instrument (a means) used by the state to attain certain goals. The first section of the chapter also explores the nature of regulation governing education. Secondly, the typology created by Hydén³⁰⁷ is presented and then applied to the development of the Finnish music-school network:

1. Firstly, a self-regulating system is explored, in terms of which the activities of the first Finnish music schools are described. These schools exercised the right to decision making themselves, yet they were in economic difficulties without state support.
2. Regulation and legislation are used in the system of intervention, as a means of realising public interest. Yet, we may ask whether music and other arts are public goods. In other words, is the state obliged to create conditions for artistic activities in the same sense as it may aim to secure pure air for its citizens? This gives the context in which music schools in the 1960s are explored. The first Finnish “Music School Act” that secured law-based state support for certain music schools was introduced in the late 1960s.
3. The third system put forward by Hydén is called the planning system, according to which extra-curricular music education for children and adolescents is regarded as a welfare service.

Finally, the applicability of the aforementioned typology to the contemporary Finnish music-school system is considered in the light of the present situation of Finnish music schools. As a conclusion, problematic as well as positive features of different systems are analysed. A system based on open discourse between equal persons, presented by Habermas, is also explored, but it is also stated that this kind of discourse may be utopian in practice. A flexible system that secures both the right to music education and leaves space for autonomy and freedom is thus supported.

Different kinds of means of regulation are explored in Chapter 8. Framework legislation, flexible legal norms, reflexive law and soft law are considered from the perspective of music education. Recommendations in declarations and conventions (often created within the framework of the United Nations), as well as ethical sets of rules, are included in the soft-law type of regulation. Soft law was originally mainly used in international law. However, national soft-law regulation is also to be found in (a) plans and directions, (b) goal agreements and results contracts (for instance, between educational institutions and the Ministry of Education), (c) ethical sets of norms of occupational groups, (d) reflexive soft-law material (for instance, in consumer protection), and (e) principles and rules of civic organisations. Soft law also has an influence in the field of music education. International treaties such as

³⁰⁷ Hydén 1984.

the ISME Convention, directions and repertoire requirements of national associations (SML) and goal agreements could be regarded as examples of soft-law regulation.

Law as an instrument in creating conditions for equal opportunities is emphasised in this study. The tensions between the rights of individuals and the common good, as well as between positive and negative freedom, are examined. As a conclusion, the legal principle of the best interests of the child is considered from the perspective of music education.

Chapter six

The role of the state in music education – philosophical perspectives

6.1	THE BOUNDARIES AND LIMITS OF LEGAL REGULATIONS.....	118
6.2	THE STATE AND THE GOOD LIFE	120
6.3	THE STATE AND THE GOOD OF PEOPLE: FROM THE UNIVERSAL GOOD TO NEUTRALITY	124
6.3.1	<i>Practices and the good life</i>	124
6.3.2	<i>Liberal views: neutrality and the good life</i>	127
6.4	THE MARKET OR THE STATE? RIGHTS AND FREEDOM IN MUSIC EDUCATION...	132
6.4.1	<i>Music education as a public and a private good</i>	132
6.4.2	<i>The content of “the good” and aims in education</i>	134
6.4.3	<i>Rights and freedom in education: principles of equality, personal autonomy, and liberty</i>	136
6.5	JUSTIFYING MUSIC EDUCATION: SOCIAL AND INDIVIDUAL ASPECTS	139

Chapter 6 The role of the state in music education – philosophical perspectives

6.1 The boundaries and limits of legal regulations

It has been stated that some people have always dreamed about the possibility of weaving Life in all respects into the dry letters of the Law. Furthermore, these kinds of people have existed as long as laws have been written by human beings. They walked in the market squares of Rome at the time when the basis for the European legal culture was being created; they have also followed in the footprints of Napoleon. In fact, these kinds of dreamers still live in our midst today.³⁰⁸

Judicial systems have been argued to consist of legal rules and regulations. These rules have been compared with rails: legal rules and regulations (as well as rails) are either followed or not. This comparison to a train running on rails also clarifies the relationship between legal regulations and human behaviour: most of these rules are obeyed by habit without profound thinking about aims and principles behind the legal texts.³⁰⁹ For instance, Napoleon had a vision of codifications that would be complete and perfect in all respects, but these kinds of views have proved to be utopian. The idea of the law as a system of rules has been criticised because it is impossible to create such a complete system of legal rules according to which every single case could be settled clearly and unambiguously. Legal rules (as well as musical notation) must always be interpreted, and thus the multiplicity and complexity of the interpretation and application of texts cannot be avoided in such a system.³¹⁰

³⁰⁸ Aarnio 1986, p. 11.

³⁰⁹ Peczenik 1995, p. 43. See also Tuori 1990, p. 236-239. Tuori (1990, p. 236) states that both M. Weber and H. L. Hart emphasise the habit of following legal regulations.

³¹⁰ See the discussion between Dworkin and Hart. Dworkin stresses the importance of principles and criticizes legal positivism (Hart 1961; Dworkin 1977a; 1977b). Peczenik 1995, p. 44-45; Aarnio 1986, p. 13-15, 69; Klami 1979, p. 271; Klami 1980, VIII: 1; Stein 1986, p. 347-348. The law as rules *or* law as, e.g., culture (or law including both of the aforementioned elements) is the subject of discussion today; see, e.g., Tuori 2000; 2001; Siltala 2000b; 2001; Eriksson 1999; Manderson 1999; 2000; Petersen 1998a; 1998b; 1999.

The relationship between general legal rules and their application in particular cases was explored by Aristotle in the Greek city state, *polis*. In Aristotle's view, positive law³¹¹ is always a general statement; it is a set of standard solutions intended for average cases. Yet, there are cases that cannot be covered by a general statement, and thus mention is made of equity (*epieikeia*) as a corrective of strict statutory rules.³¹² The law takes into consideration the majority of cases, but not all of them, and this does not make it a wrong law. The error is not in the law, nor is it in the lawgiver, but it is in the nature of the case.³¹³

Aristotle's argument is that, because of our inability to foresee all the cases that come within general law, such laws always include instances for which the judgement that gave rise to the law is inappropriate. This is the reason why things are not totally determined by law; there are cases in which it is impossible to lay down the law, so that a special ordinance is necessary. What is itself indefinite can only be measured by an indefinite standard, like the lead rule used by Lesbian builders: just as that rule is not rigid but adapts itself to the shape of the stone, so the decree is adapted to the facts and circumstances of a particular case. The function of equity (*epieikeia*) is to remedy this defect by allowing the law to be departed from, or modified in exceptional cases.³¹⁴ General principles must be adapted to new and special conditions of human life, and not vice versa.³¹⁵

According to Aristotle, clarification of the original intentions of law-givers is not required when the law is applied and interpreted. On the contrary, the right action in a new, special and unique situation, taking into account the justice aimed at by the law-giver, should be stressed in the application of law. Knuuttila (1989) argues that this kind of view resembles the ideas of Heidegger and Gadamer. Legal texts are meant to be applied in practical life (in different places and periods), and not to be used as historical documents. Therefore, understanding is connected to application.³¹⁶

³¹¹ The Greek word for law, *nomos*, derives from *nemein*, which means to distribute, to possess (what has been distributed), and to dwell. The combination of law and hedge in the world *nomos* is quite manifest in a fragment by Heraclitus: "The people should fight for the law as for a wall". The legislator did not need to be a citizen; in fact, he was frequently called in from outside. According to Arendt, his work was not political; political life could begin only after he had finished his legislation. (Arendt 1958, p. 63–64.)

³¹² E.N., V.x.20–27; Strömholm 1985, p. 41.

³¹³ E.N., V.x.12–20; Kaufmann 1982, pp. 30–31.

³¹⁴ E.N., V, x. 12–32; Evans 1994, p. 225. On flexibility in the interpretation of the law, see E.N. V,10,1137b29–32; Sihvola 1994, p. 81–82; Aarnio 1986, p. 13–15.

³¹⁵ Sihvola 1994, p. 81–82.

³¹⁶ Sihvola 1994, p. 82; Knuuttila 1989, p. 239; Gadamer 1975, p. 309. See also Henley 1990, p. 20; v. Wright 1985, p. 279; Kusch 1986, p. 120–121; Ruokanen 1987, p. 104–105.

Aarnio states that no law can answer all the questions arising in human life, nor can judgements be derived only from the words of law. Therefore, the scales of justice are balanced between complete freedom and complete engagement with law. The special aspects of a particular case must be taken into account, and furthermore, this is facilitated by legal doctrines and principles. In short, the general principles of law must always be reworked in the light of changing contexts.³¹⁷

6.2 The state and the good life

The Aristotelian teleological definition of justice looks “at the political situation from the point of view of the whole, keeping the final purpose, the good life, in mind”.³¹⁸ The will and capacity of individuals to live a good life and the good of the community are combined. The communal life is regarded as the basis of the good life and of justice. The individual attains his or her proper development and perfection through a concrete life, which is a life in society, in the state (and by state Aristotle was thinking of the Greek city state, *polis*), while society attains its proper end through the perfection of its members. The state exists for the good life, and it is subject to the same code of morality as the individual. In short, the same things are best for individuals and states.³¹⁹

The good life as a general goal is quite easily conceptualised, but it is much more difficult to clarify the contents of this aim. We could also ask whether it is possible to have a universal good exceeding time and place, something that would be good for everyone. Furthermore, we could inquire whether music and the arts form parts of the good life.

The basic elements of human life were assumed to be universal and to remain unchanged when Aristotle presented his view of the contents of the good life. In *Nicomachean Ethics* he states: “Every art and every inquiry, and similarly every action and choice, is thought to aim at some good; and for this reason the good has

³¹⁷ Aarnio 1986, p. 13–15; Evans 1994, p. 241.

³¹⁸ Hellsten 1997, p. 160.

³¹⁹ Pol., VII.xiv.1333b37. See also Douzinas et al. 1991, p. 77. The common good represents the understanding in natural law of the social bond: life in the community is a necessary feature of human existence where both the individual and the common good can be realised in an ongoing dialogue (see Finnis 1980, p. 134, 138, 145). Strömholm (1985, p. 40) states that Aristotle did not undertake any close analysis of natural law, but concentrated upon positive law, the body of rules that applies in human communities, more particularly in Greek city states.

rightly been declared to be that at which all things aim.”³²⁰ According to Haapala, this definition of goodness is still used today. Furthermore, Niiniluoto states that questions concerning the contents and aims of the good life have remained the same from the time of the Greek city-states to modern western societies.³²¹

All the “goods” are not aimed at for their own sake, since there are different ones corresponding to different arts and sciences. Moreover, some ends are subordinate to more ultimate ends. The value of things and activities is quite often justified instrumentally, and in fact this has also been the case in music education. Aristotle, for instance, stated, that a rattle could be given to children so that they would rather play with it than break the furniture at home.³²² Regarding present music education, it is often argued that musical activities help to keep children off the streets, to develop memory as well as social abilities (such as working in groups), and to further their ability to concentrate.³²³ For instance, the present English National Curriculum for music includes a large number of aims and targets of instrumental value.³²⁴

If there is an end we desire for its own sake over all other subordinate ends or goods, then this ultimate good will be the chief good, in fact, the good. As to the question of what is the good of man, Aristotle points out that, owing to the nature of the subject-matter, for human action is the subject-matter of ethics, the question cannot be answered with the exactitude with which a mathematical problem can be answered. In Aristotle’s view, happiness (*eudaimoniá*) is the final end or goal, it is the end of action at which all others aim. Thus, happiness as the ethical end consists in activity according to virtue or in virtuous activity, virtue being understood as both intellectual and moral virtue. The truly happy life for man consists of the ideal life of activity in accordance with virtue.³²⁵

Practical activity was also emphasized by Aristotle, in other words, what is more important than the result is the activity itself, the process. As he stated, “The virtues . . . we acquire by first having actually practised them, just as we do the arts. We learn an art or craft by doing the things . . . for instance, men

³²⁰ E.N., I.i.1094a1–3 (edited by Jonathan Barnes, translated by W. D. Ross, revised by J. O. Urmson); see also MacIntyre 1988a, p. 57 (and other works of Aristotle; Rhetoric, I.vi.1362a23).

³²¹ Haapala 1990, p. 8; Airaksinen & Häyry 1997, p. 106; Hellsten 1996, p. 14, 159; Niiniluoto 1993, p. 100.

³²² Pol., VIII.vi. 1340b 25-30.

³²³ Swanwick 1988, p. 50-51; 1992, p. 20-24; Kemp 1996; Kurkela 1997, p. 285.

³²⁴ National Curriculum for Music, England.

³²⁵ Copleston 1985, I, p. 334-336; MacIntyre 1988a, p. 61-64; Haapala 1990, p. 8-9; Knuuttila 1989, p. 209, 214, 242.

become builders by building houses, harpers by playing the harp”.³²⁶ Furthermore, practical reasoning is concerned with particular and final matters, which are learned by observation and through long-term experience. The purpose of politics and ethics is practical, thus deliberation happens in each concrete situation. In short, politics and ethics are always related to reality and to practical decision making.³²⁷

As to goodness of character, according to Aristotle, it also has to be developed by practice, in other words, by doing virtuous acts. At first, this involves objectively virtuous acts (for instance, a child obeys his or her parents and tells the truth without realising the inherent goodness of the act), but gradually a habit is formed. As the process of education continues, the person will realise that, for instance, truth-telling is right in itself and learns to choose the right act for its own sake. Therefore, virtues are developed by proper exercise, and the law is used by the state as a means of educating citizens in the exercise of virtue. Yet, virtues are manifested only in voluntary actions, since freedom is regarded as a presupposition for moral action. For instance, the voluntary character of an action may be lessened by fear. Therefore, even if citizens are helped in choosing the right way to realise virtue by laws, in the end it is the individual who has to make the right judgements.³²⁸

One of these virtues is friendship, which Aristotle divided into three different types. The first includes friendships of utility, when friends are loved only for their usefulness, and these are on the lowest level. Second, friendships of pleasure are especially characteristic of the young. Both of these types are unstable because they are destroyed when the motive (utility or pleasure) is gone. A perfect friendship, the third type, is the friendship of the good, since it endures as long as both retain their character (and in Aristotle’s view virtue is a lasting issue).³²⁹

³²⁶ E.N., II.i.4–7 (translated by H. Rackham); Hellsten 1997, p. 160, 170; Copleston I 1985, p. 358.

³²⁷ Hellsten 1997, p. 170-171. See also Klami 1995, p. 1109-1110; Rentto 1995, p. 717; Arendt 1958, p. 194.

³²⁸ Copleston 1985, I, pp. 335-336; Hellsten 1997, pp. 170-171. See also Rentto 1995, p. 717; Klami 1995, pp. 1109-1110. According to Arendt (1958, pp. 194-195), the lawmaker was like the builder of the city wall. Legislator and architect belonged to the same category: before men were able to act, a space had to be secured and a structure built, the space being the public realm of the polis and its structure the law. The laws, like the wall around the city, were products of making.

³²⁹ E.N., VIII; Copleston 1985, I, p. 348; c.f. MacIntyre 1988a, pp. 79-80. See Section 6.5 (music as a good friend. Kurkela 1993, p. 466).

Aristotle was convinced of the positive and educative role of the state. Subsidiarity (a concept that was invented later) has been translated from *subsidium* to help: the state has to help citizens to attain their proper perfection, the good life, by producing the economic, institutional and functional conditions and circumstances necessary for human good.³³⁰ In Aristotle's view, laws governing education should be enacted, and education should be made a public concern since it should be an affair of state.³³¹

³³⁰ Sihvola 1994, pp. 60-61. C.f. Finnis 1980, p. 146. Copleston 1985, p.342.

³³¹ Pol., VIII.2.1337a33; Castle 1961, p. 201. Outside Sparta, and especially in Athens, one of the aims of education was to cultivate excellence in individuals (Castle 1961, p. 43).

6.3 The state and the good of people: from the universal good to neutrality

6.3.1 Practices and the good life

An Aristotelian account of the good life inspired Alasdair MacIntyre, one of the thinkers generally called communitarians. He sees human well-being as partly embracing the pursuit of “practices”.³³²

By practice MacIntyre means “any coherent and complex form of socially-established co-operative human activity through which goods internal to that form of activity are realised in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, . . .”³³³ The result is that “human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended.”³³⁴ For instance, planting turnips is not a practice (because it is insufficiently complex or self-contained), but farming is. So are architecture, chess, the game of football, the enquiries of physics, and “so is the work of the historian, and so are painting and music.”³³⁵ In discussing educational issues with Joseph Dunne, MacIntyre comments:

Characteristically each teacher is engaged in initiating her or his students into some practice, generally in the elementary stages by teaching them skills, the use for which and the point of which the student cannot yet know.³³⁶

Practices contain internal, shared goods. These include not only the excellence of what is produced – such as paintings – but also the virtues necessary to sustain a practice. Internal goods cannot be achieved by engaging in any activity other than the practice itself; they can be recognised only by experience of participating in the particular practice. On the other hand, external goods can also be derived from participating in other practices than the one in question. For example, money, power and fame are “external” goods because they can be achieved through excellence, as in playing chess, but they can also be achieved in other ways (whereas certain highly particular kinds of analytical skill that can be acquired only by playing chess are goods internal to that practice). External goods are

³³²MacIntyre 1981; 1988b; White 1990, p. 59.

³³³ MacIntyre 1981, p. 175.

³³⁴ Ibid., p. 175.

³³⁵ Ibid., p. 175.

³³⁶ MacIntyre and Dunne (2002): Alasdair MacIntyre on Education: In Dialogue with Joseph Dunne. P. 5.

some individual's property and they are not necessarily shared: the more someone possesses them, the less there is for other people. External goods are also essentially competitive. MacIntyre does not deny that external goods could have some place in the good life, but they must be subordinate in importance to internal goods. No practice that lacks internal goods can count as a practice, and these goods are the basis of MacIntyre's definition of the virtues. He states, that a virtue "is an acquired human quality the possession and exercise of which tends to enable us to achieve those goods which are internal to practices and the lack of which effectively prevents us from achieving any such goods". This links the possession and exercise of the virtues to participation in practices.³³⁷ More recently MacIntyre has declared that:

There are two major threats to education now. The first is that it is not provided with anything like the resources that it needs. The second is the baneful influence of an idea of schools, . . . as engaged in activities the measure of which is productivity.³³⁸

Yet, the good life does not consist only in engagement in practices. What is required in one practice may be at odds with what is required in another: the demands of an artist may get in the way of one's duties as a parent. Somehow the different practices must be held harmoniously together.³³⁹ The good life is to be understood as the goodness of a life seen as a whole. Thus, an individual's well-being must embrace the wider well-being of those with whom he or she is engaged in various practices.³⁴⁰

The shape of the quest for the good life cannot be the same for all individuals everywhere. The historical specificity of practices means that the good life for an Athenian general will not be the same as that of a medieval nun or a twentieth-century musician. As MacIntyre argues, "It is not just that different individuals live in different social circumstances; it is also that we all approach our circumstances as bearers of a particular social identity. I am someone's son or daughter, someone else's cousin or uncle; I am a citizen of this or that city, a member of this or that guild or profession; I belong to this tribe, that clan, this nation. Hence what is good for me has to be what is good for one who inhabits these roles."³⁴¹

³³⁷ *Ibid.*, pp. 176–178; Mulhall & Swift 1994, p. 83.

³³⁸ MacIntyre and Dunne 2002, p. 4.

³³⁹ "For what constitutes the good for man is a complete human life lived at its best, and the exercise of the virtues is a necessary and central part of such a life, not a mere preparatory exercise to secure MacIntyre such a life." (MacIntyre 1981, p. 140.)

³⁴⁰ White 1990, pp. 59–60; MacIntyre 1981, p. 175. See also Kurkela 1995b, pp. 33–40.

MacIntyre argues that the possession of a historical identity and the possession of a social identity coincide. One central part of this social inheritance is a person's membership of a "tradition". A tradition is constituted by practices and is a mode of understanding their importance. They include religious, moral, political, economic and aesthetic traditions. The communal understanding embodied in such traditions is not static. On the contrary, in a healthy tradition, communal understanding will be the subject of continuous debate. Therefore, when an institution (for instance, a church, a university, a music school) is a bearer of such a tradition, its common life will be partly constituted by a continuous argument as to what a good church or university or music school might be. This argument is constrained by the tradition's best self-understanding. "A living tradition . . . is an historically extended, socially embodied argument, and an argument precisely in part about the goods which constitute that tradition."³⁴² MacIntyre comments:

In good schools students already become practitioners of arts, . . . drawing and painting and making music to some purpose. So the communal life of a school is in good order when it is recognised . . . also as a place of genuine, if small-scale, cultural achievement within which a variety of practices flourishes.³⁴³

Every tradition is embodied in some particular set of actions with its own internal standards for assessing the degree to which it is deepening the understanding of its own conceptions of the good. When a tradition fails to transcend its previous achievements and finds it impossible to reduce the number of unsolved problems, then it is in a state of epistemological crisis. The tradition can overcome this crisis only by inventing new concepts or framing a new type of theory around preceding doctrines. This new framework must provide a solution for the unsolved difficulties. Furthermore, it has to explain how the problems arose and why they have not been solved. These tasks have to be carried out in a way that exhibits some fundamental continuity between the old and the new structures.³⁴⁴

MacIntyre's thoughts have also inspired legal scholars in Finland. According to Rentto, MacIntyre's idea of dividing practices into two groups is based on a view common in Ancient Greece. Everything and everybody has therefore a role and a duty in the cosmic as well as in the political and the individual worlds. Thus, the good life consists of fulfilling one's duty well. It might therefore be realised in two alternative ways: (a) an individual fulfills his or her duty by acting excellently

³⁴¹MacIntyre 1981, pp. 204–205.

³⁴²MacIntyre 1981, p. 207; Mulhall & Swift 1994, pp. 89–90.

³⁴³MacIntyre and Dunne 2002, p. 9.

³⁴⁴MacIntyre 1988b, pp. 361–362; Mulhall & Swift 1994, pp. 91–92.

and by being excellent in his or her role, or (b) an individual succeeds in his or her duty by fully achieving the expected results of his or her role. According to the first view, the acting (the practising) itself is valuable: it has an intrinsic value and acting well is an aim in itself. According to the second view, it is important to achieve the result effectively. Action is instrumental and it is valued in the light of achievements placed outside the action itself. The first view has been called “a model of excellence” and the second “the model of success”. Aristotle and Plato emphasised the “model of excellence”. Excellence in practices was most important, and the principal aim of morals as well as of politics was thus to educate human beings in the exercise of virtues.³⁴⁵

According to Aristotle, the law was an instrument in regulating the practices of citizens, it was a means of moral education. Yet, law as a general statement assumes that individual citizens are independent and free to use their reason. In fact, it is the citizen who decides whether or not to act according to the law. According to Rentto, legal regulation is therefore a more suitable means for directing the practices of citizens than financial regulation, for instance. This is because financial regulation (directing people by financial threats or temptations, usually without any relevant connection to the regulated matter or the aim of the regulation) treats human beings as “slaves”, in short, as people who can be manipulated by state authorities under the assumption that they cannot be independent and capable of using their own reason and making their own judgements.³⁴⁶

6.3.2 Liberal views: neutrality and the good life

Ronald Dworkin – like other philosophers of liberalism – stresses the neutrality of the state. According to Dworkin, “Each person follows a more-or-less articulate conception of what gives value to life. The scholar who values a life of contemplation has such a conception; so also does the television-watching, beer-drinking citizen who is fond of saying ‘This is the life’, though he has thought less about the issue and is less able to describe or defend his conception.”³⁴⁷

According to orthodox liberalism, the state should not drive its citizens’ lives to make them “more worthy”. Dworkin is not generally regarded as an orthodox liberal, yet he has stated “. . . that perhaps it is more worthwhile to look at Titian on the wall than watch a football game on television”: perhaps it is

³⁴⁵Rentto 1997, p. 657. Rentto’s views are based on MacIntyre’s (1988b) *Whose Justice? Which Rationality?*

³⁴⁶Rentto 1997, pp. 665–666.

³⁴⁷ Dworkin 1978, p. 127; op.cit. White 1990, p. 18.

more worthwhile to attend a concert than to go drinking beer, but that is not the point. Thus, according to Dworkin, the state ought to be neutral with regard to different conceptions of the good life.³⁴⁸ In short, he emphasises the rights of the individual.³⁴⁹

John Rawls has also based his moral theory of justice mainly on the primacy of individual rights, which are derived from individual liberty. Yet, Rawls combines two quite different liberal traditions. On the one hand, his philosophical approach has its roots in the Anglo-American tradition of liberal political theory, which promotes the market economy and concepts of negative freedom and the minimal state. On the other hand, his views are close to continental liberal humanism and the promotion of positive freedom.³⁵⁰ The latter has a more holistic view on political distribution than the Anglo-American tradition allows. Humanism is based on metaphysical assumptions about the nature of morality and “the good life”. This “good human life” is to be provided within a good political order.³⁵¹

The concept of freedom is important to the liberal tradition. The different approaches to freedom lead to the ramification of liberal political theory. This ramification appears especially in the distinction between the concepts of negative and positive freedom presented by Isaiah Berlin. Positive freedom is “freedom to” (such as freedom to have equal opportunities in the form of social security and education), whereas negative freedom is “freedom from” (such as freedom from state interference). Whereas negative freedom emphasises the minimal role of the state, positive freedom also takes into account the lack of actual opportunities for people. For instance, if someone is too poor to afford something, he or she is as deprived of the freedom to have it as if it were forbidden by law. Positive freedom is central to the European continental tradition, whereas negative freedom is emphasised in Anglo-American philosophical and political thought. The idea of positive freedom stresses the importance of actual internal freedom of choice. It is based on humanistic arguments that rest on the idea that, left to themselves, individuals will produce rational and good choices. However, human nature may be warped by social forces and ideological manipulation so that the human being does not realise what he or she truly wants. Rawls attempts to adopt the positive

³⁴⁸ White 1990, pp. 18, 8–9. White states that, although the National Curriculum of Great Britain does not say anything explicitly about this, personal autonomy is an ideal educational aim (“the good”) shared by teachers. Dworkin 1986, p. 222.

³⁴⁹ See Ronald Dworkin (1977b): *Taking Rights Seriously*. If the “principles” (the rights of an individual) conflict with “policies” (the common good), the principles will take precedence.

³⁵⁰ For more on the concepts, see e.g., the Stanford Encyclopedia of Philosophy (“liberal”, “humanism”). <http://plato.stanford.edu/>

³⁵¹ Hellsten 1997, pp. 8–11; Mulhall & Swift 1992. See also Finnis 1980. Finnis claims, that Rawls’s theory is a “thin” theory of the good.

concept of freedom, and therefore his theory is closer to the intellectual and political tradition of continental and Northern Europe than to the Anglo-American liberal tradition.³⁵²

There are two distinct approaches within contemporary liberal theory regarding the distinction between positive and negative freedom: (a) libertarianism (also called neo-liberalism), which promotes negative freedom and thus advocates freedom of the market and freedom from state intervention, and (b) welfare liberalism, which promotes the positive concept of freedom and allows more government intervention. Rawls's theory is complex in that the promotion of positive freedom allows state involvement, which has been stated to lead towards social democracy. In fact, his theory is called welfare liberalism. However, he also emphasises individuals' rights and the priority of liberty, demanding that the state should be neutral with regard to values and different moral views. Thus, he rejects the idea of the common good and the educational purpose of the state.³⁵³

Rawls himself, particularly lately, has called his theory of justice "political liberalism", and in his work *Political Liberalism* he changes the interpretation of "justice as fairness" (presented in *A Theory of Justice*). In *A Theory of Justice*, he claims that in a well-ordered society the rights secured by justice are not subject to political bargaining. He assumes that a stable society is relatively homogeneous in its basic moral beliefs, and thus that everyone accepts the same principles of justice so that a broad agreement exists about what constitutes the good life. At the end of the book he connects the theory of justice with the doctrine of the good. In *Political Liberalism* Rawls surveys different ways in which justice as fairness is complete as a political conception. The first is that ideas of the good are political ideas. As to their generation, they are built up in a sequence starting with goodness as rationality.³⁵⁴ However, in a modern democratic society a plurality of doctrines (religious, philosophical as well as moral) coexists within the framework of democratic institutions. A well-ordered society is no longer united in its basic moral beliefs, but is so in its political conception of justice. This justice is the focus of an overlapping consensus of reasonable comprehensive doctrines. Such a consensus represents the most likely basis of social unity available in a constitutional democratic regime.³⁵⁵

³⁵² Rawls 1972 (1988); Berlin 1969, pp. 122–123; Hellsten 1997, pp. 17–20.

³⁵³ Rawls 1972 (1998); Hellsten 1997, pp. 17–20; Niiniluoto 1993. See H. L. A. Hart 1975; Hart is concerned with Rawls' conception that "justice requires that liberty may only be limited for the sake of liberty and not for the sake of other economic or social advantages" (Hart 1975, p. 230).

³⁵⁴ Rawls 1993, p. 207.

³⁵⁵ Rawls 1972 (1988); 1993.

A pragmatic view is presented by Richard Rorty. According to him, the Enlightenment notion of “reason” embodies the fact that there is a relation between the ahistorical essence of the human soul and moral truth. This relation ensures that free and open discussion will produce “one right answer” to moral as well as scientific questions. Such an approach guarantees that a moral belief that cannot be justified to people is “irrational”; it is a “prejudice” that derives from some part of the soul other than “reason”. Moreover, two sides exist in this Enlightenment compromise. The “absolutist side” stresses the importance of “human rights” and “one right answer” to moral and political dilemmas, whereas the pragmatist side emphasises the tradition of a particular community. The absolutist side argues that everywhere, at all times and in all cultures, people have had the same rights. Ronald Dworkin (who stresses the importance of ahistorical human “rights”) serves as an example to Rorty of this pole.³⁵⁶ Yet, according to Ronald Dworkin, precedents in law are like continued stories, a “chain novel”. He says that judges are authors as well as critics. A judge deciding a case adds to the tradition he or she interprets, and future judges confront a new tradition that includes what the previous judge has done. Dworkin finds many comparisons between literature and the law. He takes as an example a group of novelists writing a chain novel, a novel *seriatim*. Each writer in the chain interprets the chapters he has been given in order to write a new chapter, which is added to what the next writer receives. Therefore, Dworkin’s view of the law is not ahistorical – on the contrary, he writes about the “chain of law” and asks a judge deciding on a case to think of himself or herself as an author in the chain of common law.³⁵⁷

The other side in the Enlightenment compromise is, according to Rorty, the pragmatist side. This emphasises the tradition of a particular community and the consensus of a particular culture. What counts as “rational” is relative to the group in which people justify themselves, to the shared belief that determines the reference of the word “we”. Rorty argues that John Dewey and John Rawls serve as examples of this second pole, and that the attitude of John Rawls is historicist and antiuniversalist. For instance, Rawls says in his *Theory of Justice* that people in the original position are assumed to know the general facts about the society, including the fact that institutions change over time and are altered by natural

³⁵⁶ Rorty 1991, pp. 176–177. See Dworkin (1977): *Taking Rights Seriously*. Dworkin has stated that there will be “one right answer”; in fact, Rorty is not the only one who has criticized this view of Dworkin, and Dworkin later changed his opinion (there might be more than just one “right” answer, but one of them should be the “best” one). See also *Law’s Empire* by Dworkin (1986).

³⁵⁷ Dworkin (1986): *Law as Interpretation* (in *A Matter of Principle*), pp. 146–167 (*How Law Is Like Literature*); (1986) *Law’s Empire*, pp. 228–239 (*The Chain of Law*). This view of law has been compared with musical interpretation and performance; see e.g. Levinson & Balkin 1994; Torvund 1999; Heimonen 2001.

circumstances and the activities of groups. He also states that people have to concede that, as established beliefs change, it is possible that the principles of justice that it seems rational to choose may likewise change.³⁵⁸

The ideas of John Rawls are said to be the basis of the Northern welfare states such as those operating in Finland and Sweden. Therefore, the basic principles of his so-called welfare liberalism have been explored more closely than other approaches in this section. The importance of positive freedom allowing state intervention in order to create equal and actual opportunities for everyone was stressed, especially when the Northern welfare societies were established. Furthermore, the role of the state in creating equal opportunities in the form of education for all children and adolescents is still one of the basic principles. This principle of equality was one of the most important arguments when the first Act securing state financial support for Finnish music schools was introduced in the late 1960s. In Sweden, this principle requires that every child and adolescent should be given an opportunity to attend a municipal music or arts school: the right to extra-curricular music education is the right of all children.

³⁵⁸ Rorty 1991, pp. 176–177; Rawls 1972, pp. 547–548.

6.4 The market or the state? Rights and freedom in music education

6.4.1 Music education as a public and a private good

The problem of balance between private and social needs in education has always created tensions. Two legitimate rights are stated to be of importance when education supported by the state is discussed. The first is the right of society to provide its citizens with a common set of values and knowledge. The second involves the rights of individuals, families, to decide the ways in which their children are educated.³⁵⁹

The tension between the rights of individuals and of society is an everlasting philosophical dilemma. As already mentioned, according to neo-liberalism, the rights of individuals should be paramount.³⁶⁰ For instance, in the United States, education is primarily regarded as a private good. England also has a long tradition of private schooling. On the contrary, in the Nordic welfare countries – such as Finland and Sweden – education has traditionally been viewed as a public rather than a private good. In practice, when individuals have to finance their education (in other words, when parents pay for the education of their children), the rights of individuals are emphasised. The right of society is stressed in countries in which education is financed and supported by the state.³⁶¹

Education as a private good implies that schooling enhances individual productivity and earnings. Schooling also seems to promote good health and access to information, it contributes to social status, and to technical and cultural literacy. For instance, music education has been stated to promote intellectual skills through analysis as well as through the enterprise skills required in performing and arranging concerts.³⁶² Furthermore, music is said to provide opportunities to develop the application of number (through recognising rhythmic relationships) and information technology, for instance in composing by computer.³⁶³

³⁵⁹ Levin 1987, p. 629.

³⁶⁰ See Section 6.3.2.

³⁶¹ Levin 1987, p. 629; Lehtisalo & Raivola 1999; Lauglo 1985, pp. 129–129.

³⁶² Levin 1987, p. 629; Swanwick 1988, pp. 50–51 (he states that the special function and the ultimate value of the arts is to make life worth living, more “life like”); c.f. Kurkela 1997, p. 14.

³⁶³ National Curriculum of England 1999; Plummeridge 2001, p. 23. See Section 3.3.2.

On the other hand, education does not merely serve private ends in improving the lives of individuals and their families. Schooling also serves the nation, region and community. For instance, schools provide pupils with a common set of values and knowledge, and contribute to equality of social, economic and political opportunities. They are expected to play a major role in contributing to economic growth and employment for the nation and its regions. The community as a whole may also benefit through the pride people may feel when their culture, music, composers and performers are celebrated abroad.³⁶⁴ For instance, Swedish popular music and musicians are claimed to have a major positive effect on Swedish export, and the music education offered at municipal music and cultural schools is justified by the flourishing music industry and the famous rock-music groups.³⁶⁵ In Finland, national pride and reputation are emphasised more than the economic effects of music education, since the most famous Finnish composers and musicians – such as Kaija Saariaho and Ralf Gothoni – have won world-wide reputations in the field of classical music. Furthermore, Finnish music schools have contributed to the economic equality of opportunities among children and young people since the network covers the whole country.³⁶⁶ As Andrew Clark puts it:

The flowering of Finnish creativity . . . boils down to the huge investment the Finns have made in their musical education – funded not just by a heavy tax regime, but by a consensus that music is an essential part of national culture. How else can you explain why . . . Finland has produced more leading musicians than any other country in Europe?³⁶⁷

Educational institutions are usually expected to provide both public and private benefits. A compromise that combines elements of choice and diversity with uniformity within a school system can also be created. For instance, educational institutions could be legally established by the state, but treated as local institutions serving local communities. Various kinds of compromises are available: on the one hand, the contents of education (for instance, curriculum planning)

³⁶⁴ Levin 1987, p. 630. See also Timo Cantell: *The Audiences of Finnish Music Festivals*. Cantell's study describes the audiences of three different music festivals in Finland (Kaustinen, Kuhmo, Viitasaari). He states, that the festivals provide an important economic bonus to the towns that host them. (Cantell 1993, pp. 75–76.)

³⁶⁵ Harry Amster: Musikexporten fortsätter att öka. STATISTIK. Sverige håller sin plats som trea i världen. Svenska Dagbladet 30.11.2001 (report The Export of the Swedish Music Industry 2000).

³⁶⁶ Andrew Clark in The Financial Times, 27 November 2001

³⁶⁷ Ibid.

may mirror the surrounding community, and at the same time, equal economic opportunities for all children based on state financial support can be secured. On the other hand, if local finance is accepted, it may reflect the differences in local wealth since public financial support for education may vary in different communities.³⁶⁸ This tension between the right of individuals to decide on issues concerning education – freedom in education – and the right to achieve education (or to achieve education of the same standard) is a dilemma that is often difficult to solve.

6.4.2 The content of “the good” and aims in education

“Set aside the thorny question whether it is always (or ever) right to say that people want pleasure”. This phrase of Ronald Dworkin describes quite well his opinion about “the good”. Some people may take pleasure in opera, others may prefer football or beer-drinking to cultural activities. As already stated, Dworkin stresses that the state has to be neutral to different conceptions of the good life; each individual follows a more-or-less articulate conception of what gives value to life.³⁶⁹ On the contrary, White argues that neutralism is an untenable position. According to him, if preference for some ideals of life over others is refused, the fact that the state is tacitly presupposing the value of personal autonomy is overlooked.³⁷⁰

Nozick argues that the state should only be a “night-ward”; in other words, it should interfere in people’s lives as little as possible. The role of the state is, roughly said, to ensure that its citizens are not killed by each other.³⁷¹ In contrast, fundamentalist governments directing and controlling the life of citizens by legal as well as religious means could be regarded as the complete opposite to societies emphasizing freedom of individuals.

Aims and values in education are usually closely connected to the discussion concerning the content of the good life.³⁷² The right to determine the content of the good life as well as the contents of education (and aims in education) is regarded as a legal-philosophical question.³⁷³ As mentioned before, Aristotle also regulated the contents of the good life; furthermore, the capacity for goodness of character had to be developed by practice, this means by doing virtuous

³⁶⁸ Levin 1987, p. 631.

³⁶⁹ Dworkin 1978, p. 127; Dworkin 1986, pp.227; see Section 6.4.2.

³⁷⁰ White 1990, p. 22.

³⁷¹ Nozick 1974.

³⁷² Puolimatka 1995, p. 95; Aldrich & White 1998.

³⁷³ See Heimonen 1999, pp. 58–61.

acts.³⁷⁴ To him, education (including music education) had a moral and social function. This idea of making the life of people “better” through music inspired nineteenth-century social reformers in Britain, for instance. William Hickson has been regarded as a typical example of this period: he stated that music weans the mind from vicious indulgences. Furthermore, in many countries, emphasis was placed on songs that would promote a sense of national identity. One aim of music education was to promote a more harmonious society, and national, social, religious and political aims in music education were stressed.³⁷⁵

According to Plummeridge, the above-mentioned ancient ideas, as well as some nineteenth-century views, can be identified in present-day curricula; furthermore, the idea of music being educationally valuable because of its extrinsic value and spin-off effects has gained increasing appeal in recent years. The effect of music education as promoting cognitive abilities or intellectual skills is often stressed nowadays when its justification is discussed. However, this kind of educative power of music is not always easy to verify. For instance, it has been stated that good learning skills in music are likely to transfer to other studies. Transfer of skills is a central part of the educational process, and it occurs all the time in every-day life.³⁷⁶ Naturally, music education may have extra-musical benefits. Yet, if music education (e.g., its place in the school curriculum or state support for it) is justified by these kinds of aims, musical activities in institutions will also be evaluated according to these extra-musical criteria.³⁷⁷

At the national level, educational aims are formulated in national curricula or in the guidelines for the curricula created by a national board, as well as in law in Finland, for instance. These aims and goals are specified in the curricula of educational institutions, and even in educational material. In addition to the official and formal aims stated in the curriculum and other documents are the underlying aims of parents and teachers. Therefore, a so-called hidden curriculum (the work done inside the classroom) may differ a lot from official aims, and a big gap may exist between the aims in written documents and how they are realized in the classroom.³⁷⁸

A national curriculum may be based on one or several philosophies of music education. The “good” life as well as aims in education tend to have different contents, and music education is often justified according to several criteria.

³⁷⁴ Copleston 1985, pp. 335–336.

³⁷⁵ Plummeridge 2001, p. 23.

³⁷⁶ Plummeridge 2001, p. 24.

³⁷⁷ *Ibid.*, p. 24.

³⁷⁸ Kansanen & Uusikylä 1981, pp. 33–37.

Complete agreement is difficult to achieve, since the justifications vary. The question “Who has the right to determine the contents and aims in education?” has been regarded as of great importance. If aims in music education are determined by state authorities (“an educational monopoly”), the content of a national curriculum is usually a political compromise, at least in Western democratic societies. By contrast, an educational “marketplace” could be created, for instance by introducing educational vouchers for use as a means of increasing individual choice and freedom. However, in the so-called northern welfare countries such as Finland and Sweden, the content of education in the national curricula has been created by politically elected committees.³⁷⁹

6.4.3 Rights and freedom in education: principles of equality, personal autonomy, and liberty

According to Aldrich and White, the principle of political equality suggests that each citizen should have equal power in making political decisions. Therefore, if aims in education are regarded as political questions, all the people should be given an opportunity to take part in curriculum planning. The “substantive principle of equality” indicates that everyone should have the right to the “same income or minimum educational attainments”.³⁸⁰ This rests on the fundamental ethical value that each human being is of intrinsic value as a person. This ethical value brings another basic value: the promotion of personal well-being, the flourishing of individuals. Together with the principle of political equality, this has been stated to indicate that the well-being of every citizen is equally important.³⁸¹

Yet, we may ask the question: who has the right to determine the content of well-being? “A commitment to personal autonomy is at the heart of modern liberal democracy”,³⁸² in other words, the individuals themselves determine the content of flourishing, good lives. Attempts to direct the lives of individuals by an external authority, for instance, the state, may be regarded as paternalistic and should be rejected. Dworkin roughly understands paternalism as interference with the liberty of persons for their own good, justified in terms of the welfare, good, happiness and values of individuals.³⁸³

³⁷⁹ Kansanen & Uusikylä 1981, pp. 22–27; the content of education is related to values and to the question of whose values are relevant. Kansanen & Uusikylä 1981, pp. 22–25; Kansanen 1996, p. 15.

³⁸⁰ Aldrich & White 1998, p. 25.

³⁸¹ Aldrich & White 1998, p. 25.

³⁸² Dworkin 1978, p. 127.

³⁸³ Dworkin 1978, p. 127; Dworkin 1986a; Aldrich & White 1998, p. 25–26.

The question of paternalism is closely related to the question of freedom and the role of the state. As mentioned earlier, freedom can be divided into positive and negative freedom. Positive freedom stresses the importance of the duty of the state in creating options for its citizens regardless of their social and economic background. State monopoly over taxation is a means to secure positive freedom. However, “paternalism” cannot usually be avoided when state financial support is divided into different activities, since some fields and activities are usually more supported than others. The state could be criticized for steering the life of its citizens. This may also cause a deluge of norms and regulations affecting – and restricting – the lives of individuals. On the other hand, negative freedom stresses the individual’s freedom and right not to be led by state authorities. The problem with negative freedom is that the question remains whether there is any freedom at all, since people do not have any real opportunities to choose, owing to their limited financial resources, for instance.³⁸⁴

The fact that the state should promote the well-being of each citizen leads to the principle of liberty: no constraints should be imposed on the activities of people – unless harm to others is involved. The latter part of this sentence is important and raises even more questions: should liberty (at least in some cases) be constrained for the good of individuals (as in Nordic welfare societies)? Furthermore, sometimes liberty might be infringed for the sake of others. According to John Stuart Mill, the only reason for limiting the liberty of a person is that his or her act may cause harm to others.³⁸⁵ Liberty without any constraints is impossible when people are living together in a society. Even making an “autonomous choice” in regard to the content of the good life requires knowledge of options from which selection can be made. And it has been stated that the aim of education and schooling should be to open up options and widen horizons. In this respect, arts subjects are regarded to have an essential role in the curriculum.³⁸⁶

In discussing music and the national curriculum at least two distinct approaches have been noticed. The first is the standardised approach, which gives a curriculum that is nationally directed and imposed centrally from outside with the force of law, and the second is a locally negotiated curriculum for particular children and joined on a voluntary basis. The second permits children to engage with music in their own way, in other words it is process-based rather than narrowly defined and standardized.³⁸⁷ However, although criticised for being standardised

³⁸⁴ Berlin 1969; Nozick 1974; Niiniluoto 1993, pp. 116–117; Hautamäki 1993.

³⁸⁵ Dworkin 1986a.

³⁸⁶ Aldrich & White 1998, p. 33.

³⁸⁷ Swanwick 1996, p. 17.

and obligatory, the national curriculum provides the basis for the right of every child to receive music education. The content and control of a locally-determined curriculum depends on the vision of the local authorities and the schools, and in fact, that kind of a curriculum provides opportunities for anything (good and bad). The decisions are made locally and the families or individual teachers are usually allowed to take part in the discussion: yet decisions may be made, regardless of these opinions, by some local authority or by strong individuals imposing their own ideas. This kind of local community may work “democratically”, but there is always the possibility that it does not.³⁸⁸

Some kind of compromise between these two distinct approaches might be needed. In England, the government has tried to combine the national curriculum with the advantages of locally-determined curricula: questionnaires have been sent to every school to find out from the schools themselves how they would like to formulate the aims of education.³⁸⁹ This is a slow and expensive procedure, and the result may be the same as in a locally determined curriculum: individuals are allowed to take part in the discussion but the decisions are made with or without attention being given to the opinions of individuals.

It is clear that a national curriculum is like a general law; the nature of it indicates that it cannot take into account all the individual cases that will arise after it has been enacted. The law must be applied so that all the relevant aspects of each particular case are taken into account. In other words, when a national curriculum is applied, it has to be adapted to each particular school, teacher and pupil, so that the relevant aspects of each individual case are taken into account. This is the nature of law – and of a national curriculum – and it does not mean that the general document is not a good one. It only needs a skilful and a wise interpreter who can apply the text to the diverse particular cases in human life.

³⁸⁸ Aldrich & White 1998, pp. 14–24.

³⁸⁹ Aldrich & White 1998, pp. 14–24.

6.5 Justifying music education: social and individual aspects

Questions about the nature and function of music – and why it ought to be a subject within education – are not easy to answer. Aristotle remarked that, unlike reading, writing and even physical training, it is not easy to “determine the nature of music,³⁹⁰ or why anyone should have a knowledge of it.”³⁹¹ For him, music is not useful in the same sense as other subjects such as reading and writing, which were regarded as being useful in the management of the household, in political life and in making money, or gymnastics, whose benefit to strength and health was evident.³⁹² Yet, according to Aristotle, people should also be engaged in some pursuit for its own sake, in something more than merely useful, and he chose music as an example of this kind of activity that cultivates the mind.³⁹³

The importance of *mimesis*, mimicking, was also stressed, and in fact, music was declared to be the most imitative of all the arts because musical tunes contain in themselves imitations of moral moods. According to Aristotle, when musical modes mimicked moral moods, such as happiness or sadness, the same feelings were awakened in the listener. The moods of the listener became pure, and so he or she was healed by music. This was called the katharsian effect of music – music had the power to form the character as well as to heal the listeners. In childhood in particular, the arts were not merely “entertainment”, but they exercised a crucial influence in education. Music should therefore be introduced into the education of the young because it was regarded to have moral education as one of its functions.³⁹⁴

Because of the great power of music in forming the character of a person, Aristotle advocated regulating the use of musical instruments as well as the modes. He claimed that there was a natural distinction between modes that caused different reactions in the hearers. This same idea was applied to rhythm: some patterns were regarded as having a steadying influence, others an unsettling one.³⁹⁵ It follows from all this that music has the power to induce a certain character of the soul. It should thus be applied to education, and teaching music is particularly

³⁹⁰ Music, *mousiké*, included all the arts over which the Muses presided (poetry, playing the lyre and singing lyric poetry etc.). Castle 1965, p. 74; Rainbow 1989, p. 2.

³⁹¹ Pol., 1339a, trans. Benjamin Jowett, in *The Basic Works of Aristotle*, ed. Richard McKeon (New York: Random House, 1941), p. 1309.

³⁹² Alperson 1991, pp. 215–216.

³⁹³ Reeve 1998, p. 61.

³⁹⁴ Copleston 1985, I, p. 362. Nowadays the katharsian effect of music is a central idea in music therapy, as well as in the psychology of music: music is said to be able to affect the human mind (both the brain and the unconscious mind) in a very special way.

³⁹⁵ Pol., 1340a18–1340b10. See also Pol., 1341b19–1342b34. Rainbow 1989, p. 3.

appropriate for the young.³⁹⁶ The idea of the moral influence of the mode has been ridiculed by many critics, and even Aristotle and Plato disagreed about its educational and moral value. Nevertheless, they were both convinced that if the right mode or music was part of education, the character of a child would develop well.³⁹⁷

Aristotle was of the opinion that, in order to acquire “correct” musical taste and judgement, men should learn to play musical instruments. He felt that it was very difficult to produce sound judges of musical performances from those who themselves had never played. Musical activity was emphasised and music education was therefore expected to include participation in actual playing.³⁹⁸ Wholeness was the main theme, especially in Athenian education, and the aims also included social and moral aspects.³⁹⁹

Understanding arts under the title “the aesthetic” was mainly developed in the eighteenth (and nineteenth) centuries. The rise of instrumental and vocal music as an art form was contemporaneous with this development. Within this view, music is one of the so-called “fine arts”, and its main characteristic is regarded to be the production of “works of art”. The value of these artifacts derives mainly from their contemplation. The purpose of works of art is to provide aesthetic experience, which is understood as an interest in something for the sake of its contemplation alone, aside from any practical interest or purpose it might have. The artist is stated to possess a special talent to create works of art, called artistic “genius”. Criticism consists of discourse about the arts, including interpretation (judgements about the meaning of a work of art) and evaluation (judgements about whether a work of art is or is not considered an aesthetic object).⁴⁰⁰

One way of explaining “aesthetic experience” is to define it along “formalist” lines. For instance, aesthetic experience refers to the contemplation of “purposiveness without purpose”. In other words, pleasure is derived from the free play of the cognitive powers of our imagination.⁴⁰¹ This has been called a “formalist aesthetic” view of art, or “aesthetic formalism”, according to which music

³⁹⁶ Pol., 1340a18-1340b10. See also Pol., 1341b19-1342b34.

³⁹⁷ Pol., 1341b8-13; Castle 1965, p. 75.

³⁹⁸ Pol., 1341b8-13.

³⁹⁹ Pol., 1340b20-1341a26; Castle 1965, p. 75.

⁴⁰⁰ Alpers 1991, pp. 232, 219.

⁴⁰¹ The term “aesthetic experience” has been defined in various ways. Määttänen (2000) claims that (roughly speaking) two kinds of conceptions of aesthetic experience have been identified: Kantian and Deweyan. The first one refers to disinterested pleasure aroused by something beautiful, whereas the Deweyan conception is based on Aristotle’s philosophy stressing the importance of praxis. (Määttänen 2000, pp. 148-150.)

education should train students to produce works of art capable of evoking aesthetic experience, and to respond in the appropriate way to these works. The influence of aesthetic formalism is evident in curricula that stress musical analysis as emphasising “structural listening”. The main aim is to teach students to identify the formal and functional relationships in musical compositions.⁴⁰²

According to Reimer, music education must be conceived of as a basic subject owing to its unique characteristics of cognition and intelligence. Therefore, such education – including performance programmes – must be offered to all children. He specifies that the knowledge pupils get from musical experience is knowledge about human feeling.⁴⁰³ This claim was much favoured by Romantic philosophers.⁴⁰⁴ Reimer claims that a great many people have experienced the most significant and deep musical experiences as performers. Although technique and musical skills have to be developed, especially in the performance programmes, the main focus and central goal is to develop musical understanding. In other words, the teacher has to help the students to perceive and react to the expressiveness of music, to grasp the musical content (melody, harmony, rhythm, texture) of the piece. The systematic cultivation of musical understanding is thus the main task of teachers. Reimer emphasizes the view of Langer, claiming that the knowledge of feeling that is provided by music is nonconceptual and “presentational”. The main purpose of music education is said to be to refine the understanding of feeling. Music education is thus a means to the education of feeling.⁴⁰⁵

Plummeridge identifies three theories of music education, (a) the traditional, (b) the progressive and (c) the eclectic. The first approach emphasizes the tradition of classical music and the authority of the music teacher, who stresses the importance of skills, technique and knowledge. The progressive teacher aims to develop certain qualities of the mind, such as sensitivity, imaginativeness and creativeness. The role of the teacher is that of a guide whose task it is to set up an appropriate learning environment for his or her pupils. Progressive ideology stresses the importance of education being a process which allows children to grow up to become fulfilled individuals. Early progressive educators such as Rousseau and Pestalozzi emphasised the importance of musical activity. In the 1960s and 1970s, music educators espousing progressive principles argued that

⁴⁰² Alperson 1991, pp. 219–221.

⁴⁰³ Reimer 1970; Alperson 1991, pp. 226–227. See also Reid (1970, p. 45); he states that without feeling, “art” would hardly exist for people.

⁴⁰⁴ Alperson 1991, pp. 226–227.

⁴⁰⁵ Reimer 1970, pp. 131–137; Alperson 1991, pp. 226–228. This has been called the “cognitivist view” of music education. The term “cognitivism” refers to the notion that musical properties and features provide extramusical knowledge.

music education should be available to all children, and thus represented an egalitarian ideal. The eclectic theory of music education could be seen as the fusion of the two afore-mentioned theories. It fits into reconstructionist ideology, which has its roots in the philosophy of Dewey. Education is considered both to develop the individual capacities of children through broad experiences, and to improve society as a whole by promoting democratic principles.⁴⁰⁶

One interpretation of music and music education is based on a “praxial” view of art,⁴⁰⁷ according to which art is understood in terms of the variety of values evidenced in particular cultures. These values are rooted in the context of human practices which, as MacIntyre has claimed, are forms of human activity. The praxial philosophy of music applies this approach to art, and especially to musical practice. One of the main consequences is that the range of music investigated is enlarged. The praxial approach considers the production of music in contexts in which its aesthetic qualities are less central to its function in various contexts.⁴⁰⁸

Since the goal of music education is to understand musical practice, the direct acquaintance with the production of musical works is emphasised. MacIntyre outlines the following division, which was already dividing Athens at the time of Aristotle. The good life could be realised in two ways: by acting excellently, or by fulfilling the profit target. According to this second view, the practice is instrumental and it is valued from the perspective of achievements outside of the practice itself. Conversely, according to the first view, practice is intrinsic, and acting well is an aim in itself. Aristotle and Plato belonged to the first category, although both of these views were represented in Ancient Greece.⁴⁰⁹ Thus, according to the praxial philosophy of music education, the term art refers both to works of art as well as to human activity (such as painting, music making, and so on). A music-education programme must therefore take into account the nature of the skills and activity that bring musical works into being. This kind of music education varies within different contexts and depending on the specific backgrounds and environments of individual students. The praxial approach also has implications for the education of music professionals. For example, composition and performance programmes give attention to the cultural conditions in which practices of musical production arise.⁴¹⁰

⁴⁰⁶ Plummeridge 2001, pp. 25–28; Dewey 1916.

⁴⁰⁷ See, e.g., Elliott 1995, Regelski 1996; 2000.

⁴⁰⁸ Alpers 1991, pp. 233–236.

⁴⁰⁹ Rentto 1997, p. 657; MacIntyre (1988): *Whose Justice? Which Rationality?*

⁴¹⁰ Alpers 1991, pp. 234–236.

According to Elliott, who also emphasises the praxial view, the primary values of music education are the primary values of music: self-growth, self-knowledge, and optimal experience. Music education is a unique and major source of one of the most important kinds of knowledge we can attain: self-knowledge. Thus, the aims of every music-teaching-learning situation would be to enable learners to achieve self-growth, self-knowledge and musical enjoyment by educating their musicianship. Music education is not merely desirable, it is essential to the full development of every learner. This claim is based on the fact that the primary values of music and music education overlap the essential life values that most individuals and societies pursue for the good of each and all: personal growth, differentiation, complexity, enjoyment, self-esteem and happiness. In addition, the welfare of a society depends on the ability of its citizens to pursue and achieve these values regularly. In Elliott's view, the means and results of educating people to make and listen to music are simultaneously personal, social, cultural, and also political (in fact, the word "politics" meant, to the Greeks, whatever involved people in human concerns beyond their own individual needs). The development of musicianship allows people to participate constructively in the generation, expression, and impression of complex "memes" that could imbue their everyday lives, and the lives of others, with meaning and purpose.⁴¹¹

Bowman states that what is fundamental to praxis is "phronesis", right and just action in a given situation. Right action benefits both the individual and the society (and vice versa). However, the right action cannot be formulated in general rules since social circumstances are unpredictable and fluid. Therefore, phronesis is a matter of doing the right thing at the right time to the right person, and so on. Philosophy guided by phronesis is characterised by openness to contingency, plurality and fluidity.⁴¹²

The "ideal speech situation" of the spirit of "communicative action" (referring to rational discourse between free and equal participants devoted to building a consensus) presented by Habermas is claimed to resemble the previous philosophy of phronesis. Furthermore, the hermeneutic approach of Gadamer is argued to be even more reflective than the ideas of Habermas of the phronetic requirement emphasising ongoing interpretation and reinterpretation without a secure method or an ultimate end.⁴¹³ The ideas of Habermas are also applied to the philosophy of music education by Regelski in his critical approach. Regelski criticises the

⁴¹¹ Elliott 1995, pp. 129–130. See also Alpers 1997, p. 20; according to him, the current discussion among music educators has resulted in a debate between those who hold that music education must be based on music understood as a bearer of aesthetic meaning (e.g., Reimer) and those who see musical value in a more contextualized way (e.g., Elliott). The debate regarding musical value could be set in the context of a general question about value monism and value pluralism in aesthetics. (Alpers 1997, pp. 20–21.)

⁴¹² Bowman 2000, pp. 96–120.

⁴¹³ Bowman 2000, pp. 96–120.

tendency to colonialize the “lifeworld” in autonomous and competing units instead of seeking practical rationality in order to achieve a consensus about human needs and interests.⁴¹⁴ The objective of music education is therefore to connect pupils to one or several musical practices in such a way that dysfunctional musical isolation and narrowness can be avoided.⁴¹⁵

Questions about art education may also be placed on a large canvas: the education of human beings generally. Art education, in the contexts of both general education and that offered in Music and Art Schools, is not only concerned with the skills that will enable children and adolescents to become competent musicians and artists. On the contrary and more profoundly, it aims to broaden the mind and to develop the character. According to Huttunen, individual “musical horizons” should be respected in music education, and every kind of indoctrination should therefore be avoided.⁴¹⁶ According to Best, it is important to recognise the fundamental, inextricable interdependence of arts, language and other social practices, which together constitute a culture, and with it create the parameters of personal identity. Thus, a major objective of education is to expand the possibilities of thought and feeling – and of personal identity.⁴¹⁷ According to Kurkela, music acts as a good friend (or even a better friend than a human one), as a supporting “self object”, which helps human life to flourish – and offers a better life. The principal aim in music education should be to create “a good relationship” between the pupil and the music. How this should be done is a question of autonomy, a chance for reflection and dialogue between pupils, their parents and teachers. The meaning of the concept “a good relationship to music” is left open and will be defined more closely in practice.⁴¹⁸

⁴¹⁴ Regelski states that various subcultures typically advance their own interests (Regelski 2000, p. 123).

⁴¹⁵ Regelski 2000, pp. 120–147.

⁴¹⁶ Huttunen 2000, p. 203; 2002 in print. By indoctrination Huttunen (2000; 2002) refers to both the praxial philosophy of music education and multicultural music education, as well as to aesthetic music education (with western classical music).

⁴¹⁷ Best 1992, pp. 6–8.

⁴¹⁸ Kurkela 1993, p. 466; Kurkela 1995a, p. 26; Karlson 1999. The principle of “a good relationship to music” is similar to the principle of the “best of the child” (the main principle in Finnish child legislation), which has been left open, and is defined more closely in practice. This has affected the technique of enactment: laws contain elastic and open general clauses with different kinds of options. The law does not dictate the “right” meaning of what is best for the child. (Mahkonen 1991, p. 70.)

Kemp argues that studying music has an impact on the developing personality of children and youth, and music education should therefore take a broad view of the way music relates to other areas of human experience.⁴¹⁹ For instance, according to Pruett, “The most enduring artistic achievements involve the whole person and his careful understanding and intimate expression of his imagination’s light *and* dark components, not just his facile fingerings.”⁴²⁰ Thus, music education should aim for “a better person – more aware, more human, more able to relate to the society in which he or she lives.”⁴²¹ According to Jorgensen, this requires music teachers to cultivate a wide understanding of the meaning of education and the role of music as a cultural phenomenon, since they have to handle the dialectics they face in all the places they teach.⁴²² As Ruskin stated: “The highest reward for a person’s toil is not what they get for it but what they become by it”, or as Aristotle argued, “To be always seeking after the useful does not become free and exalted souls”.⁴²³

⁴¹⁹ Kemp 1996, pp. 251, 255.

⁴²⁰ Pruett 1990, p. 322; op.cit. Kemp 1996, p. 251.

⁴²¹ Kemp 1996, p. 252.

⁴²² Jorgensen 1997, p. 92.

⁴²³ Pol., 1338b. The Basic Works of Aristotle, p. 1308. Alperson 1991, pp. 236–237.

Chapter seven

The instrumental character of regulation

7.1 REGULATION AS INTERVENTION AND AN INSTRUMENT OF THE STATE	148
7.2 HYDÉN'S TYPOLOGY APPLIED TO THE DEVELOPMENT OF FINNISH MUSIC SCHOOLS	150
7.2.1 <i>Hydén's typology</i>	150
7.2.2 <i>The development of Finnish music schools</i>	152
7.2.3 <i>Some remarks on the current situation</i>	157

Chapter 7 The instrumental character of regulation

7.1 Regulation as intervention and an instrument of the state

According to an ancient Nordic adage, “The country must be built by law”.⁴²⁴ This statement expresses the view of law as an instrument available to the state. Society can be steered in the desired direction by introducing new acts or changing existing legislation. Thus, defects can be corrected and institutions founded by using the law as an instrument. According to Niemivuo, even nowadays people believe in the omnipotence of the law and its magical powers. The basic idea of building a society by implementing acts and statutes is still appropriate in a modern democratic constitutional state. Even though regulation by law represents one important way of building the state and directing society, the law may not always be the most apposite means in solving problems and reaching goals. Therefore, means other than legal instruments must also be considered and evaluated.⁴²⁵

In general, the term “regulation” is defined as “intervention”, referring to government and state intervention. The nature as well as the objects of state interventions vary, and regulation may thus be directed to the market, to education, and also to the arts. Daintith argues that regulation means state intervention (interfering) in the activities of free market.⁴²⁶ However, the conditions and circumstances for a free market can also be built up, and free competition may be protected by state regulation. In other words, regulation may be regarded as a means of the state to control the activities of individuals, institutions as well as free markets. The positive role of regulation as state intervention to protect and create conditions and circumstances for different kinds of activities should also be stressed. In other words, regulation enables the country to be developed as well as controlled.

One essential question related to the function of regulation concerns how active a role the state should play. In other words, how forceful should the interventions be that the state makes in the life and activities of individuals, organisations and communities, not to mention art and music education? According to Aristotle, law was an instrument in moral education, and strict regulations (although not as strict as in Plato’s Republic) were therefore needed in order to educate citizens in the exercise of virtue.⁴²⁷ Conversely, liberal (especially the “libertal”) thinkers

⁴²⁴ Niemivuo 1998, p. 10, 194.

⁴²⁵ Niemivuo 1998, p. 10, 194.

⁴²⁶ Daintith 1995, p. 143-165.

⁴²⁷ EN I, 1, 1094a1-3.

emphasise the neutrality of the state, and that individuals or organisations should *not* be steered by the state.⁴²⁸ Yet, some kinds of basic structure and rules are needed in all organised societies, although different possibilities, or conversely limits, of legal regulation may be recognised in different fields of activities. Criminal behaviour and artistic activities are not regulated in the same way, for instance. In addition, the state's ability to regulate is always limited not only legally but also politically and *de facto*. Limitations are imposed, for instance, by:

1. international factors (such as the European Union);
2. economic factors (such as economic development both nationally and internationally);
3. social and ideological factors (deriving from regional policy, etc.);
4. immediate circumstances (such as the media, interest groups, or religion).⁴²⁹

The multidimensional and widespread problems of a modern society may not be affected only by legal regulation. Therefore, instruments other than regulation by law are usually needed for it to operate both in parallel with legal regulation, or even instead of it.⁴³⁰ For instance, a look at the background of the Finnish music-school network – or the Finnish school system as a whole – shows how different kinds of instruments may be used when an educational institution is constructed and organised, and how the instrument chosen by the state authorities is dependent on the economic, social and ideological factors and circumstances of the country. Thus, the ancient Nordic adage cited above expresses extremely well the importance of legal regulation as an instrument of the state: the Finnish music-school network was built by law.

⁴²⁸ See Mullhall & Swift 1992.

⁴²⁹ Niemivuo 1998, p. 195.

⁴³⁰ Niemivuo 1998, p. 194.

7.2 Hydén's typology applied to the development of Finnish music schools

7.2.1 Hydén's typology

Types of government regulation – which include the use of legislative power, application of the law (administration and jurisdiction), the use of budgetary authority, and state planning – have been connected to the current social situation of the state. General law applied by jurisdictional and administrative bodies was the form of government regulation that was emphasized in the classical liberal and constitutionally governed state. The state was responsible only for attending to its external safety and securing the internal peace of the society.⁴³¹ Its duties expanded greatly in the 20th century. New forms of regulation were introduced and the means of regulation increased. In Finland, legal regulation has been the principal form of government regulation.⁴³²

The typology presented by Hydén describes the relationship, as well as the changes in the rapport, between individuals, society and legal regulation. Systems of different social levels are divided into three groups: (a) the self-regulating system, (b) the system of state intervention, and (c) the planning system. Firstly, Hydén explores the functions of regulation, the four principal fields of these functions being: (a) solving conflicts, (b) guiding social life, (c) organizing public services, and (d) organizing the state usage of power.⁴³³

The role of law in a self-regulating system is to set “gaming-rules” for its operations and activities. Individuals, organizations and the market are allowed to set goals and targets, as well as to determine the contents of their own activities. Only the limits and forms of these activities are set by law. Self-regulating systems are to be found in all societies. In fact, this type of regulation has historically been the traditional form and function of legal rules. Private and criminal law are emphasized because the principal duty of government regulation is the maintenance of social order. The role of the state is limited mainly to the settlement of conflicts.⁴³⁴

⁴³¹ See, e.g., Nozick 1974; he supports minimal state intervention and control.

⁴³² Laakso 1990, p. 8.

⁴³³ Hydén 1984, pp. 47-52; Laakso 1990, p. 10.

⁴³⁴ Hydén 1984, pp. 47-52; Laakso 1990, pp. 10-11, 54. C.f. reflexive law presented, e.g., by G. Teubner.

In a system of intervention, the role of the state is not limited to that of a so-called “night-ward”,⁴³⁵ in other words only to the maintenance of peaceful social life. On the contrary, the government directs and controls social relations directly or indirectly. Taxation, fees, regulations and restrictions, subventions, and tax concessions are examples of means of government control. At the same time, the freedom of actions of individuals is restricted. The function of the law is to guarantee the realization of the public interests that are not managed by private economic life. The tension between the financial interests of the market (in other words, the most efficient and economical activities) and the public interest (for instance, the need to safeguard unpolluted air and nature as well as social security) is the starting point for government regulation. The aim of legal regulation is to reach a compromise between the aforementioned interests. Naturally, such a strict disparity between public and private interests seldom arises: securing pure air is often in the interests of business life, and economic factors are included in the field of public interest.⁴³⁶

The third system described by Hydén is the planning system in which norms and regulations are used to produce social services. These systems have also been called “welfare regulated” societies. The function of legal regulation is based on the view that it is not the task of the private market to produce all the services and goods relevant for the activities of the society. Therefore, the organisation of health care, social welfare and education is the duty of the authorities. Social and political goals are assumed to be realized by legal regulation when public services are produced. A claim for social justice is perceptible behind this system: basic services and certain standards of welfare regarding education, schooling, health care, housing and social security must be secured for all members of a society. Furthering social justice and producing services by control are the principal aims. In addition, this kind of system also enables the control of the usage of public finances.⁴³⁷

⁴³⁵ Nozick 1974.

⁴³⁶ Laakso 1990, pp. 11-12.

⁴³⁷ Laakso 1990, p. 13.

7.2.2 The development of Finnish music schools

The first Finnish music schools could be regarded as having operated in a self-regulating system. These schools were mainly established on the initiative of private persons, and private amateurs also supported these activities financially.⁴³⁸ The content and aims of the activities were defined by the music schools themselves. They had their own profiles since no national curriculum directed their activities.⁴³⁹

On the other hand, the conditions and circumstances for these activities were not created by the Government, and the schools had to get by almost completely without public subsidies. The small amount as well the uncertainty of financial resources often restricted the activities: the salaries of the teachers were low and the lessons short.⁴⁴⁰ For instance, the lesson time in Helsinki was first determined to be 12 minutes, and the lessons had to take place at the teacher's home. The violinist Sulo Hurskainen recalls that 12 minutes just gave pupils time to take their violin out of the case and put it away again, and when one pupil arrived to tune his or her instrument, others who were waiting for their turn created a distraction in the small entrance hall.⁴⁴¹

State intervention in the activities of Finnish music schools began mainly after they were first granted state financial support by law.⁴⁴² Supporting extra-curricular music education for children and the young was a unique decision by the Government, since music education was already being offered at general schools, folk colleges and workers' institutes. These institutes received law-based state support before the first Act (147/68) governing state support for music schools was introduced. Music schools therefore had to find justifications for their state-supported activities, as well as to establish their role in the field of music and arts education. The position of music schools was discussed in a congress for arts education that took place in Jyväskylä in 1974, and it was agreed that state financial support was not worth directing to overlapping activities.⁴⁴³

Music schools differed from folk colleges and workers' institutes in that the music education they offered was goal-orientated, whereas the colleges and institutes offered group teaching for amateurs. Very often the goal of music schools was

⁴³⁸ E.g., The Helsinki Music Institute (future Sibelius Academy) was established on the initiative of Martin Wegelius.

⁴³⁹ Dahlström & Salmenhaara 1995, pp. 510-513; Perälä 1993, p. 1.

⁴⁴⁰ Aro & Salmenhaara 1972, pp. 58-63.

⁴⁴¹ *Ibid.*, p. 59.

⁴⁴² Laki musiikkioppilaitosten valtionavustuksesta 147/68.

⁴⁴³ Laurila 1975, p. 133.

regarded as the education of future professionals, although other kinds of opinions were also expressed. Furthermore, it has been estimated that only about 1.5 – 2% of music-school pupils become professionals in practice. Therefore, the goals of the education, the standards, the narrow scope and the emphasis on examinations provoked critical discussion concerning the contents of this education. Concerns about state financial support have almost always been expressed in this context.⁴⁴⁴

The network of music schools was aimed to cover the whole country. Besides attracting and selecting musically-talented children for potential professional studies in the future, the aim was to offer music education widely. Yet, the activities of these schools stressed the first-mentioned type of education.⁴⁴⁵For instance, Amberla writes in *Rondo* (1/1994) as follows:

The critics of the music-school system are afraid of not finding the real talents if kind and obedient (girls) do well in these institutes. The claim is wild, but not necessarily wrong. At the same time, we collide with the everlasting problem of these institutions: is the principal goal of these institutions to find talent, or is it most important to educate people who know and understand the arts?

Are we forgetting, again, that the 99% majority has no intention of becoming musicians? (my own translation)⁴⁴⁶

State support was justified mainly in two arguments: the necessity to begin proper training for a future music professional in early childhood,⁴⁴⁷ and the importance of a network of music schools governing every part of the country with a view

⁴⁴⁴ Palonen 1993, p. 23; Helasvuo 1983, pp. 10–11; Amberla 1994, p. 17; Kuusisaari 1998, p. 5. Aukia states in *Rondo* (3/1990) that, in the worst cases, music schools act like missionaries in Africa: they force-feed the human beings a cultural system produced somewhere else giving no value to their own forms of making music. Laakso's article "The best interests of the student is most important" in *Rondo* (6/1995, pp. 32–33) suggests that state-supported education has to be goal-orientated. Yet, what kinds of goals does he mean? According to Niinluoto (1993, p. 120), the state also has to take care of the mental and emotional welfare of its citizens. Conversely, Hautamäki (1993, p. 210) proposes that "services of the contents of life" should be financed by individuals themselves.

⁴⁴⁵ Perälä 1993, pp. 114–115; Helasvuo 1983, pp. 10–11; Vapaavuori 1989, p. 22; Palonen 1993, p. 23; Aukia 1990, pp. 8–12; Amberla 1989, pp. 8–10; 1994, p. 17; Kuusisaari 1998, p. 5.

⁴⁴⁶ Amberla 1994, p. 17.

⁴⁴⁷ The same argument was used when state support for specialist music schools, e.g., the Purcell School, was granted in England (Sharkey, 2 July 2001).

to finding and selecting especially talented children. According to a report by the Association of Finnish Music Schools (SML 1995), the position of the music schools is exceptional in the Finnish educational system since especially long training and education is required in most realms of music. Therefore, special legislation has been enacted to safeguard the systematic training and proper education at the basic level of music studies. According to this report, the education offered at the bigger music schools is certainly comparable to that offered at local vocational schools, and these schools are capable of offering preparative professional training and education.⁴⁴⁸

In Hydén's third system, the planning system, arts and arts education are welfare services that should be produced systematically. For instance, organising the cultural field first at the local level was a precondition for creating a national system for arts education and the direction of culture in the 1970s in Finland. Local cultural boards and directors were equivalent to county arts committees and directors. Regional museums, orchestras, exhibitions and theatres were established in order to create links from the local level to the intermediate stage. Besides satisfying the cultural needs of the inhabitants in a municipality, the system aimed to select the talent from folk-college orchestras first for local and later for regional orchestras. This principle was to be adhered to in all of the arts: the cultural needs of the local inhabitants would be indulged by vital amateur activities at the local level. These local activities were intended to offer a way forward in developing activities at the regional level. From this intermediate stage, doors were open to expand to the national level.⁴⁴⁹

In the 1970s, finding a remedy for potential social and regional inequality was set as an aim for the music-education board.⁴⁵⁰ Both music-education and other kinds of services were organised systematically.⁴⁵¹ A network of music schools was created governing the whole country. These schools were required to have

⁴⁴⁸ Statement (23 May 1995) of the Association of Finnish Music Schools (SML) concerning the report (memorandum 1/1995) of the Ministry of Education.

⁴⁴⁹ Tuomikoski-Leskelä 1977 ("Kunta taidekasvattajana") p. 128.

⁴⁵⁰ Due to limited resources, all Finnish music schools could not be granted law-based state support. Therefore, all of the conditions could not be fulfilled. Besides the qualifications required by law, granting law-based state support for certain music schools should have been based on the needs of these schools from the viewpoint of the whole country. (Perälä 1993.)

⁴⁵¹ See, e.g., KM 1974: 139, pp. 3–20, describing the music-education systems in the USSR, Sweden and Hungary. For instance, in the USSR, systematic music education and training according to a careful plan started with children under school age. The Finnish music-education board stated that a coherent music education plan was also needed for children from the age of six months to school age in Finland (KM 1974: 139, p. 1).

a permit from the Ministry of Education. Those that fulfilled the qualifications required by law were legally entitled to receive state support. The qualification requirements for teachers and the broadening of teacher education reflected the aim that music education of equal standard could be offered to all children in every music school.⁴⁵² In addition, one of the state control instruments was money, since the usage of state support was controlled, and the schools were obliged to submit a detailed report to the authorities on how the state subsidy had been spent. The state authorities also started to conform the education after the first Act (147/68) was introduced. In the 1970s, the Board of Schools (nowadays called the Board of Education) sent the music schools that had been granted law-based state support directions concerning curricula and examinations.⁴⁵³

When law changes, the legitimation of the law will also change. As far as material law is concerned, the legitimation has been the eradication of unfairness. Therefore, the law is a means, an instrument, by which society can be directed towards certain goals. Social relationships and processes are objects of control by the state. A deluge of norms⁴⁵⁴ and an increase in legal regulations are generally connected to this kind of control: the state directs the choices and behaviour of human beings in greater detail.⁴⁵⁵ The public-administration section expanded when the welfare services were created in Finland. The strengthening of a centrally planned system also occurred in the field of education.⁴⁵⁶

Legal regulation governing music schools became more extensive in the late 1970s when the “Music School Statute” (486/77) was renewed. This statute included detailed and explicit regulations, according to which the forms of music schools were prescribed as (a) music schools, (b) music institutes and (c) conservatoires. Music schools should offer basic music education, music institutes further music education, and conservatoires should educate music-school teachers and other music professionals. A systematic structure for music education was created by this Statute (486/77), and the curricula were based on it. According to Fantapié (the Head of the Association of Finnish Music Schools), a clearly graded educational system had now been introduced for music schools. Furthermore, at the top of this educational system (which resembled a pyramid) were the higher studies at the Sibelius Academy. This system was regarded as “safe” from the perspective of students as well as teachers, since it was meant to

⁴⁵² In the late 1970s, conservatories (and not only the Sibelius Academy) also began to educate music-school teachers.

⁴⁵³ Perälä 1993, p. 44.

⁴⁵⁴ Klami 1985, pp. 1–8.

⁴⁵⁵ C.f. Pöyhönen 1985, pp. 127–138; Iivari 1995, p. 148.

⁴⁵⁶ KM 1993: 31, pp. 23–24.

minimize arbitrariness due to unrestricted freedom and undetermined regulations. Public criticism of a rigid system regulated by law and by curricula confirmed by state authorities (the Board of Schools) was ignored since, according to the Association, the law should not be enacted from the perspective of special cases. This rigid system was criticized for neglecting both talented children, as well as those not aiming to become professionals, by imposing a large number of obligatory courses.⁴⁵⁷

The system began to feed itself, in other words, detailed regulations led to more and more detailed rules and regulations. In 1983, the Rector of the Sibelius Academy criticized the tendency to tighten music-school examination requirements. The system had become so rigid and systematic that features alien to arts education, such as bureaucracy and pedantry, began to take over. Music schools believed that the application of examination requirements was too slack at the Sibelius Academy, and that the “restoration of discipline” should be the aim. However, a different kind of policy would have been suitable for these schools, since the fact was that 95% of the pupils were school children, and only about 1.5% of them aimed at a future profession in music. The context in which education is offered at music schools should not be the same as that in educational institutions offering professional training.⁴⁵⁸

⁴⁵⁷ Fantapié 1982, p. 47.

⁴⁵⁸ Helasvuo 1983, p. 11.

7.2.3 Some remarks on the current situation

The typology presented by Hydén is now set in the context of the development of the Finnish music-school network and the role of the state up until the 1980s. The positive as well as the problematic factors of a self-regulating system were experienced by the first music schools to be established. The situation of these schools resembled the conditions of present private music schools: the lack of state control enables them freely to create their own curricula, to eliminate examinations and to introduce obligatory lessons in different subjects, for example. The Government does not control these schools, nor is it obliged to support them financially. Therefore, activities are often restricted by insecurity in terms of financial resources.

State intervention in music-school activities was connected to the law-based financial support received. Due to the perpetual fact of restricted resources, state support could not be granted to all music schools. The justification and criteria for distributing public resources had to be set out by the state authorities as well as by the music schools themselves. State support was justified by the need for proper musical training for a future profession from the very start, and by the setting up of a network of music schools to identify the talented all over the country. In the 1970s, the relationship between the Government and the music schools resembled that of Hydén's planning system. According to government documents (KM 1974: 139),⁴⁵⁹ the music-education systems in the Soviet Union, Hungary and Sweden had been studied and compared by the Finnish Music Education Board, which concluded that the Hungarian system was ideal. The systematic and carefully planned training in early childhood that took place in the Soviet Union was also admired. The need for systematic early music education in Finland was therefore confirmed.⁴⁶⁰

According to Tawaststjerna,⁴⁶¹ Eastern (socialist) influences on the Finnish music-school system were cultural rather than political. The fact was that almost all the winners of international competitions came from the Soviet Union, and furthermore, great artists – such as Gilels, Richter and Rostropovitch (who could be regarded as representatives of the “old” Russian school) – used to give concerts in Finland. These artists, as well as the music-education system that produced musicians of such a high standard, were admired. The necessity to establish a specialist music school in Helsinki was discussed. These kinds of schools were typical in socialist countries, and offered proper musical training, general education, and boarding facilities for especially talented children and young

⁴⁵⁹ KM 1974: 139 / Committee Report

⁴⁶⁰ KM 1974: 139.

⁴⁶¹ Interview, 21 August 2001.

people. The musical studies were systematic and included several examinations and competitions.⁴⁶²

Geographical distances in Finland are not as extensive as in the Soviet Union, and no specialist music school with boarding facilities was established. In fact, the junior department of the Sibelius Academy already offered music education for especially talented children and adolescents. According to Tawaststjerna, the education and curricula of Finnish music schools were influenced by Eastern (for instance, Hungarian) music-education systems, although the examination requirements were not as strict as in the specialist music schools in those countries. Although the education offered at Finnish music schools was goal-orientated, it was not as systematic as in the socialist countries.⁴⁶³

The role of the State began to change in the late 1980s, and especially in the 1990s. The needs of the consumer to whom the welfare services were directed were stressed. Free competition was a result of the freedom of choice. However, the public structures for cultural activities created during the planning period protected the arts institutions against “real” free competition.⁴⁶⁴ This change (which was criticized as the demolition of the welfare society) also touched the music schools. The Music School Act of 1995 gave more freedom to the schools themselves to decide over activities and curricula, although at the same time, discussions on rescinding this Act and losing law-based state support greatly concerned those in the field. It was only a few years later that the special Act for music schools (516/95) was rescinded and the present Basic Arts Education Act (633/98) came into force. However, the structures created for the music-school system ensured that state support continued.⁴⁶⁵

Legal regulations governing music schools are part of administrative law, and thus could be said to regulate the system itself. Yet, they are also closely connected to the Habermasian “lifeworld” (*Lebenswelt*), the norms and values of members of society. The conflict between the system and the “lifeworld” (the system making an intervention in the “lifeworld”) is discussed by Habermas.⁴⁶⁶ Furthermore, this tension is also evident in the relationship between the State and the music schools. According to Haapanen, the formal and rigid system became an end in itself, and the fundamental aims of music education were threatened: not enough space was left for the values and norms of the “lifeworld”, the “essential contents” in

⁴⁶² Tawaststjerna, 21 August.2001.

⁴⁶³ Tawaststjerna, 21 August 2001.

⁴⁶⁴ Paavolainen 1999, pp. 270–271

⁴⁶⁵ Heimonen 1999.

⁴⁶⁶ Habermas 1987.

music education.⁴⁶⁷ Colonization by the system involving the destruction of the original cultures and its replacement by the dominating culture was regarded as an end when the system and law created by it forced their way more deeply into the “lifeworld”.⁴⁶⁸ According to Aukia, education offered at music schools also contained features of colonization; a cultural system produced somewhere else was force-fed to pupils and no value was given to their own forms of making music.⁴⁶⁹

Yet, what kind of legislation would leave space for the “lifeworld”? According to Tuori, the development of personal autonomy in citizens can be supported by two strategies. Firstly, the rights of citizens can be supported by legislation, in other words, services, benefits and rights are secured by law. Another possibility is to develop the practice and self-understanding, for instance in the field of education. This could be based on generally formulated aims and goals, which are written in law and applied in practical work. Tuori argues that the aims and goals of legislation should be discussed more often. In other words, he supports an expansion of so-called “Habermasian” communicative rationalization in society, meaning that conflicts concerning social norms and their application should be settled in a free and fair discussion, in discourse, between equal partners.⁴⁷⁰ Yet, the possibility of having this kind of discourse in practice has been doubted: the idea of free and fair discussion has been dismissed as utopian.⁴⁷¹

Legislation models that support both the freedom and rights of citizens to determine and make their own choices (so-called negative freedom) and, on the other hand, the role and duty of the state to secure conditions and circumstances for the good life (positive freedom), have also been developed. Günther Teubner, for instance, formulated a theory of reflexive law. According to this theory, social institutions that act as autonomous systems are created by law. As a result of delegation and decentralization, the autonomous subsystems in society have the power to create their own procedures, and they also communicate and make agreements with each other. In Teubner’s view, these subsystems are capable of defining the aims of their activities themselves, as well as of developing the most suitable forms of decision making.⁴⁷²

⁴⁶⁷ Haapanen 1980, pp. 12–15.

⁴⁶⁸ Iivari 1995, p. 148; Habermas 1987, pp. 153–197; Tuori 1985, pp. 7–8.

⁴⁶⁹ Aukia 1990 (see before Section 7.2.2).

⁴⁷⁰ Tuori 1991, p. 367; Habermas 1987.

⁴⁷¹ Tiihonen (1988): “Ideaalisessa puhetilanteessa totuuden konseksukseen päättyvä valistunut kommunikatiivinen rationaliteetti, joka ruumiillistuu teoreettisessa oikeudellisessa keskustelussa, jonka ydinalue on lainoppi.” See also *Refleksiv ret*, p. 16.

⁴⁷² *Refleksiv ret*, pp. 60–61; Teubner 1988; Iivari 1995, p. 149.

The reflexive theory of law has been said to have both positive and negative effects. The problem with flexibility and decentralization is the resulting dismantling of local authorities; rather than applying the law, they are said to be involved in enacting it (at the local level). According to Hydén, in the worst cases, reflexive theory can lead to a more dangerous situation than the colonization described by Habermas: the system deserts the “lifeworld”⁴⁷³ completely and abandons it to its fate. As a counterbalance, Hydén presents his view of a more communicative law in which the perspective of the individual is emphasized. Disagreements between different kinds of aims and goals are solved in a process that is based on open discussion and interaction. The duty of the law is to create an arena for this kind of process. Regulation is thus not based on the interests of bureaucracy; on the contrary, the basis of regulation is the needs of individuals.⁴⁷⁴

⁴⁷³ Habermas 1987.

⁴⁷⁴ See Iivari 1995, p. 150. See Bladh 2002; Bladh brings his empirical material on Swedish music teachers into the theoretical framework of Habermas.

Chapter eight

Regulation as a means towards broader aims in music education

8.1	THE FINNISH LAW AND “CORRECT LAW”	162
8.2	FRAMEWORK LEGISLATION AND FLEXIBLE LEGAL NORMS	163
8.3	REFLEXIVE LAW	164
8.4	DIRECTING BY RESULTS	166
8.5	SOFT LAW.....	168
	8.5.1 <i>The concept of soft law</i>	168
	8.5.2 <i>Soft law and international treaties</i>	170
	8.5.3 <i>The Constitution and by-laws of the International Society of Music Education</i>	173
8.6	THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD	178
	8.6.1 <i>The principles of the best interests and autonomy of the child</i> ...	178
	8.6.2 <i>The best interests of the child in music education</i>	180
	8.6.3 <i>The right of every child to extra-curricular music education</i> ..	181
8.7	SUMMARY	183

Chapter 8 Regulation as a means towards broader aims in music education

8.1 The Finnish law and “correct law”

The Finnish legal structure follows the civil-law system, and is mainly based on written law, unlike common-law countries such as the United Kingdom. The structure of this system is termed hierarchical.⁴⁷⁵ In other words, legal norms are divided into different groups and levels as follows: (a) Constitutional documents, (b) Parliamentary acts, (c) Statutes, (d) Orders of the Council of State, (e) Orders of Ministries, and (f) other regulations. On top of this pyramid nowadays is the law of the European Union.⁴⁷⁶ At the next level are the constitutional documents, then the norms laid down in special acts (for example, the Basic Arts Education Act), followed by the so-called general acts (of Parliament), and then the Statutes. Orders of the Council of State, Orders of the Ministries (for instance, the Ministry of Education), and normative orders of the central administrative offices and agencies under the Ministries – such as the National Board of Education – are on the next levels. Local administration is mainly in the hands of municipal self-government authorities operating – more or less – under state control.⁴⁷⁷ The educational institutions have regulations of their own.

The judicial system is made coherent with the help of legal principles. For instance, the principle *lex superior* is applied when a rule of a statute is against the regulations of the law. According to the aforementioned principle, the rule of a higher level is superior to the regulations that are on the level below it, and the regulations of a special act are superior to general rules. According to Kelsen, the law consists of the hierarchy of legal norms, and its legitimacy is based on the norm that is higher than the one in question. This higher norm regulates the forms by which the lower norms can be enacted. In addition, the higher-level norms – such as Parliamentary acts – require that the contents of the acts have to be in accordance with the Constitutional documents.⁴⁷⁸

⁴⁷⁵ Kelsen 1960.

⁴⁷⁶ Siltala 2001, p. 98.

⁴⁷⁷ Laakso 1990, pp. 1–7; Hidén 1985, pp. 39–72. The Constitution. In *The Finnish Legal System*. The National Board of Education has issued the framework curriculum for music schools (Musiikkiopistojen opetussuunnitelmien perusteet 1995). In addition, the Associations (SML, Konservatorioliiitto) have been delegated power to establish norms (Rajamaa, 7 Sept. 1995).

⁴⁷⁸ Aarnio 1975, p. 22; Laakso 1990, p. 5.

The law is not identified in written regulations, although the Finnish system (as well as the civil-law system in general) is characterized as a system of written law (“law as rules”). According to the Finnish Procedure Act, sources of law include written law, custom and preliminary legal documents. This concept has been broadened in the latest discussion: at present the phenomenon “law as culture” is the subject of a lively debate. Different levels in law have also been created to widen the Kelsenian concept. According to a theory called critical positivism developed by Tuori, the law consists of (a) the surface level, (b) the level of legal culture, and (c) the deep level. The surface level includes legal regulations in acts and statutes, as well as legal principles. In other words, this level resembles the idea of the law as rules. The deeper levels are more difficult to describe. Institutional support is argued to be of great importance on the level of legal culture. Hermeneutical factors, as well as ideas characteristic of Ronald Dworkin, have been found in this multi-level theory of law. In short, law as culture consists of elements such as justice, principles, and “the law of Antigone”; in other words, elements that are linked to moral as well as ethical norms. According to current legal scholars, this is called “correct law”.⁴⁷⁹

8.2 Framework legislation and flexible legal norms

The tension between general law and particular cases is a typical phenomenon in its application. The Aristotelian idea of the nature of general law that cannot take account of all the relevant features of particular cases is a current problem in the rapidly-changing societies of today. Therefore, the need to create a so-called open set of norms that can be adapted to different kinds of situations has been accepted. A large group of “norms of consideration” has been developed. General clauses and flexible norms are regarded as part of this group. Rather than specifying legal facts and circumstances, a list of examples presenting them is described in the aforementioned clauses. Norms of conciliation, in other words, provisions on modification have become rather common. The aim of these kinds of norms is the protection of the weaker party and the realization of justice in a particular case. Discretionary power is delegated from the law-giver to the persons applying the law.⁴⁸⁰

⁴⁷⁹ See, e.g., Hirvonen 2000 (*Oikeuden käynti. Antigonen laki ja oikea oikeus*); Minkkinen 1998 (*Correct Law: A Philosophy of the Aporetic*). Tuori 2000; 2001; Siltala 2000a; 2000b; Kavonius 2001, p. 15.

⁴⁸⁰ Aarnio 1989, pp. 77-78; Klami 1979, p. 237 (changing law in the tempo *Allegro*, *ma non troppo*). See also Heimonen 1996.

The change to a more flexible control model can be seen, for instance, in the regulation governing the relation between the state and the municipalities. This change is stated to be part of a more general tendency in the development of legislation in western societies: the contents, forms and procedures of law are governed by more flexible regulation models (for instance, regulation by goals) rather than by rules. Therefore, norms of consideration, goals and resources have become more common. For instance, budgetary decisions grant authorities or sectors financial resources without specifying their usage (norms of resources). The importance of goals and needs has been stressed, especially in the public sector. Therefore, the number of norms giving only information about goals (and leaving the means of how to achieve these goals open) has increased. These kinds of norms are like signposts, allowing discretion to persons applying the law.

The aforementioned norms of goals and means that regulate the production of services in society and the infrastructure are realized in accordance with an action-oriented decision-making model. The aim is to find a course of action that best realizes the goals of activities. Expert knowledge of a certain field is a precondition for this kind of decision making. For instance, questions to do with the kinds of curricula that best fulfil the goals set by law must be solved by applying pedagogical expertise.⁴⁸¹

8.3 Reflexive law

A deluge of norms has been regarded as a typical phenomenon in so-called welfare states (such as the Nordic welfare states). In other words, these states have been criticized for regulating “everything” (this has also been seen in the field of Finnish music schools).⁴⁸² Indirect regulation is a possible way of avoiding problems arising from the aforementioned phenomenon. Appropriate results for the parties involved are produced as reflections when only the frames of the autonomous sub-systems of the society are regulated (for instance, the status, competence and procedures of the parties involved). In other words, the law is used as an instrument in providing structures and circumstances for independent activity in different social sub- and part-systems, leaving space for the autonomy of these social systems. Legal means are not used to regulate the contents of activities. This kind of regulation has been called reflexive (self-regulating) law.⁴⁸³ An attempt to change to reflexive law is discernible in the following example:

⁴⁸¹ Laakso 1990, pp. 45–48.

⁴⁸² Kairinen 1995, p. 30; Laakso 1990, p. 53.

⁴⁸³ E.g. Günther Teubner supports a change to reflexive law. Laakso 1990, p. 53-54; see also Pöyhönen 1985; 1988.

For instance, the Finnish law governing liberal adult education was aimed to be a so-called law governing resources regulating only the preconditions for financing. According to the Committee Report (1996: 4), this act is also proposed to be written as an act governing activity and not only resources (as the working group in the Ministry of Education had suggested).⁴⁸⁴

At the same time, a move towards situational justice instead of the collective justice typical of the period of the social state has been noticed. For instance, educational equality no longer refers to equal and factual opportunities, but to the right of individuals to realize different kinds of cultural needs.⁴⁸⁵

Centrally controlled material regulation has been decreasing in the Finnish field of education, and tendencies to decentralize power are obvious in almost all of the countries of Western Europe, although economic reasons play at least as important a role in this as ideological factors.⁴⁸⁶ For instance, according to the report of the Finnish Music School working group (2/1993), the aim is to move towards framework legislation and to set aside all restrictions that are unnecessary. On the other hand, the working group states that a system of evaluation and control should be created for music schools in order to evaluate the effectiveness of the education they offer. In other words, control by evaluation (together with financial control) may be increasing at the same time as control by rules and regulations is decreasing. This means that activities are controlled and evaluated afterwards rather than directed beforehand. Thus, centrally directed evaluation, and regulations governing the self-evaluation of educational institutions, are usually connected to directing education by means of goals and frames.⁴⁸⁷

⁴⁸⁴ KM 1996: 4, p. 4.

⁴⁸⁵ Kairinen 1991; KM 1993: 31 pp. 121-122.

⁴⁸⁶ Kivinen et al. 1995, p. 25; OPM 1/1995, p. 6.

⁴⁸⁷ Musiikkioppilaitostyöryhmän muistio 2/1993, p. 3; Kivinen et al. 1995, p. 362.

8.4 Directing by results

According to the Committee Report (regarding the renewal of the Finnish School Acts 1996: 4), it is necessary to create a law-based evaluation system when legislation is based on educational results rather than on regulating the educational processes beforehand.⁴⁸⁸ A precondition for directing by results is that the aims of education are defined exactly, and their realization is controlled.⁴⁸⁹ The importance of aims is also stressed in the sense that the grouping of the current school acts is based on educational aims and contents and not on users, as it was before the renewal in the late 1990s. As an example, adult education is not separated as a section – on the contrary, all education governed by these acts has to be available to people of different ages in order to realize the principle of life-long learning.⁴⁹⁰ Flexible legislation governing aims has been replaced by a regulation system emphasizing results.⁴⁹¹ Attaining goals is controlled by evaluation, and regulations governing evaluation are therefore included in the school acts – and in the present Basic Arts Education Act (633/98).⁴⁹²

Evaluation has been regarded as an instrument of political regulation, and at the same time as the control of activities beforehand (by rules and regulations) is diminishing, educational institutions are being obliged to be evaluated. Evaluation is also being used as a means to examine how well the system serves its “clients”. This, as well as the possibility of linking financing by results to evaluation, indicate that management by results is also reaching the Finnish educational field.⁴⁹³

Determining and measuring the results of education are regarded as the main problems in applying management by results in the educational field. For instance, holistic educational aims (such as the education of human beings in general) are often impossible to measure. Management by results is therefore stated to have an effect on evaluation as well as on education (for instance, by favouring aims that are easily measurable). Emphasizing quantitative – such as the number of examinations – rather than qualitative factors as criteria for dividing financial resources is one of the questionable features. According to Niemi, a stiff institutional structure (bureaucratic planning and control) has been replaced by

⁴⁸⁸ KM 1996: 4.

⁴⁸⁹ KM 1996: 4, pp. 58, 83; HE 86/97 pp. 1-7. See Opetushallitus (The National Board of Education): Koulutuksen tuloksellisuuden arviointimalli 1998.

⁴⁹⁰ KM 1996: 4, p. 58.

⁴⁹¹ KM 1996: 4, p. 81.

⁴⁹² HE 86/97, §7; laki taiteen perusopetuksesta (633/98) §7.

⁴⁹³ OPM 24/1997; Kivinen et al. 1995, p. 26.

another stiff institution, a market system.⁴⁹⁴ In other words, financial regulation is being stressed, while legal regulation is diminishing. Yet, the tension between the right to education and freedom in education is still present; freedom costs money and the investor wishes to get value for his input. Therefore, freedom and autonomy of educational institutions to determine educational aims are restricted by the aims of investors.⁴⁹⁵

Financial regulation, as well as the management by results applied in educational institutions – and especially in arts education - has been criticized by several writers.⁴⁹⁶ “Evaluation itself does not mean much (as a control instrument); what is decisive is rather what is done with the results of evaluation. If the results have an impact on financing, it (evaluation) is a strong instrument of control”, as Matti Votka (from the Ministry of Education⁴⁹⁷) suggests. For instance, public evaluation has a direct effect on financing in England. In other words, educational institutions get into difficulties in terms of attracting students as well as sponsors if they do not succeed in the evaluation when the results are published. Therefore, financial bait (a carrot) is easily turned into a whip.⁴⁹⁸

⁴⁹⁴ Niemi 1994, p. 210; Kivinen et al. 1995, pp. 18-19; Kurkela 1997; Sava 1997, p. 259.

⁴⁹⁵ Kurkela 1997; Sava 1997, p. 259; Kivinen et al. 1995.

⁴⁹⁶ Niemi 1994, p. 210; Kivinen et al. 1995, pp. 18-19; Kurkela 1997; Sava 1997, p. 259; Rentto 1997, p. 666.

⁴⁹⁷ Votka, 27 Sept. 1995.

⁴⁹⁸ Professor John Sloboda at the Sibelius Academy, 10 June 1996. See also Kivinen et al. 1995, p. 26 (about the American system).

8.5 Soft law

8.5.1 The concept of soft law

As a phenomenon, soft law has always been present, namely when ontological and epistemological issues have been discussed. Yet, the concept of soft law is quite new, having appeared in legal processes only since the 1970s. It is a broad concept, and its meaning and content cannot easily be defined. The term was originally adopted in international law, but nowadays it is used quite widely in different fields of law.

Generally, the term soft law refers to law that is obeyed *de facto*, although it is not mandatory. Soft-law regulation includes the declaratory and programmatic regulation in international law. According to Pohjolainen, soft law refers to the kinds of general clauses that *de facto* can have a great effect on activities and decision making although they are not juridically binding. Recommendations in declarations and official announcements are regarded as typical examples of soft-law regulation. It is also linked to regulation by principles, although legal principles are often regarded as “stronger” than soft law. However, principles as defined in the resolutions and final acts of international conferences, could be regarded as typical soft-law regulation. According to Scheinin,⁴⁹⁹ soft law is regarded as standards, and according to Hannikainen,⁵⁰⁰ ethical sets of rules consisting of external principles and values of positive law are also regarded as soft-law regulation.⁵⁰¹

In short, the area called soft law lies in between the fields of clearly binding legal norms (the so-called white area) and the area that is not regulated by law at all (the black area). It has therefore been regarded as the grey area composed of non-binding principles and rules that nevertheless have legal significance. These declarations, recommendations and programmes have often been created within the framework of the United Nations. Discussions on the framework legislation, as well as regulation by flexible legal norms (presented by Hydén), are also connected to the contents of soft law. Depending on the context, soft law may refer to the non-statutory means of regulation used by public bodies, arrangements that are considered to be an alternative to legal regulation, self-regulation, and sometimes also deregulation.⁵⁰²

⁴⁹⁹ Scheinin 1991, pp. 29–43; op.cit. Pohjolainen 1994, p. 32; 1998, p. 442.

⁵⁰⁰ Hannikainen 1992, pp. 1–5; Pohjolainen 1994, p. 32; 1998, p. 442.

⁵⁰¹ Pohjolainen 1998, p. 442.

⁵⁰² Pohjolainen 1994, p. 28; Tala 1987, pp. 341–342.

Soft law is usually considered a composed set of norms (this distinguishes it from customary practice and principles). In addition, it typically aims to create a regulatory set of norms, in other words it is “soft” from the viewpoint of obligation (and existence), but not necessarily from the perspective of the content. However, even a rough division between “hard” and “soft” law is not possible. Besides being a “grey area”, soft law is considered a continuum, with hard norms at one end and soft norms at the other. The theoretical standpoint emphasizes elements belonging to the doctrine of the sources of law, whereas the practical viewpoint evaluates the influence of norms. The latter is assumed to be more fruitful with regard to the interaction between norms and society, and hence this is stressed in this work.⁵⁰³

Soft law was originally mainly used in the context of international law, from which the regulation often originates. However, national soft-law regulation is also found in the following:

1. plans, programmes, directions, resolutions – in other words, regulatory norms issued by decision-making bodies;
2. “gentlemen’s agreements” (arrangements based on non-judicial agreements) and goal agreements (such as result contracts at universities);
3. ethical sets of norms of some occupational groups (together with an unofficial control system);⁵⁰⁴
4. reflexive soft-law material (issued nationally or internationally), such as for marketing or consumer protection in environmental issues;⁵⁰⁵
5. principles and rules set by national or supranational civic organizations (the effect is usually heightened by media and publicity).⁵⁰⁶

The importance of soft law is growing, and nowadays there is a tendency to move from substantive to reflexive law since legal regulation by the state is not always regarded as the best possible means to promote relationships between individuals. Therefore, only forms and means through which arrangements are made for a dialogue between the individuals involved, as well as the necessary legal structure and suitable legal instruments to make this dialogue possible, are created by legal regulation. In other words, neither the legislator nor the state determines the rules that have to be followed: on the contrary, individuals themselves should decide through dialogue how problems and disputes that arise shall be solved and what rules shall be followed.

⁵⁰³ Pohjola 1998, p. 443.

⁵⁰⁴ Hannikainen 1992.

⁵⁰⁵ Tala 1987.

⁵⁰⁶ Pohjola 1998, p. 449.

Soft-law regulation also has an influence in the field of education and music education, and its importance will probably increase in the future. For instance, direction by information rather than rules is becoming more common in the Finnish field of educational administration.⁵⁰⁷ However, it is very difficult to define what kind of regulation is counted as soft law, not least because of the fact that the same kind of regulation may have the same effect as soft law – to some extent. International treaties, ISME and EMU conventions, directions of the Association (SML), and goal agreements could be regarded as soft-law regulation exerting an influence on education: they are not necessarily mandatory law, yet they could *de facto* have a great effect on general education as well as on music and the arts.

8.5.2 Soft law and international treaties

The report concerning regulation systems of education (1995) states that the influence of international treaties on human rights is quite small concerning the legitimation of educational rights in Finland.⁵⁰⁸ However, Finland is bound by several international treaties, such as the United Nations Convention on the Rights of the Child (SopS 59–60/91, ratified in Finland in 1991), the European Treaty on Human Rights (Euroopan ihmisoikeussopimus, SopS 18–19/90, ratified in 1990), and the International convention on economic, social and cultural rights (SopS 6/76). The validity of the aforementioned treaties is the same as the validity of legislation in general, since their implementation carries the force of law. Yet, the memorandum of the Ministry of Education (1/95) argues that the contents of these treaties is partly declarative. According to the Ministry of Education, it is not necessary for the rights mentioned in international treaties to be secured nationally on a constitutional or legal level.⁵⁰⁹

It has also been stated that the aims presented in the United Nation's Declarations – for instance, the Declaration on Human Rights, the Declaration of UNESCO, and the Declaration on Children's Rights – should be the starting point in all fields of education. According to Lehtimaja, it is obvious nowadays (at least in Finland) that treaties on human rights oblige not only legislators, but also all those who apply national legislation, in other words, individual authorities. A treaty on human rights may carry even more weight than an act of Parliament in spite of the fact that treaties do not have the same kind of hierarchical priority with regard to national legislation as the law of the European Union. According to the

⁵⁰⁷ Terhi Heino; op. cit. Heimonen 1999, p. 88; Tala 1987, pp. 343–344.

⁵⁰⁸ Kivinen et al. 1995, p. 368.

⁵⁰⁹ OPM 1/95, p. 14.

Constitution of Finland, the court is not allowed to apply such legislation that is in conflict with a treaty on human rights that has been brought into force after the law.⁵¹⁰

The international legal basis for the right to education and freedom in education is referred to in several declarations and conventions such as (a) the Universal Declaration of Human Rights (10 Dec. 1948), (b) the Declaration of the Rights of the Child (20 Nov. 1959), (c) the International Convention on Economic, Social and Cultural Rights (16 Dec. 1966), (d) The Convention on the Rights of the Child (20 Nov. 1989), and (e) the European Convention for the Protection of Human Rights and Fundamental Freedoms (4 Nov. 1950). Only the last one provides individuals with the right to appeal against the state, whereas the others are more like formal statements.⁵¹¹

The principle of equality referring to the right to receive compulsory education free of charge is stated to be taken for granted in European countries. Other kinds of rights, such as freedom in educational matters and respect for religious convictions, are protected in the European Convention. Accordingly, everyone has the right to freedom of thought, conscience and religion. The protection of national minorities is prescribed in a framework convention of the Council of Europe (10 Nov. 1994, art. 10).⁵¹²

The question of public funding of private forms of education is closely connected to freedom of education, including the right to offer and receive education that conforms to one's own religious or philosophical convictions. The framework convention for the protection of national minorities states that no financial obligations fall upon the state if a national minority sets up its own private educational establishment. On the contrary, according to a European Parliament resolution (14 May 1984), states are required to provide the financial means whereby the right to the freedom of education can be realized in practice.⁵¹³

The principle of the best interests of the child is prescribed in the Declaration of the Rights of the Child (20 Nov. 1959) and in the Convention on the Rights of the Child (20 Nov. 1989). According to the former, this is the guiding principle of those responsible for children's education and guidance, in the first place the parents. The principle of the best interests of the child as set out in the latter convention is described in the following Chapter, 8.6.⁵¹⁴

⁵¹⁰ Lehtimaja 1995, pp. 183–188.

⁵¹¹ Key topics 2000, p. 81.

⁵¹² Ibid., pp. 81–82.

⁵¹³ Ibid., pp. 81–82.

⁵¹⁴ Ibid., p. 82.

As far as music education and music schools are concerned, the two important international documents (that should have a strong influence on national legislation) are considered: (a) the Convention on the Rights of the Child (1989) and (b) Recommendation 929 on Music Education for All, adopted by the Parliamentary Assembly of the Council of Europe in 1981. The following Articles of the Childrens' Rights Convention (1989) apply particularly to music education.⁵¹⁵

1. The child has the right to a standard of living adequate to the spiritual, mental and social development of the child (Art. 27).
2. The education of the child shall be directed to promote the development of the child's talents and personality to their fullest potential (Art. 29).
3. States in which ethnic, religious or linguistic minorities exist have to secure that children have the right to enjoy their own culture and to practice their own religion and use their own language (Art. 30).
4. The child has the right to rest and leisure and to engage in recreational activities appropriate to the age. The child has the right to participate freely in cultural life and the arts. (Art. 31, paragraph 1)
5. The right of the child to participate freely in cultural and artistic life must be respected and promoted by the states. The provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activities shall be encouraged by the states. (Art. 31, paragraph 2)

The second document including recommendations that have to be respected by member states is the Recommendation on Music Education for All (of the Parliamentary Assembly of the Council of Europe, Thirty Third Ordinary Session Recommendation 929, 1981). According to this Recommendation, music is an important means of human expression and part of the cultural heritage of Europe. Therefore, every individual should be allowed to develop the skill of musical self-expression whether in singing or playing an instrument. Special training for particularly gifted children, as well as music education as a continuous part of general education, should be recognized in all countries. The importance of music education for the development of the personality and cultural behaviour of the individual, as well as the social value of music, are stressed.⁵¹⁶

⁵¹⁵ Young European Strings School of Music. Lecture given by Josef Frommelt, December 2000. <http://www.young-european-strings.com/lecture>. 23 August 2002.

⁵¹⁶ Recommendation 929 (1981) on music education for all. Lecture given by Josef Frommelt, December 2000. <http://www.young-european-strings.com/lecture>. 23 August 2002.

The low priority placed on music education due to reduced government spending is regretted in Article 12 of the preceding Recommendation (1981). Therefore, the following recommendations for improvements are presented: parents of small children should be informed of the importance of music; furthermore, music education should be provided on a continuous basis starting from pre-school. Adult education should also be promoted. Sufficient special schools should be maintained for children with a special interest in, or talent for music, and teachers and facilities of these schools should be made available to assist education in general schools. Special attention should be paid to teacher training, and the status of music-school teachers and the conditions of their employment should be equivalent to those of music teachers in general schools. Equivalences of degrees and diplomas in music should be recognized throughout Europe. The new technology should be used and composing contemporary music for children and the young should be encouraged. Amateur performances and performances of touring professional groups in classrooms should be supported, and innovations and pilot projects in music should be encouraged at all levels.⁵¹⁷

8.5.3 The Constitution and by-laws of the International Society of Music Education

The International Society of Music Education, ISME, is constituted to “serve as a voice” for all music educators around the world. As a Society, the ISME has a Constitution and by-laws. According to Article II of the Constitution, its purpose is to promote music education throughout the world. First, music education is encouraged as an integral part of general education and community life, in accordance with the right of everyone to take part in the cultural life of the community and to enjoy the arts (as stated in the Universal Declaration of Human Rights). Second, music education as a profession is promoted.⁵¹⁸

In order to realise these aims, conferences are organised, publications issued, commissions are established and activities authorised.⁵¹⁹ The role of music in bonding nations and enriching philosophy and the practice of music education interculturally has been clarified through conferences, publications and activities.⁵²⁰ In its promotion of music education, the ISME makes the following assertions:

⁵¹⁷ Recommendation 929 (1981) on music education for all. Lecture given by Josef Frommelt, December 2000. <http://www.young-european-strings.com/lecture>. 23 August 2002.

⁵¹⁸ ISME Constitution, Art. II.

⁵¹⁹ ISME Constitution, Art. III.

⁵²⁰ McCarthy 1993, p. 3.

1. Music is an essential element in the life of every cultural group and every individual; it brings joy and satisfaction, and exalts the spirit.
2. The world contains different kinds of music; each has a unique style and repertory, and all should be respected.
3. There is a social need for music in all cultures and age groups.
4. A particular music can best be comprehended in its social and cultural context.
5. There may be no universally valid criteria for the evaluation of music.
6. The study of a range of musics can and should be included in all kinds of music education.
7. Access to opportunities to learn about music, to develop musical skills and to participate in music is essential for individual wellbeing, irrespective of geographical location, social status or wealth; such individual wellbeing is essential to the wellbeing of the society.
8. In order to be effective, music education and training must be provided by well-qualified persons.
9. Excellent music education programs will attend to the individual needs of all learners.

According to the Society, the richness and diversity of musics of the world is a cause for celebration. Furthermore, the opportunity to engage in intercultural learning improves international understanding and cooperation, and prospects for peace. The ISME supports the use of all forms of communication in music education, from human interaction to the use of computers. Respect for all kinds of music should be emphasized.⁵²¹

The aforementioned policy on music education is based on two previously-approved policies: the “Declaration of Beliefs for Worldwide Promotion of Music Education” (1994) and the “Policy on Musics of the World’s Cultures” (1994). The objectives and beliefs of this Society are presented in the “Declaration of Beliefs for Worldwide Promotion of Music Education” as follows:

⁵²¹ <http://www.isme.org>

1. Music education should embrace all age groups, and all learners (regardless of their level of musical skill or development) should have access to a comprehensive programme of music education by effective music educators.
2. Everyone should have the opportunity to grow in musical knowledge, skills and appreciation. Furthermore, all learners should have the opportunity to challenge their minds, stimulate their imaginations, bring joy and satisfaction to their lives and exalt their spirits.
3. Everyone should have equal opportunities to pursue music. The quality and quantity of music education should not depend on the geographical location, social status, racial or ethnic identity, urban, suburban or rural habitat, or wealth of learners.
4. Everyone should have the opportunity to develop his or her musical abilities through education that is responsive to the individual needs. The musical needs of all learners, including those with disabilities or with exceptional aptitude should be taken into account.
5. All learners should have extensive opportunities for active participation in music, as listeners, performers, composers and improvisers.
6. All learners should have the opportunity to study and participate in the music(s) of their own culture(s) and the other cultures of their own nations, and of the world. All learners should have the opportunity to develop their abilities to comprehend the historical and cultural contexts of the music they encounter, to make relevant, critical judgements about music and performances, to analyse with discrimination and to understand aesthetic issues relevant to music.
7. The abovementioned objectives and beliefs are applied in the validity of all musics of the world. The value given to each particular music by the community that owns it is respected.⁵²²

The right to education referring to equal opportunities for the education of all learners around the world is promoted in the aforementioned Declaration. Furthermore, the right to participate in the music(s) of one's own culture is emphasised. All musical genres are respected, not only Western classical music. Plurality is regarded as a richness that promotes international understanding and cooperation, as well as peace between nations.

Music(s) of different cultures are stated to have a significant role in music education. Therefore, a declaration on the "Policy of Music of the World's Cultures" was prepared by the ISME Panel on the Music of the World's Cultures

⁵²² Declaration of Beliefs for Worldwide Promotion of Music Education. International Society for Music Education, ISME 1994.

in 1994. This declaration states that the following recommendations are adopted as organisational policy. (a) The world of music should be seen as a group of discrete musics (western art music is only one of these musics). (b) Each society makes its own relative evaluation of the musics. (c) Music is a cultural universal; all cultures have music, and each society has a musical system. Subcultures, age groups, and other subdivisions of society may also have their individual musics. (d) There are no universally valid criteria for the evaluation of music. However, each society has its own way of judging the compositions, performances, teaching methods, and other forms of musical behaviour. All musical systems are valuable and worthy of comprehension and study. (e) Music can best be comprehended in social and cultural contexts and as a part of its culture.

Furthermore, the following comments on educational issues are presented in the declaration:

1. In the context of understanding music as a cultural universal, it is essential for any system of music education to include the teaching of the music of the society, Western art music, and a liberal sample of music of other societies, contemporary and past, in the study program.
2. While music education operates within institutional contexts, teachers need to be invited to draw upon the total musical experience of their societies when they teach music. In many parts of the world, music transmitted via mass media dominates the everyday life of students, and this should be understood for its potential in music education.
3. In music education certain musics can be and must be emphasized over others. However, all music is best comprehended and introduced with reference to a world context.
4. Respect for all musics should be emphasised. Comparing musics in terms of their presumed quality is neither appropriate nor practical. Judgement of musical works and performances should be based on the criteria of the culture whose music is being studied.
5. Music may be taught by permitting students to participate in creating and reproducing music, presenting live performances and video recordings, providing opportunities for aural and cultural analysis, and including music in the study of social studies, history, literature and the arts.
6. Music of the world's cultures can be, at least in a latent sense, present in all kinds of music education, at all levels, in the study of performance as well as in academic study, and in formal as well as informal educational activities.

7. Music plays a major role in the integration of culture and the maintenance of ethnic identity as well as in mediation among cultures in contact. Furthermore, music is of special usefulness in the solution of social and political problems in inter-ethnic and multi-ethnic societies.⁵²³

In short, the importance of music education both for society as a whole as well as for the individual is stressed. Individual wellbeing, which is necessary for the wellbeing of the society, is promoted in the latest Policy on Music Education. Furthermore, the value of all kinds of musics is emphasised, as is the right of everyone to receive proper education in music by competent teachers. Everyone should have the opportunity to study and participate in the musics of his or her own culture. Music education could even contribute to solving social and political problems, and it promotes understanding between different cultural groups. Music is not only one universal language: on the contrary, “musics” are rather regarded as “languages”.

⁵²³ Policy on Music of the World's Cultures, ISME, 1994.

8.6 The United Nations Convention on the Rights of the Child

8.6.1 The principles of the best interests and autonomy of the child

Education and the aims of education are mentioned in the United Nations Convention on the Rights of the Child.⁵²⁴ This convention also states that the principle of the best interests of the child is of primary importance:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
(Art. 3)

This means that “all actions concerning the child shall take full account of his or her best interests” (Unofficial Summary of the Convention). The only country in the world that has neither signed nor ratified the Children’s Rights Convention is Somalia. Thus, the legal principle of the best interests of the child is the most important principle in all actions concerning children.⁵²⁵ This should be common knowledge because, according to Article 42, “State Parties undertake to make the principle and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.”⁵²⁶

This convention defines the minimum level of children’s rights. Every article opens the door on the national legislation of the countries that have ratified the convention. In Finland, the best interests of the child was the most important principle in child law even before the UN convention was ratified in 1991. Following the implementation of this convention, the application of the principle has not been restricted to child law, but it is applied in public law and in all matters concerning children. The concept of the child refers to all children and young people under the age of 18.

What does the phrase “the best interests of the child” actually mean? The content of this concept has been left open by the legislators; the “best interests of the child” is stressed as the most important principle, yet the legislators do not

⁵²⁴ Art. 29.

⁵²⁵ Kurki-Suonio 1999, p. 571.

⁵²⁶ This principle is mentioned as an aim in several laws concerning children (e.g., Adoption Act / laki lapseksiottamisesta §2; Child Welfare Act / lastensuojelulaki §16). The convention was ratified in Finland on 21 August 1991 (Act 1129/91 and Statute 1130/91).

explain what these interests really are. Ronald Dworkin has drawn comparisons between these kinds of “open concepts” and doughnuts: the concept, “like the hole in the doughnut”, does not exist except as an area left open by a surrounding belt of restriction.⁵²⁷ These are therefore relative concepts, and we have to ask what standards we are talking about. Generally, the context will give the answer. An open concept is always “coloured by the background of understood information against which it is used;” thus, “the shadings are many.”⁵²⁸

The best interests of the child is an open concept, and thus the open area, like the hole in the doughnut, makes it possible to determine the child’s best interests individually in each single case. Open concepts also tend to leave room for all kinds of value judgements and evaluations. For instance, as Kurki-Suonio points out, “The best interests principle is truly open to different kinds of interpretations.”⁵²⁹ What the best interests of the child are has to be decided in practice in a concrete situation: those who apply the law decide what is best for a particular child in a particular situation.⁵³⁰

The cultural context is decisive in defining an open concept. For instance, whereas the aim of adoptions used to be to give a child to a childless couple, nowadays the principal aim is to find the best possible home for the child. Thus, in this case the best interests of a child refer to creating a parent-child relationship between the adopter and the child to be adopted. As stated in Finland’s Adoption Act (Chapter 1, Section 1): “The purpose of adoption shall be to promote the welfare of the child by creating a relationship of child and parent between the person to be adopted and the adopter.” In addition, the adoption of a minor may be granted *only* if it is considered to be in his or her best interests (Section 2), and it has to be established that the child will receive good care and upbringing.

Even though, as mentioned above, open concepts are truly open to different kinds of interpretations, values and evaluations, the surrounding belt of restriction is determined by the context in which the term is used. Definitions of the best interests of the child, as well as relationships between parents and children, vary. For instance, different attitudes towards the question of how many children one parent should be allowed to adopt are evident in the following extract.

⁵²⁷ Dworkin 1977a, p. 52.

⁵²⁸ *Ibid.*, p. 52.

⁵²⁹ Kurki-Suonio 1999, p. 561.

⁵³⁰ *Ibid.*, p. 561.

André-Pierre Sabbe from Belgium adopted all the 30,903 children living in a refugee camp in Somalia. The adoption was regarded as valid in Somalia; thus, Mogadischou granted Mr. Sabbe the title of honorary citizen. In Belgium this new father of over 30,000 children applied for millions of marks (DM) per month as child subsidy (“Kindergeld”). Yet, in Belgium this adoption was not considered to be valid.⁵³¹

8.6.2 The best interests of the child in music education

According to the United Nation’s Convention, *all* actions concerning children should take full account of the child’s best interests. What then, would be the content as well as the function of this legal principle in music education?

As an open and relative concept, it leaves ample room for different kinds of interpretation. Nevertheless, the hole in the doughnut is surrounded by a restricting belt, usually determined by the context. It leaves room for establishing different kinds of aims in music education: the education of performing artists as well as of music listeners, amateurs and professionals, an emphasis on multicultural music education, and finally, trying to create a good rapport between the pupils and the world of music. In other words, although it may sound like a truism, education should aim at making a better person – “more aware, more human, more able to relate to the society in which he or she lives.”⁵³² Music teachers, together with their pupils (and their parents), must determine open concepts such as the best interests of the child on an individual basis during each single music lesson.

This principle does not only affect music teachers. In fact, according to the Convention, it is the most important principle in all actions concerning children, whether undertaken by public or private social-welfare institutions, courts of law, administrative authorities or legislative bodies. The best interests of the child should be a primary consideration all over the world when acts concerning children are passed or applied, and when acts governing music education are introduced and interpreted in practice. This principle should be especially respected by state and local authorities dealing with financial and educational matters.⁵³³

⁵³¹ Kegel 1985, p. 585.

⁵³² Kemp 1996, p. 252.

⁵³³ Mahkonen 1991; Lapsen oikeuksien sopimus 1994, p. 26.

The principle of the best interests of the child (Article 3) is declared to be of great importance at Örebro Culture School, and should always be considered paramount. The principle of equality is interpreted to mean that all children and young people should be given the best possible opportunities to develop their own cultural expressions and artistic talents. The aims of education are broad – and so are the variety of subjects that may be studied at this school. In fact, the aims are not only musical, on the contrary, the education of human beings in general as well as social aims such as providing the means for democracy and freedom of speech, diversity and perspective, are stressed.⁵³⁴

8.6.3 The right of every child to extra-curricular music education

The United Nation's Convention on the rights of the child has been chosen as a basis for providing activities concerning children in the municipality of Örebro in Sweden. Since the importance of local self-government is emphasized, the contents and applications of this convention are determined by the local authorities. The principles of the best interests as well as the autonomy of the child set out in this convention are also expressed in the declaration of Örebro municipality. According to this *Vision for children*, all children in Örebro have the right to live and develop under circumstances that promote the best interests of the child. In addition, their own will and opinion (depending on their age and maturity) should be taken into account.⁵³⁵

This vision is one of the municipal declarations that affects the activities of the culture school of Örebro; the school is a local authority and it has to operate under the Board of Education of the town council. Therefore, the contents and applications of the principles presented in the UN Convention have to be clarified and applied to the extra-curricular music and arts education offered by the school. The right of every child (without exception) is stressed: in other words, the education offered at this school should promote the rights of all the children in Örebro. For instance, access to the school is open to every child, there are no entrance examinations, and group teaching is emphasized. The school has a lot of collaboration with local schools, and through the workshops almost all children in Örebro are also offered music education by a music-school teacher.

The right to freedom of expression is a fundamental democratic value, and it has therefore also been laid down as one of the aims of the Örebro Culture School

⁵³⁴ <http://www.orebro.se/kulturskolan/nyheter/engelskv.html>.

⁵³⁵ Skoglund, 13 February 2001; <http://www.orebro.se/kulturskolan/nyheter/engelskv.html>. (18.2.2001)

as well as of the Swedish Music and Culture School Association.⁵³⁶ In addition, the Article 31 of the UN convention is especially emphasized. According to this Article, every child has the right to engage in recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts. The Swedes interpret these conventions liberally to suggest that no examinations should be held and no diplomas issued.⁵³⁷ The principle of equality is interpreted as the right of every child – and not only the right of talented children aiming at future professional studies in music – to attend a municipal music or cultural school.⁵³⁸

The second fixed-term statement by Finland related to the UN Convention on the Rights of the Child mentions music schools, as well as basic arts education, in conjunction with the aforementioned Article 31. In this statement, the law governing music schools and other arts schools (Basic Arts Education Act) is especially referred to in terms of creating the opportunity for children and young people to participate in the arts.⁵³⁹

⁵³⁶ <http://www.smok.se/eng/whatis.html> (27.4.2001)

⁵³⁷ The English voluntary examinations (organised by ABRMS) may be taken in Scandinavia.

⁵³⁸ Skoglund, 13 February 2001.

⁵³⁹ Lapsen oikeuksien sopimus. Suomen toinen määräaikaisraportti (1998), p. 54.

8.7 Summary

Finnish society is said to be consistent with ideas put forward by John Rawls.⁵⁴⁰ In other words, state intervention is not prohibited since the role of the state is to create equal opportunities for everyone. Furthermore, legal regulation is an instrument of the state, for instance in creating conditions and circumstances for educational activities. However, the law is not identified with written regulations, although the civil-law systems are characterized as systems of written law. According to the Finnish Procedure Act, sources of law are written law, custom and preliminary legal documents. In addition, the concept of law has been widened in the latest discussion: the phenomenon of “law as culture” is currently the subject of a lively discussion, and several levels in law have been created to widen the Kelsenian concept of “pure jurisprudence” (*Reine Rechtslehre*). In short, law as culture consists of elements that are linked to moral as well as ethical norms.

Changing over to a more flexible control model is stated to be a part of a more general tendency in the development of legislation in Western societies: the contents, forms and procedures of the law are to be governed by more flexible regulation models (for instance, regulation by goals) rather than by rules. The importance of goals and needs has been stressed, especially in the public sector. Therefore, the number of norms only giving information about the goals (and leaving the means of achieving them open) has increased. These norms are like signposts, allowing discretion to those applying the law. The aim is to find a course of action that best realizes the goals of various activities. Expert knowledge of a certain field is a precondition for this kind of decision making. For instance, the question concerning the kind of curriculum that best fulfils the goals stated in the law must be answered through pedagogical expertise.⁵⁴¹

Tendencies to decentralize power to educational institutions are obvious in Finland, as well as in almost all countries of Western Europe, although economic reasons are sometimes at least as important for this development as ideological factors.⁵⁴² Therefore, reflexive (self-regulating) law and framework legislation is used as a means for providing structures for independent activity in social sub-systems. For instance, according to the report of the Finnish Music School working group (2/1993), the aim is to move music-school legislation towards framework legislation and abolish all the restrictions that are not necessary. On the other hand, the working group stated that a system of evaluation and control should be created for music schools in order to evaluate the effectiveness of

⁵⁴⁰ Rawls 1972.

⁵⁴¹ Laakso 1990, pp. 45–48.

⁵⁴² Kivinen et al. 1995, p. 25; OPM 1/1995, p. 6.

the education offered. In other words, controlling by evaluation (together with financial control) is increasing at the same time as controlling by rules and regulations is decreasing. It is common that centrally-directed evaluation and regulations governing self-evaluation in educational institutions are connected to the direction of education by means of goals and frames.⁵⁴³

As mentioned above, soft law refers to law that is obeyed *de facto* although it is not juridically binding. Recommendations in declarations and official announcements are regarded as typical examples of soft-law regulation. Soft law may also be linked to regulation by principles, and principles defined in the resolutions and final acts of international conferences could be regarded as typical soft-law regulation. Furthermore, ethical sets of rules consisting of external principles and values of positive law are also regarded as soft-law regulation.⁵⁴⁴ Soft law consisting of declarations, recommendations and programmes has often been created within the framework of the United Nations. Discussions on the framework legislation, as well as on regulation by flexible legal norms, are also connected to the contents of soft law.

Soft-law regulation also has an influence on education and music education, and the importance of soft law will probably increase in the future.⁵⁴⁵ However, it is very difficult to define what kind of regulation is counted as soft law, not least because the same kind of regulation may be partly effected as soft law – but partly not. International treaties such as the ISME convention, the directives of the National Association (SML), and goal agreements could also be regarded as soft-law regulation. They all have that kind of influence on education: they are not necessarily mandatory, yet they may *de facto* have a great effect on the field of music education. For instance, the directions and repertoire requirements issued by the National Association of Finnish Music Schools (SML) have had a great influence on the study programmes and the contents of the education offered.⁵⁴⁶ Through the activities of national organisations (including the FISME in Finland), the policies and declarations of the ISME have an influence on music education around the world.

⁵⁴³ Musiikkioppilaitostyöryhmän muistio 2/1993, p. 3; Kivinen et al. 1995, p. 362.

⁵⁴⁴ Pohjolainen 1998, p. 442.

⁵⁴⁵ Terhi Heino; op. cit. Heimonen 1999, p. 88; Tala 1987, pp. 343–344. C.f. The Framework Curriculum 2002 (Taiteen perusopetuksen musiikin laajan oppimäärän opetussuunnitelman perusteet, 2002).

⁵⁴⁶ See Chapter 9 (Music schools in Finland); Rajamaa 7 Sept. 1995; Perälä 1993.

Sweden has no legislation covering the extra-curricular music education for children and young people offered by municipal music and cultural schools. Therefore, international conventions such as the UN Convention on the Rights of the Child may have a direct influence on the activities of these schools. Declarations, visions and international conventions are also applied through the local politics of the surrounding community, as is the case in Örebro Culture School. Furthermore, the right of expression is a fundamental democratic value in Sweden, and therefore it is incorporated as one of the aims of the school, as well as of the Swedish Music and Culture School Association.⁵⁴⁷ Article 31 of the UN Convention, according to which every child has the right to engage in recreational activities appropriate to the age of the child, and to participate freely in cultural life and the arts, is especially emphasized at Örebro Culture School. No examinations are held, and the principle of equality is interpreted as the right of every child – and not only the right of talented children aiming at future professional studies in music – to attend a municipal music or cultural school.⁵⁴⁸ Finland's second fixed-term statement related to the UN Convention on the Rights of the Child mentions music schools, as well as basic arts education, in conjunction with the aforementioned Article 31. The law governing music schools as well as other arts schools (Basic Arts Education Act) is singled out in creating opportunities for children and young people to participate in the arts.⁵⁴⁹

The Örebro Culture School attaches supreme importance to the principle of the best interests of the child (UN Convention on the Rights of the Child, Article 3). Therefore, the aims of education are child-centred as well as society-centred.⁵⁵⁰ In other words, the child as an individual, his or her aims and capacities, are emphasized and nourished. The principle of equality is also interpreted to mean that every kind of aim is taken account of: all children and young people should be given the best possible opportunities to develop their own cultural expression and artistic talents. The aims of education are broad – and so are the variety of subjects that may be studied at this school. The aims are not only musical: on the contrary, the general education of the human being, as well as social aims such as providing the means for democracy and freedom of speech, diversity and perspective, are also stressed.⁵⁵¹

⁵⁴⁷ <http://www.smok.se/eng/whatis.html> (27.4.2001)

⁵⁴⁸ Skoglund, 13 February 2001.

⁵⁴⁹ Lapsen oikeuksien sopimus. Suomen toinen määräaikaishetki (1998), p. 54.

⁵⁵⁰ Lephed 1992, pp. 39–40; see also Chapter 1.2.

⁵⁵¹ <http://www.orebro.se/kulturskolan/nyheter/engelskv.html>.

PART THREE

MUSIC SCHOOLS AND THE ROLE OF THE STATE

Chapter nine

Music schools in Finland

9.1	BACKGROUND.....	190
9.2	GOAL-ORIENTATED EDUCATION – POSITIVE AND NEGATIVE ASPECTS.....	191
9.3	EDUCATING PROFESSIONALS OR AMATEURS?.....	194
9.4	THE PRESENT AIM: SELF-EXPRESSION AND A TRAINING GROUND FOR FUTURE PROFESSIONALS	195
9.5	THE PRINCIPLE OF EQUALITY AND THE RIGHT TO EDUCATION.....	196
9.6	CURRENT PROBLEMS: EDUCATION AND FREE-MARKET PRINCIPLES.....	199
9.7	NEW VISIONS OF MUSIC SCHOOLS.....	201
9.8	THE BASIC ARTS EDUCATION ACT (633/98).....	207
	9.8.1 <i>Background: from music schools to arts education</i>	207
	9.8.2 <i>Aims in basic arts education</i>	209
	9.8.3 <i>The content of the present Act</i>	211
9.9	CONCLUSIONS.....	213

Chapter 9 Music schools in Finland

9.1 Background

The Helsinki Music Institute (the present Sibelius Academy) was founded in 1882 by Martin Wegelius. In addition, music schools were established in Tampere (1917),⁵⁵² Viborg (1918)⁵⁵³ and in some other bigger towns. These schools were usually founded by private persons who were enthusiastic about music and music education. Furthermore, the schools were run privately without state direction or public funding.⁵⁵⁴

The Helsinki Music Institute and the Helsinki Orchestra Society have been claimed to be the first Finnish music institutions. However, the majority of the personnel of both of these institutions were foreigners. For instance, almost all the principal teachers at the Helsinki Music Institute were born abroad. Some of them stayed in Finland for the rest of their lives, whereas others, such as Ferruccio Busoni, left the country after a few years.⁵⁵⁵ The director, Martin Wegelius, had studied in Central Europe and had admired the vocational music schools in Germany. Wegelius adopted as his model the Conservatory of Leipzig, in which he had studied in 1871-73, although he had also made study trips to Vienna (1870-71) and Munich (1877-78). Wegelius (who received his Master's degree, with aesthetics as his major subject, at the University of Helsinki) stressed the importance of a broad education aiming to develop civilized persons. All the pupils at his school were obliged to take lessons in general subjects (such as music history, solfège and music theory). In other words, instrumental and vocal lessons were not considered sufficient. Robert Kajanus established an orchestral school connected to the Helsinki Orchestra Society in 1885. Kajanus was an excellent musician without any academic qualifications. His school offered education in all of the orchestral instruments (the choice at the Helsinki Music Institute was more limited).⁵⁵⁶

The aforementioned period (beginning at the end of the 19th century) was the first stage of institutional music and music education. The second stage took place after Finland gained its independence (1917), when several folk conservatories, as well as the orchestras of Turku and Tampere, were established. An institutional and organized music culture spread outside the capital and the establishment of

⁵⁵² Otavan iso musiikkietosanakirja 5, p. 421.

⁵⁵³ Ibid. p. 621.

⁵⁵⁴ See Section 7.3; Perälä 1993.

⁵⁵⁵ Huttunen 2002, p. 36.

⁵⁵⁶ Huttunen 2002, pp. 34-36.

a nationwide network began. The third stage began in the 1960s when music festivals were first organised and the financial basis for a network of music schools was secured by the introduction of the first legislation covering them.⁵⁵⁷

Music institutions were not only exclusive to Finland. The first conservatories were established in Italy in the 16th century. These institutions were orphanages in which music was taught in conjunction with religious observance. Furthermore, the Conservatory of Paris was founded in 1795, and the German conservatories were established mainly in the 19th century. Leipzig Conservatory was founded in 1843, for instance. Conservatories in Russia were founded in the 1860s – that of St Petersburg in 1862 and of Moscow in 1866. All of these conservatories were maintained by different kinds of associations and societies, and state institutions were not established until the 20th century.⁵⁵⁸ For instance, the Sibelius Academy (the former Helsinki Music Institute) was a private institution until 1980.⁵⁵⁹

According to Huttunen, the official bourgeois “status” of vocational music education was achieved by establishing official educational institutions. At the same time, the basic dilemma and a fundamental problem regarding music education was created. The unresolved question, even today, is whether examinations are necessary, or whether playing and singing as a hobby comprise sufficient activity regarding the content of music education.⁵⁶⁰

9.2 Goal-orientated education – positive and negative aspects

Goal-orientated education has been regarded as the main aim and content – even called the basic philosophy – of the education offered by music schools in Finland.⁵⁶¹ Furthermore, goal-orientated education has usually referred to preparation of musicians,⁵⁶² and was the basis of arguments when state subsidies for music schools were applied for in the 1960s. In fact, folk high schools and workers’ institutes offering extra-curricular music education were granted state support before music schools. Music schools had to find special arguments to justify their role in the field of arts education, and vocational education has always been a strong argument for public financial support. Music schools stressed the

⁵⁵⁷ Huttunen 2001, p. 48; Laki musiikkioppilaitosten valtionavustuksesta / Act governing state support for music schools (147/68).

⁵⁵⁸ Huttunen 2002, p. 35.

⁵⁵⁹ Palonen 1993, p. 31.

⁵⁶⁰ Huttunen 2002, p. 36.

⁵⁶¹ Kurkela & Tawaststjerna (Heino & Ojala) 1999, p. 124.

⁵⁶² Mäkilä 2001, p. 22.

need for proper goal-orientated studies from an early age, especially in the field of classical music. The tradition of master craftsman and apprentice, and the practice of private lessons, made the music schools different from other educational institutions offering music education for children and young people.⁵⁶³ In fact, the same argument – the need to have proper training from the very early stages for a future profession in music – also justified government subsidies for specialist music schools in England.⁵⁶⁴

The internationally admired high standard of professional Finnish musicians, especially in the field of classical and modern music, has been regarded as a “result” of the network of music schools offering goal-orientated education.⁵⁶⁵ Private instrumental and vocal lessons, theory and solfège lessons, and ensemble playing are obligatory subjects for every pupil, depending on his or her age and standard of attainment. This system of standardized examinations and obligatory subjects was justified in the 1970s by the secure character of a systematic structure.⁵⁶⁶ Furthermore, members of the group that prepared the Music School Act had visited several countries, and especially admired the Hungarian system.⁵⁶⁷ The model of systematic music education with its specialist music schools that existed in the Soviet Union also had an influence on Finnish music schools.⁵⁶⁸

Russian influences on the Finnish music-school system are understandable in the light of the history of Finland. St Petersburg, as an important cultural centre, had an influence on Finnish cultural life early in the late 18th century, and in the 19th century it was the biggest city in Northern Europe with a flourishing cultural life. Several internationally well-known artists performed in Finland on their way to St Petersburg, and famous Russian musicians such as Stravinsky and Shaljapin visited Finland. The most recent compositions – for instance, all the three symphonies that Stravinsky composed in 1911–22 – were performed in Helsinki.⁵⁶⁹

Cultural exchange continued even after the wars, which meant that the Finns had a special opportunity to attend concerts given by performers such as Richter, Gilels, Oistrach and Kogan. In addition, several Finnish musicians studied and

⁵⁶³ Laurila 1975; Perälä 1993.

⁵⁶⁴ Sharkey, 2 July 2001.

⁵⁶⁵ Clark 2001.

⁵⁶⁶ Fantapié 1982.

⁵⁶⁷ KM 1974:139, pp. 2-15; Tawaststjerna, 21 August 2001; Häyrynen 2000.

⁵⁶⁸ Tawaststjerna, 21 August 2001; Häyrynen 2000, p. 33.

⁵⁶⁹ Häyrynen 2000, pp. 30–33.

⁵⁷⁰ Häyrynen 2000, pp. 30-33.

performed in Leningrad and Moscow. Several Russian (as well as Hungarian) emigrants have worked in Finland as pedagogues, and the Russian school has had a strong influence, especially on piano and violin instruction. In short, the relationship between Russia and Finland has always been close, although cultural exchange has been realized in different ways.⁵⁷⁰ For instance, Verwijnen states in the Committee Report of 1992 (KM 1992:36), “Helsinki can be a spring-board to the East because of its proximity to St. Petersburg”.⁵⁷¹ However, the curricula of Hungarian educational institutions, with specific regulations governing the subjects offered at schools, have also had an influence on the Finnish educational system, and on the curricula, as well as on the structure of music education.⁵⁷²

The systematic structure of Finnish music schools, the “pyramid” of music education, has been criticized especially by music educators and musicians. First, fear of losing the most talented pupils (who would perhaps not adjust to a strictly regulated system) was expressed early in the 1980s.⁵⁷³ Haapanen claimed that it was obvious that music schools must have clear regulations and a closely supervised curriculum based on law and statute, but he believed that government regulations and the curriculum could be written in such a way that there would still be room for freedom concerning the essential contents of music education.⁵⁷⁴ Second, only approximately 1.5% of pupils attending music schools became professionals, which meant that the aims and contents of the education offered were criticized as serving the needs of a very small minority.⁵⁷⁵

⁵⁷¹ KM 1992: 36, p. 79 (Verwijnen 1991: Cultural change, pp. 65-86).

⁵⁷² KM 1974:139, pp. 2-15.

⁵⁷³ Fantapié 1982; Helasvuo 1983.

⁵⁷⁴ Haapanen 1980.

⁵⁷⁵ Palonen 1993. See also Kurkela (1995a, pp. 33-40); he states that what is essential in music education should be to act and experience in the spirit of freedom. Furthermore, the principal aim should be to create a good relationship between the pupil and music (Kurkela 1995a, p. 26). For criticism of the one-sided aims of music schools, see Perälä 1993, pp. 114-115; Vapaavuori 1989, p. 22; Amberla 1989, pp. 8-10; Grundström 1989. See also Kurkela 1993; Lehtonen 1986; 2001; Rechart 1991, who emphasize the importance of the psychodynamic function of music in music education. Lehtonen states that the idealistic visions and aims about free and creative musical expression formulated in written curricula have not been realized in practice; in contrast, the “hidden curriculum” (see Broady 1987) has created a lot of pressure (Lehtonen 2001, p. 307).

9.3 Educating professionals or amateurs?

The tension between preparing future professionals and experts, and educating amateur musicians has created a dilemma. Some Finnish music schools have planned to create a special study programme for especially gifted pupils. The evaluation group of music schools (1999)⁵⁷⁶ was not so eager to promote the idea of separating especially talented pupils. More flexibility in study programmes might be a better solution than the aforementioned proposal.

Compared with other countries, the Finnish view on the education of musically gifted children aiming at a profession is interesting. For instance, in England, specialist music schools are available for selected and especially talented pupils, whereas no entrance examinations are held for children aiming to study at a music school in Sweden. However, a special study programme is available for selected pupils aiming at a profession at the age of approximately 15 in Swedish as well as in German music schools. Finland has no specialist music school with boarding facilities, although there was serious discussion on this subject when the music-school system was created.⁵⁷⁷

Philosophical questions concerning aims in education were discussed early in the 1970s. For instance, Helasvuo questioned whether the aim of education offered at music schools would be to prepare soloists and concert musicians as well as winners of international competitions. As an alternative, he claimed that choosing a musical career develops over time with the inspiration of parents and teachers and the attraction of the musically-gifted child himself or herself. Both of the views presented by Helasvuo were criticized, although the latter alternative was regarded as more humane than the former. However, the disadvantages of the latter view included the problems of so-called positive and negative freedom: without a music-school network, the practical opportunities would not be the same for all children and young people. The principle of equality would be threatened: different regional, economic and social backgrounds have an effect on children and young people attending music schools. Furthermore, gifted children from unfavourable backgrounds might drop out for economic reasons. In contrast, the first model was criticised as being too harsh from the perspective of the individual, since the results would be assessed on statistics indicating, for instance, the number of winners of competitions, or the number of pupils who become professionals. The fact that both of these models had advantages and disadvantages meant that a compromise was required. As Helasvuo puts it:

⁵⁷⁶ Ojala & Heino 1999.

⁵⁷⁷ Tawaststjerna, 21 August 2001; Helasvuo 1977. See Chapter 7.2.3.

*The world does, after all, need good amateurs. And above all it needs harmonically developed people. . .*⁵⁷⁸

9.4 The present aim: self-expression and a training ground for future professionals

According to the current Act on Basic Art Education (633/98),⁵⁷⁹ the objective of the education is both to promote self-expression and to create a solid basis for future professional studies.⁵⁸⁰ Achieving a balance between these two objectives is a challenge for music schools. Methods and aims in music education are context-bound: they are closely connected to the world view and the tradition of educating children at schools as well as at homes. These factors are related to politics and religion, history and the present situation of society. In Finland, foreign influences have been apparent in the systematic structure, the selection of pupils by entrance examinations, the goal-oriented education with graded examinations, pupil assessment and in the network of music schools covering the country.⁵⁸¹ On the other hand, specialist music schools for especially talented children selected by audition are also found in liberal societies such as England.⁵⁸²

However, in the late 1980s, and especially in the 1990s, the aims and content of the education offered at Finnish music schools were criticized as being too narrow. The repertoire of classical music, graded examinations, obligatory theory lessons as well as the syllabus as a whole were regarded as suitable for only a small minority of pupils. More freedom was demanded for a wider range of musical styles to be offered from classical to pop and jazz, lessons in improvisation and music technology, as well as a more flexible examination system.⁵⁸³ According to the evaluation group of music schools,⁵⁸⁴ the report of the Parliamentary Education Committee on the proposal for the Music School Act (SiVM 29/HE 258) still represented the intent of the legislator (although the Music School Act⁵⁸⁵

⁵⁷⁸ Helasvuo 1977, p. 105.

⁵⁷⁹ Laki taiteen perusopetuksesta (633/98).

⁵⁸⁰ Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act).

⁵⁸¹ Tawaststjerna, 21 August 2001; Häyrynen 2000; Sándor 1975, pp. 79.

⁵⁸² Sharkey, 2 July 2001.

⁵⁸³ Amberla 1989; 1994; 1995a; 1995b; Aukia 1990; 1992; Haapanen 1980; Helasvuo 1983; Karlson 1999; Kainulainen 2002; Kuoppamäki 2000; Kuusisaari 2000; 2001a; 2001b; 2001c; 2001d; 2002; Loponen 2001; Luukkonen 2002; Mäkilä 2001; Vapaavuori 1989.

⁵⁸⁴ Ojala & Heino 1999.

⁵⁸⁵ Laki musiikkioppilaitoksista (516/95) (Music School Act).

was abrogated in 1999). The reason for the reform of the legislation was not to deny the principles of the Music School Act (516/95) when the current Act and Statute on Basic Arts Education came into force. As the Education Committee states, in music as well as in dance education, it is important that pupils have the chance to express themselves creatively, and that they preserve the joy of music and dancing. Without compromising the standard of education, it is possible to create an atmosphere of freedom and experimentation in the schools; an atmosphere that safeguards the continuity and deepening love of and interest in music throughout life.⁵⁸⁶

In short, the society had changed, and a more child-centred view was emphasized in the 1990s. However, positive freedom, in other words that the state should create the preconditions for these activities, was demanded: music schools certainly did not want to lose their state subsidy, although they demanded looser state control.⁵⁸⁷ As Amberla puts it:

The most important argument for defending the Music School Act is money, since the financial basis of music schools is left unclear in Numminen's committee report.⁵⁸⁸
(my own translation)

9.5 The principle of equality and the right to education

One of the basic principles in Finnish society is the duty of the State to offer all citizens equal opportunities to receive education regardless of social, economic or regional background. According to the report of the evaluation group of music schools (1999), the previous principle of equality is also applied to basic music education at music schools.⁵⁸⁹ In fact, in the late 1960s the grounds for creating a network of music schools and the arguments for receiving state subsidy for these schools were based on the principle of equality. However, the right to education is a more complicated question.

⁵⁸⁶ SiVM 29/HE 258/94; Kurkela & Tawaststjerna 1999, p. 106. C.f. SiVM 3/1998 – HE 86/1997.

⁵⁸⁷ Amberla 1995a; Vihinen 1995a; 1995b; 1996a; 1996b; 1998a; 1998b; Perälä 1993; Kurkela & Tawaststjerna 1999, pp. 124–125.

⁵⁸⁸ “Painavin syy puolustaa musiikkioppilaitoslakia on kuitenkin raha, sillä Nummisen komitean mietinnössä musiikkioppilaitosten rahoituspohja jää hämäräksi” (Amberla, Rondo 5/1995, p. 7). See also Tuomela 1996, p. 20. According to Tuomela (1996, p. 20), state support for music schools ensures that studying music is not a hobby of the “élite”.

⁵⁸⁹ Kurkela & Tawaststjerna 1999, p. 109.

The subjective right to education (with certain restrictions limiting this right) is secured in the Constitution of Finland. The restrictions depend, for instance, on the level of education. In terms of basic education, this right is strong: only age limits are acceptable. Furthermore, requirements concerning the content of education are based on this right. The equal treatment of pupils in regard to possibilities to achieve set targets in school subjects is one of these requirements. Once again, the requirements are strongest in basic education for the youngest children, in which all pupils should reach the required targets. This subjective right includes the provision of basic education free of charge.⁵⁹⁰

As a so-called TSS right (referring to economic, social and cultural rights),⁵⁹¹ Finland had recognized the right of everyone to acquire education (schooling) by 1995, in other words, before the present Constitution was enacted. According to the 13th section of this Constitution, everyone should have equal opportunities in education. The reason for using the term opportunity instead of the term right is unclear. However, these two concepts – opportunity and right – are used as synonyms in the government proposal. According to the proposal, everyone should have equal opportunities to receive education as well as to develop him or herself. From the perspective of the individual, this right secures recognition of the principle of life-long learning. However, the right to this kind of education is not a subjective (statutory) right.⁵⁹²

According to Arajärvi and Aalto-Setälä, the principle of equal opportunities restricts the right of decision making of the organiser of education concerning the selection of pupils. In addition, discrimination is prohibited according to the fifth section of the Constitution. Furthermore, special needs and abilities have to be taken into account. Special needs must be catered for in basic education, whereas in adult and higher education different abilities may be criteria for selection. Equal opportunities to reach the required targets are paramount especially in basic education. The importance of education from the viewpoint of students also is a factor influencing the strength of this principle, and vocational basic education for the young is stated to be of greater importance than all-round education.⁵⁹³

⁵⁹⁰ Arajärvi & Aalto-Setälä 1999, p. 24; the Constitution of Finland §13; The Education System of Finland 2001, p. 18.

⁵⁹¹ TSS is an abbreviation of the Finnish words taloudellinen (economic), sosiaalinen (social), sivistyksellinen (cultural).

⁵⁹² Arajärvi & Aalto-Setälä 1999, p. 24; see Heimonen 1999, p. 123.

⁵⁹³ Arajärvi & Aalto-Setälä 1999, p. 25; Suomen perustuslaki / The Constitution of Finland.

Freedom in science, arts and higher education is prescribed in the 13th section of the Constitution. This freedom is limited in that it is in conflict with other basic rights. One basic restriction and limitation concerning these freedoms is set out in the first section of the Constitution, according to which the rights and freedom of individuals are secured and human dignity is inviolate.⁵⁹⁴

As far as music education is concerned, the subjective right of all children and young people is realized by music lessons at comprehensive schools (sometimes partly in collaboration with music schools). Therefore, music education at comprehensive schools is of great importance since it affects the rights of all children. All the rights and limitations concerning basic education mentioned above are applied to this kind of music education.

The right to music education for children and young people offered at music schools is more problematic than music as a school subject at comprehensive schools. According to the report of the evaluation group of music schools (1999), the principle of equality referring to equal opportunities regardless of social, economic or geographical background also applies to basic music education offered by music schools.⁵⁹⁵ However, this cannot be a subjective right. Only selected pupils obtain a study place at these schools, nor is education offered free of charge. Furthermore, upper-secondary vocational education for young people is offered at the Conservatories, but not at music schools. The question remains whether proper training from early childhood for future professionals could justify the education offered at music schools being regarded as vocational education. This is unlikely, since only 1 or 2% of these pupils have become professionals.⁵⁹⁶

The Constitution (§13.2) also states that public authorities have to guarantee everyone an equal opportunity to obtain other forms of education besides basic education according to their abilities and special needs, and to develop themselves without being prevented by economic hardship.⁵⁹⁷ According to Arajärvi, this expression governs all kinds of education offered in society. All-round education and professional studies, education arranged by state authorities and institutions or by private employers – or even education serving the needs of religious groups – belong to this group. Basic arts education and music education offered at music schools are also regarded as belonging to this kind of education.⁵⁹⁸

⁵⁹⁴ Arajärvi & Aalto-Setälä 1999, p. 25.

⁵⁹⁵ Kurkela & Tawaststjerna (Ojala & Heino) 1999, p. 109.

⁵⁹⁶ Palonen 1993.

⁵⁹⁷ The Education System of Finland 2001, p. 18.

⁵⁹⁸ Arajärvi 1994, p. 136.

According to the Constitution and the principle of equality, everyone must be offered an equal opportunity to obtain the above-mentioned education (§13.2). Social equality is especially stressed: indigence should not be an obstacle for developing oneself. The proposal states that “other education besides basic education” may be liable to charges if the lack of means is not an obstacle for obtaining it. This should be taken into account when fees are fixed at music schools. On the other hand, equal opportunities also refer to the importance of creating a system of financial support for studies.⁵⁹⁹

The principle of life-long learning also concerns education offered at music schools. Furthermore, individuality of education, in other words, equal opportunities for everyone to receive further education according to his or her abilities and special needs, could have an influence on the contents of the education as well as on the syllabi created by the schools themselves.⁶⁰⁰ The role of the state in creating conditions and circumstances, in other words, in securing positive freedom, is stressed in this section: the government has to create equal opportunities so that everyone can achieve this kind of education.

9.6 Current problems: education and free-market principles

The main objective of educational policy in several countries besides Finland – to offer everyone an equal opportunity to receive education – has been under threat since the 1990s. The activities of educational institutions have been supported by means of privatisation and market orientation in countries that used to have a strong public-education sector. According to Whitty (University of London), who explored the renewal of educational institutions in England, Sweden, the USA, Australia and New Zealand, the development is the same in all of these countries: municipalities and schools are offered wider autonomy than before the reforms. However, at the same time, the financial resources of these institutions are decreasing. In other words, schools are obliged to compete with each other over financial resources as well as over teachers and pupils. Parents of children are regarded as consumers since they have the right to choose and decide the school their children will attend. On the other hand, educational institutions are divided into so-called “good” and “bad” schools.⁶⁰¹

⁵⁹⁹ Arajärvi 1994, p. 240. On the importance of equality, see also SiVM 3/98–HE 86/97, p. 13.

⁶⁰⁰ The Music Schools Act (516/95) enabled curricula to be drawn up by the schools themselves. According to the commentary on this act (§12), taking the syllabus as a starting point enables individual circumstances to be taken into account (HE 258/94, p. 7).

⁶⁰¹ Whitty was interviewed in Finland (Hynynen 1999, pp. 26-27).

Whitty states that the school reform has not been successful in England, Sweden, the USA, Australia or in New Zealand. The strategies of the business world have been brought into the world of education, and this has been heavily criticized.⁶⁰² Antikainen (University of Joensuu, Finland) is of the same opinion. The quality of education as a whole has not improved. However, differences between schools have grown.⁶⁰³ According to Uusikylä, children's problems have grown and the jobs of teachers have become much more stressful than before in the atmosphere of competition that is typical in today's society.⁶⁰⁴ Whitty is also concerned about the development of Finnish schools, and warns about polarization when the schools are left alone. In other words, only the schools that have the best teachers and pupils and a secure financial basis do well since they have the preconditions for being competitive. However, too many schools fail.⁶⁰⁵

The European Union does not have programmes governing basic education since these issues that have to be decided by the states themselves. However, the states have delegated the power of decision-making to local authorities. The problem is that all municipalities do not have the necessary financial resources, and the common responsibility concerning education may be neglected. According to Whitty, states and municipalities should take more responsibility for the development of education. However, the "old" welfare-state system has to be reformed. Local needs and problems have to be taken into account. Furthermore, the principal welfare services have to be guaranteed for everyone. According to Whitty, one of the fundamental welfare services is education.⁶⁰⁶

Music education as a part of general education has suffered from these threats. The importance of music as well as other arts subjects has been discussed in public, and it has been pointed out that equal opportunities for everyone (regardless of domicile and age) to receive arts education are paramount.⁶⁰⁷

The music schools were concerned that they would lose state support when the Music School Act (516/95) was rescinded in the 1990s. Market principles, including "open departments", were also introduced, and concepts of the business world such as effectiveness, technology and accountability were considered to apply to the whole of music life in Finland. Kuusisaari asked whether the arts would become a puppet of market forces, and referred to his old instrument

⁶⁰² Ibid.

⁶⁰³ Hynynen 1999, pp. 26-27 (interview).

⁶⁰⁴ Uusikylä, Kari 1999, p. 2

⁶⁰⁵ Hynynen 1999 (interview), pp. 26-27.

⁶⁰⁶ Ibid.

⁶⁰⁷ Taiteen keskustoimikunta. Arsis bulletin 4/01, p. 6. Keskustoimikunnan kannanotto: Kaikki ikäluokat oikeutettava taidekasvatuksen perusopetuksessa.

teacher who used to say: “The man knew seven languages but did he have anything to say?”⁶⁰⁸ Nevertheless, there was a need for reform of the content of music-school education.

9.7 New visions of music schools

The aims of education, as well as the function of music and music education, in society were the subject of lively discussion in the early 1980s.⁶⁰⁹ In the 1990s, laws governing music schools – the Music School Act (516/95) and the Basic Art Education Act – gave them more freedom to determine the content of the education they offered. Since then, the curricula have been formulated by the music schools themselves, which are free to determine the content and the subjects taught within the Framework Curriculum issued by the National Board of Education.⁶¹⁰

Research was also carried out on music students and music schools in the 1990s and 2000s. According to Hirvonen (who explored the musical development of “talented music students” continuing their studies at the Sibelius Academy), playing the piano used to be a hobby along with many other hobbies during childhood. The supportive role of the teacher, as well as the warm atmosphere in the lessons, were of great importance. The opinions of friends had an important role especially during puberty. It was not until the age of 14–15 that music studies became more goal-orientated and the pupils started to think about a profession in music. According to Hirvonen, the basis for choosing a profession in music is not only the special potential of the individual. On the contrary, she stresses the importance of the context in which the individual lives. In Finland, the network of music schools has offered a structure for extra-curricular music education regardless of domicile and economic background. Hirvonen stresses the importance of receiving proper training for future professional studies outside the capital and the biggest cities, especially in the countryside.⁶¹¹ Research has also been carried out on the motivation of music students. According to Kosonen, young piano players like to play music (classical or popular) chosen by themselves. Furthermore, studies by Vääntinen and Perälä criticized the narrow content of music-school studies. Perälä claims that study programmes are formulated only for those aiming at a profession in music, in other words, for a small minority of all the pupils attending these schools. Vääntinen explores the “drop outs” from the schools, stating that only 13% of all music-school pupils

⁶⁰⁸ Kuusisaari 2001 (Tuotteistamisen tärkeys in Rondo 3/2000), p. 5.

⁶⁰⁹ Amberla 1989; Haapanen 1980; Helasvuo 1983; Grundström 1989; Vapaavuori 1989.

⁶¹⁰ Heino & Ojala 1999.

⁶¹¹ Hirvonen 2000, pp. 24, 62, 66-68, 77-80, 107.

succeed in taking their final basic examinations and getting their certificate.⁶¹² These kinds of results question the traditional and narrow content of the study programme at music schools.⁶¹³

Furthermore, the content of the education offered at music schools also provoked lively debate, for instance in the music journal *Rondo*. Study programmes, including obligatory examinations with a traditional repertoire of scales, etudes, inventions and sonatinas, were regarded as one of the problems that diminished the motivation of students. According to Kuusisaari, achieving a balance between examinations stressing the importance of excellence as well as success, and the joy of making music is difficult. Since the Music School Act (516/95) and the current Basic Art Education Act (633/98) came into force, the study programmes of the “open departments” at music schools have not included obligatory courses. However, the price of this freedom is high, since it is much more expensive to study in these departments.⁶¹⁴ Kuusisaari also claims that the content of the music examinations should be critically explored and changed. Examinations should motivate students to pursue further studies, including improvisation, composing, and making music in groups. Furthermore, examinations could be like concerts, with a real audience instead of a jury. This is connected to the culture of education: the joy of making music is lost if the only objective of music education is to teach children to perform mechanically without making mistakes.⁶¹⁵

It was not only the examinations, but also the character of the music-theory lessons that was questioned. For instance, Kuusisaari and Kuoppamäki were concerned about the tradition of teaching music theory as a separate subject without any connection to making music in practice. Both of these writers argue that music and theory lessons should be integrated, since the best way of learning musical structures is through making music. Furthermore, recognizing musical structures enables improvisation and self-expression. Different art forms (such as dance, music and drama) and different kinds of instruments, as well as workshops including singing, writing, playing, the visual arts and drama, are the means advocated by Kuoppamäki. She claims that democracy is the aim of these workshops, which usually end with a performance. In other words, a good teacher makes himself or herself unnecessary.⁶¹⁶

⁶¹² Vääntinen 1996, p. 7; 169; see Ratilainen 1994, p. 8.

⁶¹³ Kosonen 2001, abstract (in English); Vääntinen 1996; Perälä 1993.

⁶¹⁴ Kuusisaari 2001d, p. 5 (Oikeus harrastaa, osa 3 / The right to have a hobby, part 3. *Rondo* 7/2001); Mäkilä 2001, p. 22 (Nyt on aika kamarimusiikin / Now it is time for chamber music. *Rondo* 7/2001); Luukkonen 2002, pp. 30-33 (Improvisoinnista iloa opiskeluun / The joy of studying through improvisation. *Rondo* 3/2002)

⁶¹⁵ Kuusisaari 2001d, p. 5 (Oikeus harrastaa, osa 3 / The right to have a hobby, part 3).

⁶¹⁶ *Ibid.*, p. 5; Kuoppamäki 2000, pp. 42-43 (Teoriat eloon! / Bringing theories to life! *Rondo* 3/2000).

Social aspects, collaboration between educational institutions, and widening the styles of music offered at music schools also were stressed. For instance, Kuusisaari argues that the most important aim in educating both amateurs as well as professionals is communication. Furthermore, educating amateurs should be regarded as equally valuable as training future professionals. Therefore, folk music as well as popular music should be accepted in the study programmes. Janne Murto, Rector at the Helsinki Pop and Jazz Conservatory, recalls that the Conservatory was probably the only one offering education in pop and jazz about ten years ago. Nowadays this kind of music is taught at several conservatories and music schools around the country, although local differences are enormous. Murto describes the main differences compared with teaching classical music as follows: much of the education is given in groups (although private tuition is not neglected), young students compose, and music theory has to be learnt in practice. Integrating different subjects is most important. He argues that music schools should also offer instruction in pop and jazz, and folk music, for instance (otherwise these schools will become museums). Timo Klemettinen, Managing Director of the Association of Finnish Music Schools (SML) says that collaboration is needed between compulsory schools and music schools in the teaching of pop and jazz outside the main cities.⁶¹⁷

One of the most serious problems was the content of the entrance examinations as well as the fact that only a small minority of all those who applied to study at a music school were offered a place. For instance, Nummi states that she does *not* think that the most motivated or even the most talented pupils can be selected by entrance examination. Children's potential is difficult to assess, for instance, and some of the most talented children and young people may almost sleep through the first three years without any signs of motivation or gift.⁶¹⁸ Furthermore, pupils in music schools do not have the opportunity to continue their studies after they leave. According to Kuusisaari, this dilemma is difficult to resolve because more financial resources would be needed if the activities of music schools were to be broadened. On the other hand, if the present financial resources were spread over more activities and people, the number of private lessons would decrease. In short, collaboration between music schools, comprehensive schools and folk institutes is needed so that the field of music education can be explored as a whole.⁶¹⁹

⁶¹⁷ Kuusisaari 2001d, p. 5 (Oikeus harrastaa, osa 3 / The right to have a hobby); Kainulainen 2002, pp. 26-29 (Kellareista koulun penkille / From cellars to the school bench. Rondo 3/2002).

⁶¹⁸ Karlson 1999, p. 35 (interview with Katarina Nummi).

⁶¹⁹ Ibid., p. 5.

The question of the small number of boys studying at music schools has been connected to the character of the entrance examinations as well as to the narrow content of the education and the musical styles taught.⁶²⁰ For one thing, entrance examinations including singing tests have been claimed to favour girls.⁶²¹ Furthermore, the classical repertoire does not sufficiently interest most boys. According to Jari Sinkkonen, it is important to create a feeling of success as well as to make connections with everyday life instead of merely playing traditional sonatas that pupils usually dislike. Tuition in different instruments (guitar, double bass), as well as in different musical styles such as pop and jazz, should be included in the study programmes of music schools. It has been argued that, especially during puberty, music studies are easily discontinued if pupils are obliged to practise scales instead of being able to make music with other teenagers.⁶²²

Making music in different kinds of groups – including choirs, orchestras, chamber music, pop and jazz music and folk music groups – has been presented as a new principal feature of the music education offered by music schools. This would bring a new social perspective to making music. Furthermore, making music in groups motivates pupils, develops a sense of rhythm and diminishes the fear of performing.⁶²³ According to Häyrynen, chamber music is intimate and close in character. This kind of music expresses the reality that cannot be expressed verbally.⁶²⁴ Furthermore, the social contacts that playing chamber music offers have been regarded as one of the main functions and motivating factors in music education. Making music in groups offers children and young people the kind of friendship that can last for the rest of their lives.⁶²⁵ Furthermore, in his study exploring “drop outs” in Finnish music schools, Vänttinen states the pupils who mentioned social functions, such as friends, as a meaningful factor in their music studies belonged to the group that more often continued their studies.⁶²⁶

⁶²⁰ In 1997 the number of boys was 31% of all pupils studying at music schools (members of the National Association, SML). Loponen 2001, p. 24 (Kuka ymmärtäisi pientä poikaa? / Who would understand a little boy? Rondo 4/2001).

⁶²¹ Timo Klemettinen, the Managing Director of the Association of Finnish Music Schools (SML) (Loponen 2001, p. 24.); Karlson 1999, p. 32 (Hyvä opetus herättää rakkauden musiikkiin / Good education awakens a love of music. Rondo 7/1999)

⁶²² Loponen 2001, pp. 24-28; Karlson 1999, p. 32.

⁶²³ Mäkilä 2001, p. 22 (Nyt on aika kamarimusiikin / Now is the time for chamber music. Rondo 7/01)

⁶²⁴ Häyrynen 2001, p. 33 (Kamarimusiikki intiimin lähteillä / Chamber music as a source of intimacy. Rondo 7/2001)

⁶²⁵ Loponen 2001, p. 27 (Rondo 4/2001)

⁶²⁶ Vänttinen 1996, p. 131.

Music schools were not the only ones that were criticised as being separated from everyday life. Contemporary music and its composers were also accused of being elitist and difficult to reach by ordinary people. Kuusisaari argues that the needs of the present society (referring to the needs of young people as well as choir members) should be taken into account. He also believes that a broader view and a flexible attitude with regard to different activities (such as music composed for the theatre and dance groups, as well as for television and the cinema) is needed. He criticises the German concept of Art as something esoteric and difficult to reach, and stresses the importance of art as an everyday issue, belonging to everyone and everywhere. “Elitism”, referring to an institutionalised culture denying people access to art, is regarded as a problem (not the high standards), and the importance of music education (both at comprehensive and music schools) aiming to evoke a broad understanding and love of music is stressed. In short, a broader view of the professions of composing as well as teaching music, and of the importance of the needs of the present society, is advocated.⁶²⁷

Visions of “a new happy education” are described by Kuusisaari in *Rondo*, 3:2002. He states that the direction is clear: the importance of making music in groups is growing, theory lessons are integrated with making music in practice, the intrinsic value of examinations is diminishing, and attending concerts is becoming part of the studies. Playing, singing, moving, and learning theory are integrated from the very beginning in music playschools. Furthermore, proper teaching in pop and jazz music are offered, and improvisation, music theatre and composition are included in the study programmes. In conclusion, every pupil should leave the music school with a good attitude to music whether or not he or she will move towards a profession in music.⁶²⁸ He stresses the importance of an experience – the feelings and emotions when pupils are making music as well as listening to it – rather than focusing on excellent performances of demanding compositions (and training “stars”). However, Kuusisaari⁶²⁹ also stresses the positive functions of the Finnish music-school system and of the curriculum: children and the young are offered a solid basis in music since they are able to concentrate on a special subject much more than, for instance, pupils in Swedish cultural schools.

⁶²⁷ Kuusisaari 2001a, p. 5 (Arkeen ja aistelle / For everyday life as well as for the senses. *Rondo* 10/2001); Kuusisaari 2001b, p. 8 (Torneja purkamaan / Let’s invade the ivory towers. *Rondo* 10/2001); Kuusisaari 2001c, p. 5 (Pönötystä poistamaan? *Rondo* 4/2001).

⁶²⁸ Kuusisaari 2002 (Uusi iloinen koulutus / A new happy education), p. 5; Loponen 2002 (Musiikkiteatteri innostaa opistoissa / The inspiration of music theatre at music schools), pp. 28-31.

⁶²⁹ Kuusisaari in *Rondo* 7/2002, p. 5.

“The objective of a hobby is that the human will feel well”, as a former pupil of a music school says.⁶³⁰ Therefore, educating future audiences, amateurs, and music lovers is important. It is not only music schools, but also music festivals, such as Musica Nova directed by Esa-Pekka Salonen, that offer “arts education” in the form of concerts and events for children and their families. Furthermore, in his compositions – for instance, in *L. A. Variations* – Salonen aims to communicate with all people.⁶³¹ The importance of offering everyone an experience that promotes a deepening love of music is regarded as the principal objective in the education of amateurs as well as of future professionals, musicians, singers and composers.

⁶³⁰ Vänttinen 1996, p. 171.

⁶³¹ Häyrynen 2002 (Esa-Pekka Salonen etsii tasapainoa rooliensa välille / Esa-Pekka Salonen is looking for a balance between his roles), p. 19.

9.8 The Basic Arts Education Act (633/98)

9.8.1 Background: from music schools to arts education

The first Act governing basic arts education (424/92) was passed at the beginning of the 1990s. Until then, only music schools had been governed by a special act in the field of basic arts education. These two acts, the Music School Act (516/95) and the Basic Arts Education Act (424/92) were in force for approximately three years, and were both abrogated when the present Basic Arts Education Act came into force on the first of January, 1999.

The abrogation of the Music School Act (516/95) was part of the reform of Finnish educational legislation and educational administration. Finnish educational legislation had traditionally been very detailed, and the objective of the reform was to develop a system based on different kinds of educational activity (for instance, basic arts education) rather than on educational institutions (music schools). The delegation of power to the educational institutions was one of the aims. On the other hand, a new paragraph on evaluation was included in the new Act. The task of the National Board of Education is to draw up national core curricula and guidelines (framework curricula) and to be responsible for the evaluation of educational institutions.⁶³²

Both the previous Act (424/92) and the present one (633/98) governing basic arts education are broader than the Music School Act (516/95). The first mentioned acts apply to several fields: besides music they also cover circus art, for instance. The qualification requirements for personnel in basic arts education are also broader than those laid down in the Music School Act. Furthermore, the present Basic Arts Education Act deals with arts education and not arts schools. In fact, one of the aims of the general reform was the abandonment of legal regulations governing different educational institutions. This kind of regulation was particularly common in the field of education. The same aim was expressed in conjunction with the reform of the Constitution of Finland: public financial support and legal regulation should be bound to education and training rather than to schools and institutions.⁶³³

As mentioned earlier, the current Basic Arts Education Act (633/98) abrogated the former Music School Act (516/95), and the basic music education offered at music schools is now governed by this new Act.⁶³⁴ The possible reduction in state

⁶³² The Education System of Finland 2001, pp. 17-19.

⁶³³ Arajärvi 1994; Arajärvi & Aalto-Setälä 1999, p. 3.

⁶³⁴ Laki ammatillisesta koulutuksesta (639/98) (The Vocational Training Act) applies to vocational training for the young offered at conservatories.

subsidy especially worried those in the music schools. Instrumental and vocal education and training with private lessons is regarded as expensive, whereas group teaching has always been common in other arts subjects such as dance and drama. The music schools have therefore stressed the special character – such as private instrumental and vocal lessons, and the tradition of a master and apprentice – of music-education activities. Another of their arguments supports goal-orientated education in order to achieve high standards, which does not apply to other fields of arts education. Education aiming towards future professional studies in music was usually declared to mean “goal-orientated education”, since vocational education is usually regarded as a stronger argument for state financial support than educating amateurs.⁶³⁵

Besides fearing a diminishing state subsidy, those in the music schools were doubtful about the broader qualifications required of personnel according to the Basic Arts Education Act compared with their own Act (516/95) and Decree (880/95). The delegation of decision-making power to those (such as foundations and municipalities) who maintain educational institutions was one of the aims. This meant, in practice, the delegation of power to rectors to decide what kind of teaching staff was needed. Those in the music schools were very doubtful about the reforms. Hannu Perälä, rector of one of the schools, states:

I think that the direction is – whether it’s good or bad – towards similar jobs as in the business world in which the teacher – whatever his or her qualification – through his or her activities also has to prove that he will get some kind of results. This is perhaps somehow more just, but on the other hand, perhaps harder from the perspective of the teacher. (my own translation)⁶³⁶

On the other hand, there is always the possibility that the employer (such as the municipality) will employ unqualified teachers for financial reasons, since salaries of teachers are bound to their qualifications. In fact, the Association of Municipalities was particularly eager to relax the qualification requirements. Thus, the possibility of lower standards, reduced salaries and forfeiture (loss) of posts and offices bothered the Association of Music Schools. Furthermore, doubts about a market-based system were expressed when “open departments” were introduced in 1995.⁶³⁷ No entrance or other obligatory examinations were

⁶³⁵ See, e.g., the Statement of the Association of Music Schools (Suomen Musiikkioppilaitosten liiton lausunto), 23 May 1995; Amberla 1995a, p. 7.

⁶³⁶ Hannu Perälä, Rector (Suomalainen Konservatorio in Jyväskylä), interview, 13 June 1997 (my own translation).

⁶³⁷ Laki musiikkioppilaitoksista (516/95) (The Music School Act).

required of pupils studying in these departments. However, the fees were much higher than in music schools in general. Kaarlo Vihinen, the former President of the Union of Music School Teachers (*SMOL*), was concerned about the principle of equality. He states (under the heading “Piano, pianissimo, pianississimompi”) that open departments may give state authorities the wrong impression that state support is not necessary for music schools. However, without support for student fees, many pupils would drop out for economic reasons.⁶³⁸ In short, the music schools were not at all eager to apply a model from the business world to music education.⁶³⁹

Education offered at music schools was the only kind of extra-curricular arts education at the basic level that was granted public financing based on a calculated number of lessons until the enactment of the present Basic Arts Education Act (633/98). The Parliamentary Education Committee decided that other arts fields would also be granted this kind of state subsidy. Equal opportunities for promoting arts education for children in various ways were one of the aims. However, the Education Committee also stressed the importance of securing the resources for music schools.⁶⁴⁰

9.8.2 Aims in basic arts education

When the present Basic Arts Education Act (633/98) came into force, the state subsidy for music schools remained unchanged. According to the fifth paragraph, the framework curriculum issued by the Board of Education may comprise different kinds of syllabi. This paragraph is defined more closely in the first section of the Basic Arts Education Decree (813/98), in which it is prescribed that two syllabi may be applied: (a) the general or (b) the broad. The content of the broad syllabus is equivalent to the education offered at music schools when the Music School Act was in force.⁶⁴¹ Qualified teachers are required when the education is offered within the broad syllabus, whereas working experience in the field of arts can qualify a person to work as a teacher if the general syllabus

⁶³⁸ Vihinen 1996a, p. 5. See also Vihinen: Minnes menet, musiikkioppilaitos? / Where are you going, music school? in *Musiikinopettaja* 2/1996; Vihinen: Hyvästi, musiikkioppilaitoslaki / Goodbye, Music School Act, in *Musiikinopettaja* 3/1998; Vihinen: Tason lasku uhkaa / The threat of a lowering standards, in *Rondo* 1/1998.

⁶³⁹ See Heimonen 1999, p. 147.

⁶⁴⁰ *Ibid.*, p. 56.

⁶⁴¹ A new Framework Curriculum for basic arts education including the broad syllabus in music has been issued by the National Board of Education in 2002 / *Taiteen perusopetuksen opetussuunitelman perusteet musiikin laaja oppimäärä* (in print).

is being applied.⁶⁴² According to the Education Committee, discretionary annual state subsidy may also be granted for different fields of arts education, although no special provision about this kind of state financial support is included in the present Basic Arts Education Act.⁶⁴³

The reports of the Parliamentary Education Committee⁶⁴⁴ include views on the content and aims of basic arts education. Firstly, the concept of “basic arts education” is defined within broad limits, since every field is given the opportunity to set its own detailed educational goals. According to the Education Committee, one general aim in basic arts education is to support the development of pupils’ personalities. Furthermore, goals concerning the physical as well as the spiritual welfare of people should be set in tune with the application of the law. Reaching these goals should help children and young people to develop into mentally-balanced and aesthetically and ethically sensitive persons with strong self-assurance. Furthermore, basic arts education should open up the possibility of future vocational training and higher education in the arts. However, the education and training of future professionals is not the only or even the principal aim.⁶⁴⁵

The first paragraph in the present Basic Arts Education Act (633/98) prescribes the aims in basic arts education. This education is goal-directed from stage to stage in various fields of the arts. It is arranged primarily for children and young people providing them with facilities for self-expression as well as a basis for potential vocational studies or higher education. Other kinds of connected activities promoting the arts can also be arranged – opportunities that were also mentioned in the preceding Music School Act (516/95). In other words, music schools were promoted as contributing to the cultural life of the surrounding society by arranging concerts as well as other musical activities.⁶⁴⁶

⁶⁴² Qualification Decree (Asetus opetustoimen henkilöstön kelpoisuusvaatimuksista, 986/98) §19, §20.

⁶⁴³ SiVM 3/98 – HE 86/97, p. 56.

⁶⁴⁴ Sivistysvaliokunta. 1992 vp – SiVM 1 – HE 211/1991 vp (Sivistysvaliokunnan mietintö n:o 1 hallituksen esityksen johdosta laeiksi taiteen perusopetuksesta . . .)

⁶⁴⁵ Ibid.

⁶⁴⁶ HE 258/94, p. 10.

9.8.3 The content of the present Act

The first section of the present Basic Arts Education Act regulates aims in education, and the following sections prescribe preconditions for organisers (§2) and permits (§3), collaboration (§4), curriculum guidelines (§5), pupil selection (§6), evaluation (§7, §8), personnel (§9), appeal (§10), state subsidy (§11) and student fees (§12). On the whole, it is broader than the Music School Act, although a new provision regulating evaluation is imposed. A Decree governing basic arts education (813/98) was issued and came into force at the same time as the Act. This Decree has only five sections, prescribing the syllabi (§1) and the amendment of assessments (§3), for instance. No qualifications for personnel are prescribed in the Decree.⁶⁴⁷ A special Qualification Decree (986/98) was issued prescribing the qualifications required at different educational institutions instead of regulating these qualifications in several special decrees.⁶⁴⁸

According to the second section of the Act, a municipality may arrange basic arts education, and permission may also be granted by the Ministry to a municipal federation, a registered association or a foundation. Basic arts education may also be offered in state educational institutions. Music schools are mentioned in the last clause, in which it is stated that education governed by this Act may be offered in (a) music schools, (b) other institutions or (c) in other ways. The preconditions for the granting of permission are imposed in the next section: basic arts education must be necessary and the applicant must have the professional as well as the financial resources necessary to arrange appropriate education. In addition, permission is only granted for non-profitable educational activities. This permission may also be used as a sanction: the Ministry has the right to withdraw it if activities are arranged contrary to the law.

The fourth section states that the promoter of basic arts education is allowed to arrange educational services together with other promoters, as well as to acquire them from private or public corporations or foundations. The promoter is responsible for seeing that the services acquired are organised in accordance with this act. The next section requires that the framework syllabi are issued by the Board of Education. These guidelines covering the aims and central contents of basic arts education may comprise syllabi with different contents. As mentioned before, the qualifications required of teachers are connected to these syllabi.⁶⁴⁹

⁶⁴⁷ Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act); Asetus taiteen perusopetuksesta (813/98) (Basic Arts Education Decree).

⁶⁴⁸ Asetus opetustoimen henkilöstön kelpoisuusvaatimuksista (986/98) (Qualification Decree).

⁶⁴⁹ Asetus taiteen perusopetuksesta (813/98) (Basic Arts Education Decree) §1; Asetus opetustoimen henkilöstön kelpoisuusvaatimuksista (986/98) (Qualification Decree) §19, §20.

Equal selection criteria have to be applied to students by the promoter of education. One exception is mentioned in the second clause of this paragraph (§6): pupils from their own municipality may be granted priority treatment. The number of such pupils is limited to half of the intake.

It is stated in the ninth section that every institution offering basic arts education under this law has to have a rector who is responsible for the activity. The promoter of education must also have a sufficient number of teacher posts, although part-time teachers as well as other personnel are also allowed. As mentioned before, a special Qualification Decree was issued. However, the Ministry has the right to grant exemptions concerning the qualifications required of rectors. The same right has been given to the universities concerning the qualifications of teachers.

The tenth section states that any appeals against student fees have to be addressed to the county administrative court. The right of appeal against decisions concerning the selection of students is prescribed in the second clause. This appeal should be addressed to the county government within 14 days of being informed of the decision. Repeats and amendments concerning student assessment are prescribed in the Basic Arts Education Decree (§3). First, the pupil may ask the teacher or teachers who have undertaken the evaluation to repeat and amend it. This claim has to be made within two months of the time when the pupil was informed of the assessment. If he or she is dissatisfied with this second assessment, or with the decision rejecting his or her claim, a new request may be addressed to the rector. There is no right of appeal against this decision.⁶⁵⁰

According to the eighth paragraph of the present Basic Arts Education Act, student assessment should aim at directing and encouraging study, as well as promoting the preconditions for self-evaluation. In addition, the work of pupils should be assessed from various perspectives.⁶⁵¹ The provision contained in this section is broad: it gives only a direction. It has been stated that, even if the reform appears to be radical, almost no obligatory changes of practice had to be made when the Music School Act was abrogated.⁶⁵² The evaluation of institutions was perhaps the most significant reform, since nothing concerning evaluation had been prescribed in law until the present Act was introduced.

⁶⁵⁰ Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act) §10; Asetus taiteen perusopetuksesta (986/98) (Basic Arts Education Decree) §3.

⁶⁵¹ Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act) §8. The content of the reports is determined by the Board of Education.

⁶⁵² Vihinen 1998b, p. 3.

State subsidy may be granted for project foundation as well as operating costs in accordance with the eleventh section of the Basic Arts Education Act and the Act governing the financing of educational and cultural activity (635/98).⁶⁵³ A municipality as a promoter of education is granted state subsidy according to the number of inhabitants. State subsidy according to the number of lessons calculated may be granted to the municipal federations and the registered associations or foundations that have obtained permission to offer basic arts education.⁶⁵⁴ In addition, a municipality as a promoter may be granted state subsidy according to the number of lessons it offers. The preconditions for the last-mentioned support are the same as for permission to arrange basic arts education, as prescribed in section three. These provisions of the third section are to be followed to an appropriate extent.⁶⁵⁵ According to section twelve, the level of student fees has to be within reason. In addition, a municipality as a promoter has the right to collect fees of different amounts from pupils of different municipalities. In other words, pupils living in the municipality that is promoting basic arts education may be granted priority treatment.⁶⁵⁶

9.9 Conclusions

One of the most important principles in Finnish education, the principle of equal opportunities regardless of social and economic background or domicile, was the basis of the Act covering music schools that was introduced in the late 1960s. The network of music schools covering all parts of the country facilitated proper music education, especially for children and young people living outside the main cities. The cultural policy of the 1960s stressed the right of everyone to education, as well as to take part in cultural activities. Since voluntary music education was offered at folk institutes and workers' institutes before the music schools were granted state subsidy, the music schools decided to put emphasis on goal-orientated education. The need for proper training from the very beginning was one of the arguments for systematic and state-supported extra-curricular music education for children and young people. The influence of the Hungarian music-education system, for instance, has been recognized.⁶⁵⁷

⁶⁵³ Opetus- ja kulttuuritoimen rahoituksesta annettu laki (635/1998) (Act governing the financing of educational and cultural activities).

⁶⁵⁴ See Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act) §2.

⁶⁵⁵ See also Opetus- ja kulttuuritoimen rahoituksesta annettu laki (635/98) (the Act governing the financing of educational and cultural activities).

⁶⁵⁶ See also Section six (criteria for selection and the possibility of priority treatment for pupils living in the municipality that promotes basic arts education).

⁶⁵⁷ Hirvonen 2000; Laurila 1975; KM 1974:2 (Kulttuuritoimintakomitean mietintö); Perälä 1993; Tawaststjerna (21 August 2001). See also Ahponen 1991; Tuomikoski 1977a; 1977b.

In Finland, the right of everyone to education has only referred to the right of every child to receive basic education.⁶⁵⁸ Therefore, music lessons provided at comprehensive schools are important since they are offered to all children and young people. However, the principle of equality has a different meaning in conjunction with the right to music education offered at state-supported music schools. Equal opportunities regarding a place at a music school refers to the right of every child regardless of social and economic background as well as domicile. However, only selected pupils are offered a place. Thus, the Finnish view of the principle of equality is different from the Swedish interpretation of this principle, according to which the right of everyone refers to the right of all children regardless of musical talent.⁶⁵⁹

The emphasis on goal-orientated education in Finnish music schools usually referred to the education of future professionals, and thus obligatory examinations with a standardized classical repertoire were included in the study programmes. The systematic structure of music studies, as well as the network of music schools, has been regarded as the basis for the internationally recognized high standard of Finnish musicianship. In short, detailed regulations and a systematic structure were necessary when the network of music schools was created. However, the 1990s was the time for reform.⁶⁶⁰

The Music School Act (516/95) was abrogated in conjunction with the reform of Finnish educational legislation and administration in the 1990s. The music schools opposed the reforms since the financial security of these schools had been based on special Acts since 1960. Diminishing state support was not the only subject of lively discussion in Finnish journals. Regulations governing the qualifications of teachers were also included in the reform in order to delegate more decision-making power to the educational institutions concerning their personnel policy. The diminishing standard of education, as well as the fear of applying a market-based system to music education, were the main concerns of the music schools. Furthermore, the principle of equality was threatened by these new liberal ideas that were introduced into the whole field of education.

The content of the music education offered by music schools was extensively discussed in the 1990s. Furthermore, the Basic Arts Education Act (633/98), as well as other regulations, were broader than the detailed regulations of the 1970s and 1980s. In short, a broader view was accepted, which included acknowledgment of the need for a wider range of musical styles (including pop and jazz music as well as folk music) to be offered, instead of the narrow

⁶⁵⁸ The Constitution of Finland; The Education System of Finland 2001.

⁶⁵⁹ See Chapter two (Sweden)

⁶⁶⁰ Perälä 1993; Palonen 1993; Heinonen 1995; Heimonen 1998.

classical repertoire. The social and psychological functions of music and music education were particularly stressed. Creating a positive spirit of togetherness instead of competition against each other is one of the aims.⁶⁶¹ The importance of making music in groups, as well as the need for integrated theory lessons (including making music in practice), and collaboration between music schools, comprehensive schools and other educational institutions, are all emphasized. Educating amateurs, music lovers, is regarded as at least as valuable as training professionals.⁶⁶² One reason for this may be the fact that orchestras and music schools no longer suffer from a lack of personnel, as they did in the 1960s when the network of music schools was first created. On the other hand, future audiences need to be educated. Therefore, the importance of offering a positive experience for everyone attending a concert, a music school or any other kind of musical event is stressed. Concerts and happenings for children and their families are offered not only by music schools, but also at music festivals and by orchestras. Music – or musics – of different styles for everyone and everywhere is the principal vision not only in the field of music schools, but also in society as a whole.⁶⁶³

⁶⁶¹ Karlson 1999 (Hyvä opetus herättää rakkauden musiikkiin / Good teaching awakens a love of music), p. 33.

⁶⁶² Karlson 1999, p. 35.

⁶⁶³ See, e.g., KM 1992:36 (KUPOLI. Kulttuuripolitiikan linjat / Guidelines for Cultural Policy), p. 21. According to the aforementioned Committee Report, cultural values are emphasised in society as a whole. Furthermore, the social function and importance of arts for society is also recognized, and citizens are given an opportunity - especially in childhood - to enter the world of arts and culture. (KM 1992:36, p. 21.) Moreover, institutions have been established for the benefit of the communities (that is regarded as the basis of their justification). Collaboration with different kinds of arts institutions, and with the inhabitants of the surrounding community, as well as the education of audiences, are required. Moreover, vocational arts education should produce professionals who have a broad range of capacities (p. 17). The power to decide should be delegated to the users of arts institutions. Furthermore, the board (that make the decisions) should consist of persons who are truly interested in developing the activity of the institution (p. 99). According to the aforementioned Report (p. 15), the state is also responsible for equal opportunities in the field of cultural policy.

Chapter ten

To regulate or not to regulate?

10.1	THE RIGHT TO EDUCATION.....	218
10.2	THE LAW AS AN INSTRUMENT IN PROMOTING EQUAL OPPORTUNITIES FOR EXTRA-CURRICULAR MUSIC EDUCATION.....	220
10.2.1	<i>The law as an instrument in German music schools</i>	220
10.2.2	<i>Finnish music schools: the law as a means of promoting the principle of equality</i>	222
10.2.3	<i>Equality in Sweden: rights without state regulation</i>	224
10.2.4	<i>Extra-curricular music education in England: no right</i>	225

Chapter 10 To regulate or not to regulate?

10.1 The right to education

The right to education refers to the principle of equality of opportunity, one of the most important principles in the field of education. In all the countries within the European Union, general schooling is free at “primary and lower secondary” levels (the terms may vary in different countries). Equal opportunities for all children regardless of their economic, social and geographical background are secured through schooling. No fees are charged, although books, transport and meals have to be provided by families in several countries, and also in public-sector schools.⁶⁶⁴

In both Finland and Sweden, the principle of equality refers to real opportunities for every child. The duration of compulsory education in Finland is ten years, and the schooling, books, transportation and meals are free of charge. Furthermore, the state has the “monopoly” of arranging teacher education in both countries. The qualifications of teachers are prescribed in the legislation (in Finland in the Qualifications Decree). Public authorities have defined school areas and determined pupil enrolment, and until the 1990s, in principal only state schools were allowed. Thus the right to receive education of the same standard was guaranteed for every child.

In the middle of the 1990s, the right to choose a school became more widespread and also involved schools other than state schools. For instance, the “free school” was introduced in Sweden. The philosophy behind these trends was not only the increasing individualism and the need for more freedom of choice: from the economic viewpoint, freedom of choice promotes competition between schools that is supposed to lead to greater “effectiveness”. Thus, the market economy was introduced into education.⁶⁶⁵

Equal access to music education is usually embedded in general schooling. Music as a school subject is thus of great importance since it affects the rights as well as the life of every child. The right to receive out-of-school music tuition, and instrumental and vocal schooling, is a more complicated question. The justification of public financial support for this kind of education is not as clear as regarding compulsory education. Furthermore, external control and restrictions (usually connected to state support) may be even more problematic questions in arts education than in other subjects. Unlike the right to general schooling,

⁶⁶⁴ Key topics 2000, p. 79.

⁶⁶⁵ See Chapter 2 “Sweden”; Chapter 9 “Music schools in Finland”.

the right to extra-curricular music education does not mean that this kind of instrumental and vocal tuition should be free of charge. On the contrary, it usually refers to government- (or local government) supported education with subsidised student fees. The amount of these fees varies and is bound to the context, time and place. The right to voluntary education is never as strong as to compulsory education, and periods of economic recession usually affect this right by diminishing public financial support. The importance of the law as an instrument in promoting financial security – and equal opportunities – for extra-curricular music education is recognised especially during these periods.⁶⁶⁶

⁶⁶⁶ Ibid.

10.2 The law as an instrument in promoting equal opportunities for extra-curricular music education

10.2.1 The law as an instrument in German music schools

The law is one of the most important means of securing equal opportunities in the field of education, especially in terms of compulsory schooling. The right to general education is usually secured in the constitution. Furthermore, acts and statutes, national curricula and other government documents are means that are used in promoting the right to equal access to education of a certain standard. This role of the law is commonly accepted in Finland, Sweden and Germany. Even in Germany, where each federal state is responsible for its own educational issues, the principle of equality is prescribed in the Constitution and has to be followed. In England, which represents common-law countries, the role of the law, as well as of other government regulation, has strengthened since the Educational Reform Act of 1988. All these instruments may be used in promoting the right to education, as well as in diminishing freedom in education.

Of all the countries explored in this study, the former East Germany, where the state took over the responsibility for the municipal Music Schools, offered the most secure financial basis. The schools were owned by the state and regulated by Guidelines (1952) and a Decree governing music schools (1955). The Order governing music schools (*Anordnung über Musikschulen*) of 1961 also regulated the aims of education, emphasizing the promotion of talented pupils and social aims. In other words, the right to voluntary music education was the right of selected, musically gifted pupils. Furthermore, specialist music schools offering boarding were established for especially talented children and young people. After the re-unification of Germany, a new period of collaboration started between the eastern and western parts of the country. The principle of equal opportunities and the idea of delivering music for everyone was still recognizable in the low fees charged by the schools in the federal states that were part of the former East Germany, although they have suffered from economic difficulties after re-unification.⁶⁶⁷

At present, Baden-Württemberg, Bavaria, Brandenburg and Sachsen-Anhalt have special legislation for music schools, although, according to Wüster, such schools are granted state support in almost all of the federal states even without special legislation. Furthermore, the Association for German Music Schools, VdM, has

⁶⁶⁷ Wüster, 5 March 2001 ; VdM: Statistisches Jahrbuch der Musikschulen in Deutschland 1999, p. 6.

drawn up regulations for its member schools, one of which is that the schools are not allowed to make a profit.⁶⁶⁸

According to the Youth Education Act (*Jugendbildungsgesetz*) of Baden-Württemberg (§2), officially recognized music schools have to be supported by the state. It is stipulated in the tenth paragraph, that state support must cater for at least 10% of the costs.⁶⁶⁹ In Bavaria, a Decree covering the use of the name “vocal school and music school” (*Verordnung über die Führung der Bezeichnung Singschule und Musikschule*), which came into force in 1984 prescribes the preconditions for state support. The influence of the principle of equality is evident in the fifth paragraph (§5.2), according to which social aspects have to be taken into account when fees are collected.⁶⁷⁰ The “Music School Act” of Brandenburg (*Brandenburgisches Musikschulgesetz*) states the preconditions for state support. Equal opportunities are taken into account since, according to this Act, the users of music schools should not be responsible for an unreasonable large proportion of the costs. This Act also protects the name of state-supported music schools (*Anerkannte Musikschule im Land Brandenburg*).⁶⁷¹

Under the “Music School Act” of Sachsen-Anhalt (*Gesetz zur Förderung von Musikschulen im Land Sachsen-Anhalt*, 1997), music schools are supported by the state. More detailed regulations are included in the Decree (*Verordnung zur Förderung der Musikschulen*). Furthermore, regulations governing the recipient, preconditions and amount of state support are prescribed in the Guidelines (*Richtlinien über die Gewährung von Zuwendungen zur Förderung von Musikschulen im land Sachsen-Anhalt*). According to these Guidelines, the subsidy is a fixed amount (§4.1), it is a project grant (§4.2), and it is granted for current expenses (§4.3). On the request of the maintainer of the music school, the amount of the subsidy may be calculated according to the number of weekly lessons given per year (in these cases the assessment is based on the number of lessons given during the previous year). Furthermore, the maintainer of the school has to contribute to the costs at least to the same level as the state. The amount of subsidy depends on the ratio of inhabitants per 100 square kilometres. Special state support may be granted, for instance, for the purchase of instruments to lend to pupils, for special projects as well as for preparation for future professional studies (*Studienvorbereitenden Ausbildung, SVA*) within the framework of the

⁶⁶⁸ VdM : Statistisches Jahrbuch 1999, p. 35–37; Wüster, 5 March 2001.

⁶⁶⁹ Jugendbildungsgesetz 1975, Baden-Württemberg

⁶⁷⁰ Verordnung über die Führung der Bezeichnung Singschule und Musikschule

⁶⁷¹ BbgMSchulG.

budget. This grant is a lump sum of up to DEM 2000 per student preparing for an entrance examination to a *Musikhochschule*.⁶⁷²

However, according to a representative of VdM, the aforementioned legislation is “far from being a guarantee for a permanent and sufficient flow of State money to these institutions”.⁶⁷³ Furthermore, the secure financial basis of the former East German music schools collapsed when these state-owned institutions were transferred to the local authorities. Nowadays all music schools are individually shaped according to local needs, the VdM regulations, and the legislation of each *Land*.⁶⁷⁴

10.2.2 Finnish music schools: the law as a means of promoting the principle of equality

Legal regulations and financial resources have been the main instruments by which the Finnish state has regulated education. The regulations have often been formulated in order to govern the usage of state money. For example, when the state decided to give financial support to music schools in the late 1960s, an Act (147/68) was created for these schools. This legislation came into effect at the beginning of 1969. The main aim in the Finnish culture and education politics of the 1960s was to promote equal opportunities for every child regardless of economic, social or geographical background. The principle of equality was also one of the main arguments when the first Act securing state support for (a limited number of) Finnish music schools was granted. The second paragraph prescribed the preconditions required for state support. Furthermore, consideration of points of expediency was required: in order to be eligible for state support, the music school had to be considered necessary from the perspective of wholeness.⁶⁷⁵

A Decree governing state support for music schools (206/68) came into force in 1968 in conjunction with the aforementioned Act (147/68). This Decree was replaced by a Decree (486/77) that organised the music-school system on three levels (music school, music institute, conservatory). Furthermore, the qualifications of the personnel engaged in music schools were prescribed in detail in this Decree.⁶⁷⁶ Music School legislation was reformed in 1987 (Act 402/87

⁶⁷² Gesetz zur Förderung von Musikschulen im Land Sachsen-Anhalt, 1997; Verordnung zur Förderung der Musikschulen; Richtlinien... im land Sachsen-Anhalt.

⁶⁷³ Wüster, 17 April 2001.

⁶⁷⁴ Wüster, 17 April 2001.

⁶⁷⁵ Laki musiikkioppilaitosten valtionavustuksesta (147/68).

⁶⁷⁶ HE 258/94, p. 3; The report of the Ministry of Education 1985: 45 (OPM / Musiikkioppilaitoslainsäädäntöä uudistavan työryhmän muistio)

and Decree 692/87) and 1988, and several times after that. In addition, the Act governing the financing of educational and cultural activities (705/98) changed the financial basis of music schools.⁶⁷⁷ A new Act (516/95) and a Decree (880/95) were introduced in 1995. After a period of detailed regulation, the Act of 1995 relieved the restrictions governing music schools. When this Act (516/95) was rescinded, the music schools were afraid of losing their financial security, which in Finland was based on law. However, this did not happen, and the present Basic Arts Education Act (633/98) came into force governing music education offered by music schools, as well as other fields of education.⁶⁷⁸

In Finland, the law (connected to state support) is one of the main instruments in creating equal opportunities and promoting the right to extra-curricular music education. However, several questions arise. First, due to limited resources, state support can be granted only to a limited number of music schools. Therefore, the aim of promoting equality may be regarded as promoting inequality, since fees are lower in state-supported schools than in others.⁶⁷⁹ The first Act was not very detailed, but the number of regulations (issued by the state authorities as well as by the SML Association) increased rapidly, and a national curriculum followed. A phenomenon that was referred to as a deluge of norms was recognized in criticism of the regulations affecting Finnish schools. Furthermore, it was claimed that the Finnish field of education and culture was burdened with more detailed legislation than any other field of education in other countries.⁶⁸⁰ According to Helasvuo:

... In the field of music schools the examination system was made stricter by introducing more detailed regulations. Despite the shy resistance of teachers and pupils, it began to become so rigid and systematic that the burden of bureaucracy and pedantry that used to be unfamiliar in arts education was now embedded in the activities. (my translation)⁶⁸¹

Strong control by the authorities in the central administration was typical until the 1990s. When the period of de-regulation began, the music schools were afraid that state subsidy would be reduced, and that the standard of music education

⁶⁷⁷ Laki (402/87) ja Asetus (692/87) valtionosuutta saavista musiikkioppilaitoksista.

⁶⁷⁸ Basic Arts Education Act (633/98).

⁶⁷⁹ Epämusikaalista lainsäädäntöä, Rondo 3/1968; Rondo 2/1968; see also Kuha 1974, pp. 8–9.

⁶⁸⁰ Kivinen et al. 1995, pp. 11–12.

⁶⁸¹ Helasvuo 1983, pp. 12–15.

would go down.⁶⁸² Therefore, the law, as well as other documents (issued, for instance, by the Association or the Board of Education), were also instruments for securing the standard of music education offered by these schools. Legal regulation is often regarded as a means of obtaining financial resources and securing continuity in educational and cultural activities.⁶⁸³

10.2.3 Equality in Sweden: rights without state regulation

The Swedish way of interpreting the principle of equality stresses the right of every child also to receive extra-curricular music education. Furthermore, this right is not secured by special legislation, even though special acts for music schools have been introduced in Finland, Norway and Denmark. Financial support for music and cultural schools was reduced in several municipalities in Sweden in the 1990s, and the prospect of legal regulation was discussed in several newspapers: “To regulate or not to regulate” was discussed vigorously. The conclusion was not to regulate. One argument against legislation was “inequality” and unfair competition, since state support based on legislation would be directed only to some music and cultural schools and not to all. Furthermore, the long Swedish tradition of local decision making, as well as the fear that local politicians might reduce the present public support to a minimum level based on the law, was also presented as an argument.⁶⁸⁴

On the other hand, a minimum level of public financial support based on the law is better than nothing: this was also one of the arguments. For instance, the Association of Swedish Music and Arts Schools was in favour of a special act, since this was regarded as a more secure basis for public financial support than the “speeches” of local politicians. The rising fees and diminishing public subsidy in the 1990s threatened the principle of equality without the passing of an act. For instance, waiting lists lengthened so that some applicants had to queue for three or four years before being admitted to a music school.⁶⁸⁵

However, no special legislation governs Swedish music and arts schools. The Local Government Act (*Kommunallagen*) could be regarded as the act that applies

⁶⁸² Jaakko Pihlaja in Helsingin Sanomat 13 April 1996.

⁶⁸³ Even more legislation has been demanded: a Finnish conductor claimed for an Opera Act for regional operas in order to secure the financial resources and confirm the continuity of Finnish regional opera activities. Atso Almila: “Oopperalaistako selvyys rahanjakoon?” Helsingin Sanomat 21.4.1996.

⁶⁸⁴ Häggroth & al. 1999, pp. 7, 35–36.

⁶⁸⁵ Abrahamsson 1998; Lundberg 1996; Bojs 1996; Cederberg 1992; Ahlqvist 1992.

to them, but in practice its role is minimal.⁶⁸⁶ Whether or not to establish a music or cultural school is a decision that is made by the municipalities. The principle of equality (also mentioned in the Local Government Act) is applied to these schools, and in Sweden this principle means that every child has the right to study at a music or cultural school. No entrance examinations are held and no diplomas or reports are issued, since pupil selection is regarded as elitist. Pupils aiming at a profession in music are offered special tuition at the age of (approximately) fifteen. Thus, the contents of education differ significantly from those in the music schools in Finland, although the same principle of equal opportunities for every child was also the basis of state support for Finnish music schools in the 1960s.⁶⁸⁷

10.2.4 Extra-curricular music education in England: no right

English educational policy, as well as legislation (based on case law), differs significantly from the educational and cultural policies in Finland, Sweden and Germany. The tradition of private institutions and boarding schools goes back a long way, whereas state monopoly over schooling characterized education in the Nordic countries until the changes in the 1990s. Distinction between the so-called “good” and “not so good” educational institutions has been a common phenomenon in England (as well as in the United States). The evaluation of schools and universities – as well as competition between these institutions for the best students, teachers and financial resources – has characterized the British field of education. It is a field of market forces, although state schools are available. The principle of equality is stressed, although this principle does not refer to equal opportunities regardless of social or economic background, as it does in the Nordic welfare societies (consistent with the philosophical views of John Rawls). Equality rather indicates that discrimination due to race, sex or geographic location, for instance, is forbidden. In short, personal autonomy without state intervention in Anglo-American societies is also stressed in the field of education.⁶⁸⁸

⁶⁸⁶ Tivenius 2001; Skoglund, 13 and 19 Febr. 2001.

⁶⁸⁷ Perälä 1993.

⁶⁸⁸ See also, e.g., Cooke & Gosden (1986). The aforementioned writers analyse the development of the education service and local governments in England. Following the enactment of the 1944 Education Act, the statutory education committees and their national organisation (AEC) created a “modern education system” providing secondary schooling for all. (Cook & Gosden 1986).

Political, social, economic and technological development used to have an influence on the educational field. A market-based system is often seen as an alternative to a centralized educational system and political control. In a market-based society, consumers – in other words, pupils and families – have the right to choose an educational institution. This has been regarded as a child-centred view, although the right to choose depends on the income of parents. Consumer rather than government control has characterized this kind of education. However, Margaret Thatcher introduced the concepts of the business world into the educational field, and “efficiency” was one of the key words. Furthermore, the Government steered and controlled the educational institutions through evaluation and inspection. State assessment increased especially after the Educational Reform Act came into force in 1988.⁶⁸⁹ The National Curriculum was introduced in conjunction with this Act. Thatcher stressed the importance of mathematics, languages and science to the detriment of the arts subjects. After a lively discussion criticizing the governmental propositions music was accepted into the National Curriculum.⁶⁹⁰ The principle of equality referring to the right of every child to obtain music education is realized through general education, and music is part of the National Curriculum.⁶⁹¹

The right of every child to receive a music education including instrumental tuition has been realised mainly through lessons offered at primary and secondary schools. In the 1960s and 1970s, instrumental tuition was directly affected by the economic state as well as the political will of the local government. Local governments usually engaged instrument teachers, and the pupils were thus given instruction free of charge. However, differences between schools were apparent: in some the choirs and orchestras flourished, whereas in others no extra-curricular musical activity was offered. The right to receive music education of a certain standard thus did not apply to every child regardless of domicile or social background. Furthermore, when the schools became economically independent and were given the right to decide on their budgets – which was one of the reforms brought in by Margaret Thatcher – free instrumental tuition ended in many schools. Nowadays, tuition offered by peripatetic (visiting instrument) teachers is usually paid for by the parents. This is an issue of economic equality of opportunity. Furthermore, for reasons to do with the effectiveness of education, teachers did not like pupils attending instrument lessons during school hours.⁶⁹²

⁶⁸⁹ The Secretary of State’s Proposals 1999.

⁶⁹⁰ Odam, 6 July 2000; Aldrich 1996, p. 24; Harris, 16 Nov. 2001.

⁶⁹¹ National Curriculum of England, see Chapter 3; Philpott 2001, p. 164.

⁶⁹² Smith, 30 June 2001; Philpott 2001, p. 156. Philpott states that, in England, various music services offer instrument tuition, usually paid for by the parents (Philpott 2001, p. 156).

Saturday music schools are also available for children interested in learning to play an instrument. Local governments or funds may support these schools, so that the pupils do not have to be responsible for all the costs.⁶⁹³ According to Philpott, the government is committed to supporting music education through the funds so that music services could be offered in the form of cheap and freely available lessons.⁶⁹⁴ Private teachers also offer instruction, and this kind of “pay and play” policy, in other words, market-based tuition by private teachers or tuition supported by local-government funds without external control, has been typical in England. Equality of opportunity refers mainly to differentiating individual needs.⁶⁹⁵ Furthermore, “music for all” has been stated to be unrealistic regarding instrumental and vocal tuition in classical western music.⁶⁹⁶ Yet, individual needs and a spirit of togetherness and equality between all pupils can be combined. For instance, each study programme at the Purcell School (a specialist music school) is tailored to fit the individual student. However, the discipline at this school (highlighting punctuality, courtesy, preparation and practice) is based on the principle that no one is more important than anyone else. The aim is not only to train future soloists and professional musicians to a high standard, but also to give the pupils broad musical (as well as academic) training that prepares them for “wider horizons in music”.⁶⁹⁷

According to Zweigert and Kötz, the English improvise whereas the Continentals systemise.⁶⁹⁸ In other words, no network of music schools or acts governing extra-curricular music education has been created in England. Junior departments of some colleges (such as Trinity College and the Guildhall School of Music and Drama) and specialist music schools offer instrumental tuition. In addition, tuition in choral and aural techniques, music technology, composition, and orchestra and ensemble playing is available. Group classes in a subject called “Creative Musicianship”, which includes composition, improvisation and aural skills, are offered.⁶⁹⁹ However, pupils are selected for these institutions by audition. Government-aided study places are available at specialist music schools, and in some schools, the amount of the fee depends on the income of the family.⁷⁰⁰ This right to government-supported voluntary education and training only affects a small minority, since only especially talented children and young people are

⁶⁹³ Harris, 16 Nov. 2001; Odam, 6 July 2000.

⁶⁹⁴ Philpott 2001, p. 165.

⁶⁹⁵ Philpott 2001, p. 157.

⁶⁹⁶ Philpott 2001, p. 157 (Philpott refers to the views of Fletcher 1987).

⁶⁹⁷ The Purcell School. Brochure. See also <http://www.purcell-school.org>.

⁶⁹⁸ See Section 1.2.

⁶⁹⁹ E.g., Junior Trinity. [Http://www.tcm.ac.uk/groupjnr.htm](http://www.tcm.ac.uk/groupjnr.htm) (7 April 2002).

⁷⁰⁰ Sharkey, 2 July 2001 (Director of the Purcell School).

accepted at these institutions.⁷⁰¹ An evaluation system (in fact, several systems offered by ABRMS, Trinity College, and the Guildhall School of Music and Drama), including grade examinations, has been created to secure standards. Although these graded examinations are voluntary, they are favoured by teachers (both by private teachers as well as teachers at specialist music schools⁷⁰²), and many pupils take them. This system is also market-based, and prescribes a standardized repertoire of different music for each year.⁷⁰³

From the perspective of the right to education, “elitism” has characterized the English educational field with highly respected private schools and universities selecting the “best” students who often have wealthy parents. However, a lively discussion took place in England, as well as abroad, after the recent “place-selling scandal” at Oxford University. The nervous father of an applicant (in reality a journalist on a Sunday newspaper) offered the chaplain of an Oxford University college 300,000 pounds to secure a place at the university, and the chaplain let him understand that that was possible. This problem is not unknown in the United States, where several universities explicitly give preferential treatment to the children of their alumni. Two main problems (typical of all universities in England) have been said to make the “Oxford scandal” more comprehensive. First, the amount of money spent by the government per student has gradually diminished. Second, the older universities are a federation of self-governing colleges, each run by a community of scholars. This system has created competing bureaucracies, instead of promoting a sense of unity in times when the whole institution might have co-operated on fund-raising.⁷⁰⁴

⁷⁰¹ Harris, 16 Nov. 2001; Sharkey, 2 July 2001. Over 50% of applicants to the Purcell School are turned down (Sharkey, 2 July 2001).

⁷⁰² Sharkey, 2 July 2001.

⁷⁰³ Harris, 16 Nov. 2001; Philpott 2001, p. 161.

⁷⁰⁴ Oxford University. Drooping spires. *The Economist*. March 30th 2002.

Chapter eleven

If we regulate, how should we regulate?

11.1 FREEDOM IN EDUCATION: AIMS – THE NEEDS OF INDIVIDUALS AND GOVERNMENTS	230
11.2 INSTRUMENTS OF REGULATION – COMPARATIVE ASPECTS	234
11.3 LEGAL CONTRA FINANCIAL INSTRUMENTS	238
11.3.1 <i>The market or the state?</i>	238
11.3.2 <i>Elitism and paternalism</i>	240
11.3.3 <i>The role of law</i>	243
11.3.4 <i>Instruments of government intervention</i>	245
11.3.5 <i>From a “deluge of norms” to deregulation</i>	247

Chapter 11 If we regulate, how should we regulate?

11.1 Freedom in education: aims – the needs of individuals and governments

Voluntary music activities could be regarded as the backbone of the music education offered by music schools (and cultural schools, or the instrumental and vocal tuition offered, for instance, by English peripatetic teachers) in all of the countries considered in this study. However, the present situation and contents of education are quite different when these countries are compared with each other.

The music education offered at music schools in Finland has been regarded as goal-orientated.⁷⁰⁵ Future professional studies have been regarded as the basis for the systematic structure of the studies, a “pyramid” leading from music playschool to music university. The background of this philosophy can be found in the arguments expressed in the 1960s, when state support for music schools was demanded: the need to get proper training from early childhood, especially in classical music. As other institutions already offered state-supported music education in groups aiming to educate amateurs, music schools had to formulate different goals for their activities.⁷⁰⁶ A special Act securing state support (but not for all music schools) came into force in 1969. Since then the objectives of education have been prescribed in acts, statutes, and curricula.

The repertoire requirements of examinations and study programmes for Finnish music schools are formulated by the National Association SML. Although these directives are not “mandatory law”, they have a significant influence on the contents of education, since they are applied at music schools around the country. A National Framework Curriculum was issued by the National Board of Education in 1995, and music schools were granted the right to formulate their curricula themselves in accordance with the aforementioned national guidelines.⁷⁰⁷ According to the present Act, the aim of the education is both to provide a basis for potential professional studies and to promote self-expression.⁷⁰⁸ In other words, both the needs and goals of individual pupils and the objectives of state authorities are taken into account. This will give the Finnish music-school system the opportunity to offer a more flexible study programme and a wide repertoire of

⁷⁰⁵ Kurkela & Tawaststjerna 1999, p. 124.

⁷⁰⁶ Laurila 1975; Perälä 1993.

⁷⁰⁷ Laki musiikkioppilaitoksista (516/95) (Music School Act), Musiikkiopistojen opetussuunnitelman perusteet 1995, Opetushallitus (The National Framework Curriculum issued by the National Board of Education).

⁷⁰⁸ Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act) §1.

musical styles. Furthermore, the legislation as a basis for public financial support guarantees the standard of education: qualified teachers and both private and group lessons for pupils.⁷⁰⁹

The state in Sweden is neutral regarding the aims and content of education offered by municipal music or cultural schools. No act, no national curricula or requirements provided by the National Association, SMOK, direct these schools. Local self-government is the principal means of realizing the idea of democracy in Sweden. The aims and contents of the education differ a lot from those in Finland. The main principle in Sweden is “Music for all: let all kinds of birds sing, not only the best ones”.⁷¹⁰ In other words, no entrance examinations are held, and aims are child-centred and determined locally. For instance, the UN Convention on the Rights of the Child and the principle of the best interests of the child have been taken as an aim of the municipal culture school in Örebro. Extensive group teaching, short private lessons, no examinations, several styles of music, as well as different fields of arts to choose from, characterize Swedish cultural schools. The principle of equality is interpreted as the right of everyone to receive music education at municipal music or cultural schools, whereas in Finland the same principle means that selected musically gifted children, regardless of their economic, social and geographical background, are able to study at these schools. The high standards within the field of classical and modern music, as well as internationally well-known artists such as Pekka Kuusisto and Réka Szilvay, are presented as the results of Finnish investments in music education, whereas the Swedes are proud of Abba and Roxette. Music as part of the national culture is regarded as the justification for music education and state support in Finland, while in Sweden, financial profits – Sweden is the third biggest music exporter in the world – are presented as the result of activities at music and cultural schools. The same argument is also put forward as justification for public subsidy.⁷¹¹

In England, the role of the government is minimal in extra-curricular music education for children and adolescents. Four specialist music schools for especially talented children are funded, and government-aided places are available. These schools offer children and young people proper training for future professional

⁷⁰⁹ Vakkilainen 2002.

⁷¹⁰ Sundstedt (ed.) (1998): “Musik för alla. Om Stockholms kommunala musikskola, historik, mål och visioner.”

⁷¹¹ “Vad ger musiken Sverige?” by Karin Henriksson in Svenska Dagbladet, 19 Oct. 2001; “Musikskolan och envishet bakom succéer” by Ika Johannesson in Dagens Nyheter 25 Jan. 1999; “Profeten Pagrotsky hade rätt: En frälserska är född” by Leo Lagercrantz in Expressen 27 Dec. 2001; Persson 2001, p. 245. “It’s the real thing: a spontaneous tribute to the vitality of Finnish music” by Andrew Clark in Financial Times 27 Nov. 2001.

studies. However, broader aims may also be formulated since schools are allowed to determine the aims and contents of the education by themselves. Some local councils support Saturday music schools, private teachers offer education, and peripatetic teachers give instruction outside of school hours. No national aims are imposed on this kind of education, whereas for music as a school subject, detailed aims are set by the National Curriculum. Teachers and “consumers” – parents and children – determine the aims and content in extra-curricular music education. Individuality is emphasized, as an English violin teacher said.⁷¹² On the other hand, an evaluation system has been created consisting of examinations (grades) with standardised repertoires, CD-recordings of the pieces and instructions for teachers. This assessment system offers a structure for extra-curricular music education and directs the teaching. However, the system is market-based, since everything is charged to the student. Therefore, the principle of equal opportunities regardless of economic and social background applies more to music education in schools than to extra-curricular music education.⁷¹³

The background of music schools in Germany lies in the Youth Music Movement and other associations. The aim was to make “*Hausmusik*” – non-professional music. Germany was divided after the Second World War, and until the recent re-unification, music schools had almost no contact with each other.

The state took over in the former East Germany and regulated the music schools by Guidelines (1952) and Decree (1955). According to the Order governing music schools (*Anordnung über Musikschulen*) of 1961, social aims were to be emphasized and talented pupils promoted. A network of music schools was created in the 1970s. Pre-education for 5- to 6-year-old children was introduced, offering music in groups and ensembles a firm place in education, and the study programme of preparation for future professional studies was made more intensive.⁷¹⁴ Specialist music schools with boarding and intensive teaching were available for especially talented children and young people. The state of East Germany recognized the importance of classical music (for instance, Bach) as well as of the education offered by music schools. The decree had legal status, and financial security was guaranteed by the state.⁷¹⁵

Music schools in the former West Germany formed an association, nowadays called the VdM. A structural plan and curricula were drawn up by this Association in the late 1960s. Furthermore, a Plan for the Foundation of Music Schools (*Plan*

⁷¹² Harris, 16 November.2001.

⁷¹³ See Chapter 3 “England”.

⁷¹⁴ VdM: Statistisches Jahrbuch der Musikschulen in Deutschland 1999, p. 6.

⁷¹⁵ Ibid.; Czajkowski, 26 March 2001.

zum Ausbau der Musikschulen) was introduced by the German Music Council in 1967. As well as drawing up the curricula the VdM had an influence on education through projects in early and adult education, for example.⁷¹⁶ A new period commenced after re-unification, and each federal state (*Land*) is responsible for its own educational and cultural matters. Therefore, music schools that are run and funded by local authorities can be shaped individually according to local needs. Every child has the right to attend a music school (in other words, no entrance examinations have to be taken), although one specialist music school in Weimar still offers education only for especially talented pupils. Generally, the aim is to give children and young people high-quality instrumental and vocal instruction, and to encourage them to participate in non-professional music making in society. Preparation for future professional studies is also offered in a special study programme.⁷¹⁷

In conclusion, the aims of education embody its fundamental purposes and determine the character of institutions, curricula and assessment. Aims may be implicit or explicit, and they may be embodied both in government documents and everyday practices. There are different ways of categorising aims: the “liberal” tradition emphasises the importance of education as an individual, the liberal good with intrinsic value, whereas the “instrumental” tradition stresses the importance of education as a public good with instrumental value. However, the tendency to dichotomise aims and sharply separate two contrasting philosophies of education is misguided. For instance, children and young people can be educated to be autonomous both as an intrinsic good for these individuals and as an instrumental good (learning to be good citizens) for society. Furthermore, to give children and young people a secure cultural background is regarded both as an instrumental and an intrinsic aim.⁷¹⁸ Therefore, promoting the self-expression of pupils as an aim of education (stated in the Finnish Act governing basic art education §1) is a “liberal” aim serving individual needs. At the same time, however, the aforementioned objective of education promotes the social needs and instrumental aims of society by producing good citizens and preserving the culture. Giving pupils a proper basis for future professional studies⁷¹⁹ is also an instrumental aim that serves both the needs of individuals and society as a whole. In short, the different aims of education are not necessarily incompatible.⁷²⁰

⁷¹⁶ Ibid; see Chapter 4 “Germany”

⁷¹⁷ Ibid.

⁷¹⁸ Winch & Gingell 1999, pp. 10-13.

⁷¹⁹ Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act) §1.

⁷²⁰ Winch & Gingell 1999, p. 12.

11.2 Instruments of regulation – comparative aspects

Positive freedom refers to state intervention (and the diminishing autonomy of individuals). Curriculum planning is one example of educational matters that are connected to state intervention. Contents and aims in education are closely bound to curricula and other documents prescribed by the government, a national association or music schools themselves. Furthermore, criteria for assessment and evaluation have an effect on contents and aims in education. A legal-philosophical question related to values is: who has the right to decide about aims and contents in education, the individual or the state? Furthermore, the aforementioned problem is connected to the tension between individual rights and the common good. As Swanwick states:

... the inclusion of music in an institutional curriculum is when the trouble begins, where the selection of materials and methods and the identification of aims and objectives can become an ideological battleground.⁷²¹

Rights – and duties – in education are connected to basic rights prescribed in Constitutions, as well as to human rights and the rights of children formulated in international conventions. These rights primarily concern compulsory basic education for children. The right to basic education – as well as the duty to attend school for a certain number of years – is secured in all western societies. The right to education prescribed in the Constitution may also have an influence on its content (as in Finland). Furthermore, sometimes aims and content are prescribed in international conventions. These rights and duties especially affect music as a school subject in basic education. The United Nation's Convention on the Rights of the Child has voluntarily (but also due to local politics⁷²²) been taken as an aim of education in one Swedish cultural school. In other words, international conventions may also have an effect on extra-curricular music education.

The role of the state has been strong in the field of education in Finland and Sweden, as well as in other so-called Nordic welfare states, whereas the autonomy of schools has been emphasized in liberal states such as England (especially until the 1990s). However, it is specifically compulsory education that is controlled by

⁷²¹ See Chapter 3 "England". According to Englund (1986), in a political democracy with a system of compulsory schooling, curricula have to be regarded as products of political compromise, accommodating the aims of several different groups. Therefore, music as a compulsory subject could also be regarded as a product of a political compromise (within an "ideological battleground").

⁷²² The UN Convention on the Rights of the Child was taken as the theme of the year 2001 in the municipality of Örebro in Sweden.

the state. Out-of-school music education for children and young people is only a special and a minor aspect. The role of the government involving extra-curricular music education differs a lot, even between the two Nordic neighbours – Finland and Sweden.

In Finland, the role of the state is also strong regarding music education offered by state-supported music schools. When these schools were brought under a special Act in 1969, the state authorities were, at the beginning, quite neutral about the content of the education offered. First, only some recommendations governing the content of the education were formulated by state authorities. However, the documents directing the activities of music schools increased, and the aims were formulated in acts and statutes, in a national curriculum, and nowadays in the Framework Curriculum issued by the National Board of Education. The National Association of Music Schools (SML) created repertoire requirements for examinations. In practice, the examination requirements of the Association were interpreted and followed strictly in music schools, since this was thought to be criterion for state support.⁷²³ Individual needs were not considered as important. For instance, Lassi Rajamaa (the former Rector of the Sibelius Academy, who was a member of the working group preparing the Music School Act) states that national instructions were spread over the country, establishing at what age all children in Finland should learn to play the spiccato.⁷²⁴ However, the narrow content and aims of the education in music schools were criticised in the 1990s. The desire was expressed to concentrate on broad content and aims, as well as on the education of non-professionals – without forgetting those aiming at a profession.⁷²⁵

The state took over responsibility for the music schools in East Germany when the country was separated. The financial security of these schools was based on legislation (just as in Finland), and teacher training was arranged to produce qualified teachers. The educational aims were formulated by the state authorities. Preparing future professionals was stressed, since making music alone as a hobby was not in the interests of the state. Furthermore, “citizenship education” was included in the study programme. Music education offered at music schools was a means of promoting “the common good”.⁷²⁶

⁷²³ The criteria for state support were prescribed in the acts. However, the following requirements of the Association were thought to be of importance when the decision was made by the state authorities on the choice of music schools to be granted state support and governed by the Act. (Perälä 1993.)

⁷²⁴ Rajamaa, 7 September 1995.

⁷²⁵ Aukia 1992, p. 12.

⁷²⁶ See Chapter 4 “Germany”.

The state did not promote music schools in the former West Germany as much as the authorities did in East Germany, and neither did the government determine the content of education. Each *Land* now has the right to decide on its own educational matters, and the aims and content may vary. The National Association, nowadays called the VdM, was formed by the schools themselves. Recommendations, guidelines, structural plans and curricula formulated by the Association direct the content of the education offered. The representative of this Association even considers it a democratically formulated law-giver. However, the documents it issues have no legal validity, although in practice the music schools that are members also follow the recommendations of the Association. According to the VdM, the main aim is not to educate professionals, although a special study programme is available for especially talented young people aiming at a professional life in music. The structural plan is systematic and specifies the different levels to be passed.⁷²⁷

The aims and content of the music education offered by municipal music and cultural schools in Sweden are determined by the schools themselves. The principle of local self-government is of great importance: the state is neutral and the role of the National Association for music and culture schools (SMoK) is minimal. Local politics may have an influence on activities: the framework budget is one of the ways in which the municipality can exert this influence. Furthermore, municipal documents including recommendations, visions and declarations may influence the activities of cultural schools. However, the schools decide themselves how these general documents are applied. Municipal declarations are sometimes based on international conventions, declarations and visions, and an international convention – such as the United Nation’s Convention on the Rights of the Child – may be taken as an aim in arts education. In addition, according to the Swedish interpretation of equality, every one – and not only talented children – has the right to extra-curricular music education and a place at these schools. The aims of education are broad and several subjects besides music, for instance, dance and drama, are offered. The Head at Örebro Culture School states that the aims and contents of the education are based on the needs of the individual. The principle of equality is stressed, but it is interpreted to mean that there is room for everyone and every kind of ambition. The aim is to provide instruments for democracy and freedom of speech, diversity and perspective, but they are the aims prescribed by the school itself. However, these aims are connected to national cultural and political aims.⁷²⁸

⁷²⁷ See Chapter 4 “Germany”.

⁷²⁸ See Chapter 2 “Sweden”.

The British government is almost completely neutral regarding aims in extra-curricular music education. The personal autonomy of individuals is emphasized. Local councils usually support extra-curricular music education, and government-aided study places are available at specialist music schools. However, the system is market-based. Individuals pay for extra-curricular music education: in other words, freedom costs. This could be regarded as a child-centred view in terms of determining aims and contents in extra-curricular music education. If children are not allowed to decide for themselves, their parents have the right to determine what is best. This has also been called “consumer control”, since families decide the content of the education and choose what they want to pay for.⁷²⁹

On the other hand, the extensive freedom in extra-curricular music education has created the need for a structure. Control is minimal: no qualifications are required of teachers, and no national curriculum, guidelines or recommendations exist. Systems of evaluation have been created (the main one being the Associated Board of the Royal Schools of Music, ABRSM), comprising external examinations, standardized repertoires, recordings of the pieces and instructions for teachers. The requirements of these “grades” direct the content of music education since the examinations are very popular, although not compulsory.⁷³⁰

There is no external evaluation of education in the municipal music and cultural schools in Sweden, and none in German music schools.⁷³¹ In Finland, a new paragraph on evaluation was introduced in conjunction with the reform of educational legislation in 1998. The aim is to improve the preconditions of learning and to support the development of education. Evaluation is not intended to be a new control instrument for the government. Since this Act is new (it was introduced in 1998), there is very little knowledge of how it is applied in practice. Music schools have been evaluated only once by an external evaluation group. The report of this group has been published and the results may have an effect on curriculum planning in music schools. However, the aims formulated in the mandatory Framework Curriculum issued by the National Board of Education have to be followed when curricula are formulated by music schools.⁷³²

⁷²⁹ See Chapter 3 “England”.

⁷³⁰ ABRSM: Annual Review 1999, p. 1; Harris, 16 November 2001.

⁷³¹ The ABRSM examinations are available internationally (for instance, they have been arranged in Sweden, although it is not so common to take them there). Evaluation is a new phenomenon in many countries, and the situation may therefore be changing, for instance, in Germany.

⁷³² Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act) §7; Kurkela & Tawast-järna 1999; National Framework Curriculum issued by the National Board of Education.

11.3 Legal contra financial instruments

11.3.1 The market or the state?

According to Dworkin, the economic approach takes as its premise the fact that the market is the most effective instrument for deciding how much and what kind of culture people would like to have.⁷³³ Furthermore, efficiency (from an economic perspective) is stressed by Milton Friedman when he states that an educational “marketplace” is a more efficient solution than an educational “monopoly”. Friedman’s statements are usually supported by better student achievement or lower expenditures at private than at public schools in the United States. However, the comparison is extremely difficult to make, since public schools provide several mandated services and educate pupils who are excluded from private schools, for instance.⁷³⁴

On the other hand, the “lofty approach” (as Dworkin calls it) concentrates on what is good for people to have. It insists that art (and culture) must reach a certain degree of excellence in order for human nature to flourish. This means that the state must provide this excellence. In Dworkin’s view, this approach seems to be a promising “avenue” leading to arguments justifying state support.⁷³⁵ Niiniluoto is of the same opinion. He states that if arts were left to the market uncontaminated by subsidy, only the most “popular” works would survive. Finland, for example, with a small and scattered population, does not have large commercial markets for the arts, and therefore some kind of state support is needed. In fact, a system of state support for the arts has been typical for most of the so-called civilized countries.⁷³⁶

Dworkin’s view of liberalism seems to be based more on the Anglo-American tradition that promotes “negative freedom” (freedom from state intervention), the market economy and the minimal role of the state, than on continental liberal humanism and welfare liberalism. However, the relationship between the arts and the state in Finland does not reflect Dworkin’s views. It has been claimed that the philosophical background of the Finnish welfare state is consistent with the ideas put forward by John Rawls, mainly in his *Theory of Justice*. As Hellsten argues, the views of Rawls are closer to continental liberal humanism than to Anglo-American classical liberalism. Therefore, the concept of positive freedom – emphasizing equal opportunities and freedom of choice for everyone regardless

⁷³³ Dworkin 1986a.

⁷³⁴ Levin 1987, pp. 633–634, 637.

⁷³⁵ Dworkin 1986a, pp. 221–222.

⁷³⁶ Niiniluoto 1993, p. 116–120; Palonen 1993, p. 2; Towse 1994, p. 143.

of social or economic background – has also been promoted in Finland in the field of the arts and arts education, including music education for children and young people offered by music schools. This positive concept of freedom allows more state intervention than is acceptable in classical liberalism. For instance, private organizations that are forbidden by law to make a profit (“non-profit organizations”) play a central role in the Finnish field of the arts and arts education. A “private” music school may be a profit or a non-profit organization, but a precondition for receiving state support is that the music school is not allowed to be a profit-making organization.⁷³⁷ The right to education is guaranteed in the Finnish Constitution, and the principle of equality, referring to equal opportunities for everyone, is regarded as the most important principle in the field of education. This principle, referring especially to equal opportunities regardless of domicile or social and economic background, has been emphasized in the music-school context. Therefore, the new liberal trends of the 1990s are heavily criticised: schools that are open to market forces should fight against the fundamental principles of education.⁷³⁸

Opening schools to market forces would also be regarded as being against the principle of equality prescribed in the German Constitution.⁷³⁹ As far as music schools are concerned, the Act of Baden-Württemberg states that only officially recognized schools may be supported by the state. Furthermore, these schools have to be public corporations. In Bavaria, according to the Decree on the Conduct of Song and Music Schools (*Verordnung über die Führung der Bezeichnung Singschule und Musikschule*), social aspects must be taken into account when fees are collected. Music schools in Brandenburg may be maintained by public or private corporations BbgMSchulG §2), although the users of the schools should not be responsible for an unreasonably large proportion of the costs. In Sachsen-Anhalt, state-supported music schools have to be a legal entity under private or public law, have to be of public benefit, and have to be situated in Sachsen-Anhalt.⁷⁴⁰

In Sweden, municipal music and cultural schools refer to different forms of organization (such as joint-stock companies owned by the municipality in Solna, and other associations). These schools are financed mainly by public subsidies (up to 90–92% according to EMU statistics). According to Hans Skoglund, the former

⁷³⁷ Hellsten 1997, pp. 17–20; Niiniluoto 1993; OPM 1/1995; Laurila 1975. See, e.g., laki musiikkioppilaitoksista (516/95) (Music School Act) §2; according to this act (affecting the music schools that receive state support), a music school is not allowed to make a profit.

⁷³⁸ Vihinen 1996b; 1998a; Hynynen 1999; Kuusisaari 1996a; 1996b.

⁷³⁹ Key topics in education (2000), pp. 326–328.

⁷⁴⁰ Guidelines / Guiding Rules for the Allowance of Subsidy to Support Music Schools in Land Sachsen-Anhalt (*Verordnung zur Förderung der Musikschulen*)

Head of Örebro Culture School, the school is supported by the municipality to the tune of approximately SEK 21.5 million per year, and an additional SEK 12 million is collected in student fees, at bazaars and from funds. Pupil fees are usually low (except in periods of recession, such as during the 1990s), since the principle of equality is regarded as being of great importance. Swedish democracy is realized through local decision making: the voice of everyone is of equal importance.⁷⁴¹

England serves as an example of a market-based system for extra-curricular music education for children and young people. However, the so-called Saturday music schools are usually supported by local authorities, and government-aided places are available for pupils at specialist music schools. The market-based system has been heavily criticised by educators, especially during the Thatcher years: the principles of the business world were not considered suitable for the field of education. According to Harris, schools now receive money straight from the government and decide how to use it themselves. When public financial support is being reduced at the same time, subjects such as music and other arts courses (as well as the work of the peripatetic instrument teachers who used to give lessons during school hours) are cut due to limited resources.⁷⁴²

11.3.2 Elitism and paternalism

In Dworkin's view, there are two main difficulties in the approach that concentrates on what is good for people, elitism and paternalism. First, those who benefit most from subsidies to cultural institutions are said to be people who are already well off, and it seems unfair to provide, under cover of the ideal of human good, further benefits to those who already flourish more than most others.⁷⁴³

In the context of extra-curricular music education, the question of elitism is connected to the justification of state support for a selected group of musically talented children and young people who are already doing better than most.⁷⁴⁴

⁷⁴¹ Skoglund 13 Febr. 2001. See Chapter 2. Abrahamsson 1998; Lundberg 1996; Bojs 1996; Cederberg 1992; Ahlqvist 1992.

⁷⁴² Harris, 16 November 2001.

⁷⁴³ Dworkin 1986a, p. 222. Cf., Cantell 1993, pp. 75–76.

⁷⁴⁴ See, e.g. Kurkela 1993; 1995a; 1995b. For instance, Palonen states that the intensive course of study at music schools in Finland has been problematic for many pupils. The curriculum, with three or four weekly lessons and ensemble rehearsals, is often too heavy. Because only two percent of pupils ever make music their profession, and the rest prefer to keep their music-making as a hobby, the music-school examination system has come under serious criticism. There may be more flexibility in the curriculum today. (Palonen 1993, p. 23.)

For instance, in Sweden, selecting pupils would be against the concept of democracy: music is for all and so is extra-curricular music education. Even Acts of Parliament are considered undemocratic, and public support has to be determined by local councils.⁷⁴⁵ In Finland, on the other hand, state-supported music schools select their pupils. Furthermore, the syllabus has emphasised the aim to give a proper basis for further professional studies. The principle of equality is stressed in both Finland and Sweden, although it has different connotations in the two countries. In Finland, it refers to equal opportunities regardless of economic, social and geographical background, whereas in Sweden it refers to the rights of all children and young people.⁷⁴⁶

In the former East Germany, the objective of the education offered at music schools was to produce excellent musicians and citizens. The financial basis was secured (all music schools were owned by the state) since the state recognised the importance of educating musicians to a high standard.⁷⁴⁷ Entrance examinations for beginners were not normally held in the former West Germany, and this is the case in the present Federal Republic. The customs in music schools vary in different *Länder*, but the recommendations of the VdM association are applied all around the country.⁷⁴⁸ Specialist music schools in England have government grant-aided study places that they can offer to their pupils. Music universities and colleges in Finland, England and Germany all have special departments or study programmes for especially talented young people, but in Sweden this is not the case.

Selecting talented pupils could be criticised as elitist. However, a market-based music-education system is also elitist from the perspective of equal opportunities regardless of economic and social background. Without state support, talented children and young people drop out if their families cannot afford their tuition fees. Furthermore, the result is similar if the fees are high at music schools (as they used to be in Sweden in the 1990s, during the period of recession).⁷⁴⁹

Dworkin also considers this approach paternalist. Orthodox liberalism holds that no government should rely, or justify its use of public funds, on the assumption

⁷⁴⁵ Zetterström 1996; Abrahamsson 1998; Lundberg 1996; Bojs 1996; Cederberg 1992; Ahlqvist 1992.

⁷⁴⁶ Heino & Ojala 1999; Gustafsson 2000, pp. 209-210.

⁷⁴⁷ VdM: Statistisches Jahrbuch der Musikschulen in Deutschland 1999, p. 6; Czajkowski, 26 March 2001; Wüster 17 April 2001.

⁷⁴⁸ Wüster 17 April 2001.

⁷⁴⁹ See Cederberg (1992): "Bara de rika får råd att spela gitarr" - Only the rich can afford to play the guitar. See also, e.g., Bergendahl & Claesson 1998; Franzon 2000; Zetterström 1996.

that some ways of leading one's life are more worthy than others. Perhaps it is more worthwhile to look at a Rembrandt on the wall than watch a football game on television – but if more people want to watch a football game instead of doing something “worthwhile”, it is wrong for the state (which is supposed to be democratic) to use its monopoly to support minority interests with taxpayers money.⁷⁵⁰ Dworkin understands paternalism as interference with a person's liberty of action for his or her own good. This interference is justified on the grounds of attending to the welfare, good, needs, interests or values of the person being coerced. It is not only egalitarian legislation (such as laws forbidding private schools) that is defended on the grounds that it creates an economic environment in which the community as a whole is able to prosper. Various forms of social as well as economic legislation are often justified in a similar way. Moreover, aesthetic regulations, such as laws prohibiting the owners of buildings of historical interest from destroying or changing them, are justified because they protect the environment or culture of the community as a whole, not because they prevent direct harm to particular individuals.⁷⁵¹

If voluntary music education for selected talented children and young people is regarded as elitist education, the question to ask is: Is the kind of education offered by music and culture schools “harmful” to society as a whole by promoting divisions based on musical giftedness? As far as Sweden is concerned, elitist education questions the principle of equality, and thus it is regarded as “harmful” and undemocratic from the perspective of the society as a whole. However, the cultural policy changed in the 1990s: comprehensive and upper-secondary schools were communalized and the “free school” was introduced in the mid-1990s. As far as the municipal music and cultural schools were concerned, the change was made for market-based reasons: the flourishing music industry and export was claimed to be a result of the education offered by cultural schools. However, these kinds of arguments – “selling music by words” – do not necessarily, in practice, have an effect on the activities of the schools.⁷⁵²

The principle of equality is paramount in Finland, yet the importance for the nation as a whole of having talented musicians admired abroad has also been stressed.⁷⁵³ On the other hand, one of the aims of music education is to support the self-expression of individuals.⁷⁵⁴ In this sense, it supports both individual needs and the common good. The former State of East Germany recognized

⁷⁵⁰ Dworkin 1986a, p. 222.

⁷⁵¹ Dworkin 1986a, pp. 258–259.

⁷⁵² Heiling 1997, p. 105.

⁷⁵³ Perälä 1993; Clark 2001.

⁷⁵⁴ Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act).

the value of classical music to the whole nation, as well as to the education of selected students based on talent.⁷⁵⁵ Different kinds of schools (public, private and boarding schools) are part of the British society, although it is claimed that social divisions (classes) are very much based on an “elitist” educational system. This has been regarded as part of the liberal society: in other words, the principle of equality does not refer to real equal opportunities for all, as it does in the Northern welfare countries.

11.3.3 The role of law

According to Dworkin, elitism and paternalism are also related to the role of law. In other words, should a law provide opportunities for citizens, or restrict them? Furthermore, does a law that has been enacted in order to provide opportunities simultaneously steer people towards those activities provided by the state?⁷⁵⁶

That a country must be built upon the law is stated in an ancient Nordic adage.⁷⁵⁷ The Finnish network of music schools was mainly built by law and government decree: the financial basis of the schools, the posts for the teachers and the structure of the education were all created through the passing of Acts. The role of the law was to create opportunities for children and young people regardless of their economic and geographic background. In the 1960s, the driving force behind the policy of promoting art in Finland through the state was the economic and regional inequality of individuals.⁷⁵⁸

The principle of equal opportunities is still the most important principle according to the Constitution of Finland. However, Arajärvi claims that the duties of the state vary, according to the “weight and importance” of education. Thus, primary education has to be equally available for everyone. Economic equality in particular is stressed; indigence should not prevent anyone from educating him or herself. According to Arajärvi, all other education may become subject to charge, but this kind of education should be available to everyone. Therefore, the principle of equal opportunities imposes requirements on systems for state support for studies, or other kinds of support systems.⁷⁵⁹

⁷⁵⁵ Czajkowi, 26 March 2001; Wüster, 17 April 2001.

⁷⁵⁶ Dworkin 1986a.

⁷⁵⁷ Niemivuo 1998, pp. 10, 194.

⁷⁵⁸ Ahponen 1991, p. 216; see also Numminen 1964, pp. 10–11; Tuomikoski-Leskelä 1977b, p. 53.

⁷⁵⁹ Arajärvi 1994, pp. 137, 240.

The role of English law is quite different, since England is a common-law country. As stated earlier by Zweigert and Kötz, the English improvise, referring to decisions on each case within a tradition – a “chain novel” – whereas Continental people create legal regulations and systems beforehand, trying to find a solution from the text after something has happened.⁷⁶⁰ In the field of education, the Educational Reform of 1988 changed the role of the government: the power was shifted to the state authorities in control of education policy. On the one hand, the role of legislation and the national curricula, as well as of other documents issued by the government, was to secure the right of all children to receive proper education in all the subjects prescribed in the national curriculum, including music. On the other hand, government documents and acts (such as the School Inspection Act of 1996) are perceived as diminishing freedom in education. No official national regulations govern extra-curricular music education in England.⁷⁶¹

The role of the law in promoting the right to education and securing equal opportunities for all children is a basic principle in Finland, Germany and Sweden. This positive role is also found in the field of music schools in Finland and Germany. The financial basis of music schools was most secure in the former East Germany, where the state owned them, and the principle of equality, including the idea of culture for all, is still emphasized there.⁷⁶² This principle was stressed in Finland in the 1960s, and the positive role of the law was noted when the first Act covering music schools came into force in 1969. Securing the financial basis and providing openings for music-education activities has been regarded as the most important function of the law until the present. In other words, the role of the law is to create options and promote the principle of equality.⁷⁶³ In Sweden, this principle – “music for all” – is applied not only to general education, but also to the extra-curricular music education for children and young people offered by music and cultural schools.⁷⁶⁴ Furthermore, promoting the rights of pupils may also be regarded as protecting the weak. Therefore, the role of the law in the field of education could also be seen as protecting the weaker elements, the pupils and the teachers. For instance, in Finland, applicants to music schools have the right to appeal to the county governments concerning selection

⁷⁶⁰ Zweigert & Kötz 1998, pp. 68-72.

⁷⁶¹ Aldrich 1996, pp. 125-127; Aldrich and White 1998, pp. 1-5; The Secretary of State's Proposals 1999.

⁷⁶² Wüster, 17 April 2001

⁷⁶³ Perälä 1993; Amberla 1995b; Kuusisaari 1996a; 1996b; Vihinen 1995a; 1995b; 1996a; 1996b.

⁷⁶⁴ See Chapter 2. Abrahamsson 1998; Lundberg 1996; Bojs 1996; Cederberg 1992; Ahlqvist 1992. Skoglund, 13 Febr. 2001.

issues. Appeals may also be made against the level of fees and the evaluation of pupils.⁷⁶⁵ This law-based right is based on the principles of “fair-play” and protecting the weak.⁷⁶⁶

11.3.4 Instruments of government intervention

The means of the state in creating equal opportunities in the field of education are, above all, financial, in the form of state subsidy for educational institutions. Furthermore, a network of institutions (such as music schools) is needed to promote geographic equality. Posts for teachers are established by means of legal regulation, and qualification requirements are means for promoting the right to education of a certain standard in all schools. Even documents imposed by the state authorities could be regarded as having a positive role in helping the teachers to reach the required standard and aims, and in securing the right of pupils to receive a proper education. In addition, external evaluation is an instrument in promoting the development of educational institutions. For instance, when evaluation was introduced into Finnish schools in 1998 by the new educational legislation, its positive role was stressed in the Committee reports, and it was deemed *not* to be a potential control instrument.⁷⁶⁷

On the other hand, the same instruments that are used in achieving positive freedom could be regarded as controlling the content and aims of education. For instance, financial instruments such as state subsidy may also be denied and used as a sanction against music schools if their activities are not in accordance with the directives of those responsible for educational policy. Furthermore, state support for some music schools may be regarded as undemocratic and restrictive from the viewpoint of the schools that are not granted public financial support. The criteria for state support formulated by the state authorities direct the content of education in all schools applying for it. Furthermore, if the results of external evaluation were connected to the amount of state subsidy, the combination of evaluation and financing would be a strong instrument of state control.

⁷⁶⁵ Laki taiteen perusopetuksesta (633/98) (Basic Arts Education Act) §10. Appeals made concerning pupil selection or student fees have to be addressed to the county governments (Act 633/98 §10). Appeals concerning evaluation have first to be addressed to the teachers; in other words, a request for amendment has to be made first. Further demands for rectification may be addressed to the rector, according to the Statute governing basic art education (813/98) §3.

⁷⁶⁶ Protecting the weaker party is one of the basic functions of Finnish law. The qualification requirements for teachers could be seen as a means of protecting the rights of pupils to receive a proper education, for example. On the other hand, qualification requirements and established posts mean jobs for music teachers.

⁷⁶⁷ Ojala & Heino 1999.

As an example, the criteria for state support in Brandenburg (BbgMSchulG §3) are specified as follows: music schools have to serve the aims of the public good, and the education provided at the schools must be continuing and educationally systematic. As I have already noted, at least 150 lessons per week have to be given in (a) music education for 4- to 6-year-old children, (b) at three different levels in at least five different instrumental or vocal sections, (c) in ensemble and theory subjects. Additional education for gifted children must also be available. Framework curricula (*Rahmenlehrplänen*) have to be the basis for the education given at these schools. The general structure of these curricula is regulated in the Act, but the educational methods are left open. The schools may create the curricula themselves, or adopt an existing curriculum (such as the VdM curriculum). The majority of the educational staff must have a “university degree”⁷⁶⁸ in music or music education, and the school has to be directed by a qualified person with working experience.⁷⁶⁹

The National Curriculum could be regarded as an instrument for creating a structure for education and securing the right to receive quality education. However, it is also an instrument for controlling and directing the content of education, thus diminishing the freedom and autonomy of teachers. It was used as a control instrument in Finland until the 1990s. According to Heinonen, the structure had been created and it was time for deregulation.⁷⁷⁰ More freedom was granted to schools to determine the content of education. They were allowed to formulate the curricula themselves, and only a framework curriculum was issued by the National Board of Education. England could be taken as a counter-example: government control by means of a national curriculum and other decrees has increased since the Educational Reform in 1988. Raising standards and promoting the right of every child to receive a proper education have been stated to be the grounds for diminishing the autonomy and liberty of teachers and educational institutions in this liberal country.

Permission from the state authorities is required to run educational establishments, and this is also used as a control instrument by the State. For instance, according to the Basic Arts Education Act (633/98, §3) in Finland, the preconditions for such permission are stated as follows: basic arts education must be necessary and the applicant must meet professional as well as financial preconditions in arranging the appropriate education. Only state-owned music schools were allowed in the former East Germany.⁷⁷¹ This kind of control by permission is connected to financial support.

⁷⁶⁸ See Section 4.3 (for more specific information about the qualifications of teachers at German music schools).

⁷⁶⁹ BbgMSchulG, §3.

⁷⁷⁰ Heinonen 1995.

⁷⁷¹ Wüster, 5 March and 17 April 2001.

Teacher education is an effective instrument in creating opportunities and securing the right of pupils to receive a proper education of the same standard throughout the country. On the other hand, it is also regarded as a control instrument used by the state. The qualifications required of teachers in Finland are prescribed in the Qualification Decree, and are connected to the syllabi applied in the school and to state support.⁷⁷² According to legislation in Germany, having qualified music-school personnel is a precondition for financial support.⁷⁷³ No qualifications are required by law or national regulations for instrument teachers in Sweden and England. The former Rector of Örebro Culture School in Sweden said that two sociologists had applied for jobs as teachers (and they were accepted). Non-professional music teachers are common in England, since no qualifications are required of instrument teachers.⁷⁷⁴ State monopoly of teacher education and required qualifications for music-school teachers are means of raising or securing the standard of education. On the other hand, the power to decide who is the most suitable (although perhaps not the most qualified) teacher may also be given to the rector. The state monopoly could be criticized as paternalistic, whereas the delegation of power to rectors resembles practices in the business world.

11.3.5 From a “deluge of norms” to deregulation

Generally, the charge of paternalism goes hand in hand with the charge of a deluge of norms. For instance, it has been stated that the welfare state of Finland was created by making several services free of charge for its citizens. The public-administration sector expanded at the same time, thus increasing centralized government control. This phenomenon was also recognized in the fields of education and culture. Until the 1990s, state authorities used to determine matters involving:

1. pupils and school choice; for instance, the school districts, the minimum age of entry, disciplinary measures;
2. teacher employment and certification, such as standards and providing for their training and qualification;
3. curriculum and instruction: until the 1990s, Finnish schools had to follow the national curriculum; moreover, the central authority (National Board of Education) used to control textbooks and other instruction materials, and dictated the number of hours devoted to specific subjects.

⁷⁷² Asetus opetustoimen henkilöstön kelpoisuusvaatimuksista (986/98) (Qualification Decree).

⁷⁷³ See, e.g., BbgMSchulG §3.

⁷⁷⁴ Harris, 16 Nov. 2001.

In short, the education system in Finland used to be centralized, and little local control or flexibility was granted to individual schools and teachers.⁷⁷⁵ The question arose whether legal norms were the most suitable means for securing the necessary regulation.⁷⁷⁶ A phenomenon that has been referred to as a “deluge of norms” was also recognized in criticism of the regulations affecting Finnish schools. It was claimed that all administrative branches and sectors of education had special laws of their own. It was also claimed that there was more detailed legislation comprising legal norms in Finnish education and culture than in any other field or in other countries.⁷⁷⁷

Criticism of a deluge of norms could focus on the following aspects.

1. There are norms that give officials the right to interfere in people’s private lives.⁷⁷⁸ For instance, it has been said that art lies between two categories. It is, in a way, a personal and private matter, and it needs to be free, which would mean that it needs no regulation at all. On the other hand, art is a common matter and valuable for society as a whole.⁷⁷⁹
2. There are too many and too detailed norms of conduct, whether they be public or private. In short, too many models of behaviour are laid down in advance, without paying attention to the diversity and change in situations covered by legal norms.⁷⁸⁰

⁷⁷⁵ Kivinen et al. 1995, pp. 11–12; Komiteamietintö 1993:13, pp. 23–24; Florestal & Cooper 1997, pp. 22–28.

⁷⁷⁶ Klami 1985, p. 1–2; Mahkonen 1991. Mahkonen asks in his book if it is possible to protect the child by means of legal regulations. He claims that legal regulations may not always be the most effective and suitable means in relationships among close relatives, for instance. Markku Tyynilä describes (in *Ylioppilaslehti*, 12 April 1996, p. 15) the problem in Finland as a deluge of norms, not antiquated acts. For example, only about forty acts a year are passed in England, whereas in Finland the figure runs into hundreds. The situation in Finland is therefore different from that in England and the United States, where lower (inferior /subordinate) authorities have a lot of legislative power.

⁷⁷⁷ Kivinen et al. 1995, pp. 11–12.

⁷⁷⁸ Klami 1985, p. 8.

⁷⁷⁹ E.g., Dworkin states that the structural aspects of our artistic culture is part of the language the community as a whole shares. “We inherited a cultural structure, and we have some duty, ... to leave that structure at least as rich as we found it.” The justification for state support is in protecting this structure. Thus, according to Dworkin, a liberal state should also support art. This means that (at least in Finland) some kinds of regulations are enacted when state money is used. (Dworkin 1986a, pp. 232–233.)

⁷⁸⁰ Klami 1985, p. 8.

For instance, it has been claimed that there are too many and too detailed regulations covering Finnish music schools:

. . . In the field of music schools the examination system was made stricter by more detailed regulations . . . it became so systematic that the burden of bureaucracy and pedantry . . . interfered in the activities. (my translation)⁷⁸¹

3. Norms of conduct and/or competence are interpreted in too legalistic a manner.⁷⁸² For instance, Veikko Helasvuo⁷⁸³ continues his criticism:

It was thought that examination requirements were applied at the Sibelius Academy in a slack way. The discipline came back . . . to the whole field of music schools. (my translation)

Lassi Rajamaa, the former Rector (1993–1999) of the Sibelius Academy, also described the nature and the interpretation of the regulations concerning Finnish music schools:

. . . The activities of educational institutions have been regulated in detail from above. . . Quite a lot of “practical authority” has been delegated to the Association [of Finnish Music Schools. . .]. National regulations stipulating, for instance, the stage at which all children in Finland should play spiccato were spread all over the country. . . Such detailed regulations could not, of course, exist at “the level of law”, but the “spirit” has certainly been of that kind, and they have been obeyed.⁷⁸⁴ (my translation)

The aforementioned “deluge of norms” was typical in the field of education (including music education) until the 1990s. Since then there has been a tendency to relax these regulations. When plans were announced to repeal the Music Education Act (516/95) affecting music schools in Finland, the schools objected to this kind of *deregulation*. For instance, Amberla stated that the most important reason for preserving the Act was financial.⁷⁸⁵

⁷⁸¹ Helasvuo 1983, pp. 12–15.

⁷⁸² Klami 1985, p. 9.

⁷⁸³ Veikko Helasvuo, Rector of the Sibelius Academy (1971–1981) in *Rondo* (1/1983): 12–15.

⁷⁸⁴ L. Rajamaa’s remarks were given in an interview (7 September 1995) in Finnish.

⁷⁸⁵ Kivinen et al. 1995, pp. 11–12; KM 4/96; HE 86/97; Amberla in *Rondo* 5/1995, p. 7; Jaakko Pihlaja in *Helsingin Sanomat*, 13 April 1996.

Questions of regulation and deregulation could be considered questions of the most suitable means for achieving certain goals. Legal regulation has been used as an instrument for securing equal opportunities, one of the most important principles in the field of education. A strong concentration of authority in the central administration, with its detailed legal norms, has created a feeling of security, in particular with regard to financial resources. Legal regulation is usually regarded as a means of safeguarding financial resources and securing continuity in educational and cultural activities.⁷⁸⁶

However, it has also been questioned whether legal regulation is the most suitable means for achieving certain goals, such as equality and justice. For example, justice and equality have been explained as referring to equal opportunities for education. Yet the principle of justice has also been explained in a different way: “the individual’s right to get what he or she needs”. Furthermore, legal regulation (with its detailed legal norms) may not be the most suitable means for achieving this kind of “individual justice”.⁷⁸⁷ Accordingly, *deregulation* is regarded as the most suitable means for achieving justice. In short, justice is achieved via free economic activities, not via state regulations.⁷⁸⁸ Could this mean deregulation within a free market, and competition in the field of education and culture? These kinds of new liberal views have been heavily criticized in Finland.⁷⁸⁹

One deregulation mechanism is called “*laissez-faire*”, which stresses freedom without regulation. The free market and economic competition are considered the best way to achieve certain goals, such as justice. However, deregulation by *laissez-faire* has been regarded as radical, and countries within the European Union have chosen another route: to bring in EU legislation that sets out only the principal goals, not the details. Furthermore, the “protection of the weaker party” must also be considered.⁷⁹⁰ For instance, due to EU regulations, the Finnish Music Education Act (and other new acts affecting schools) was changed in 1995, just one month after it had come into effect. The principles of protecting the weaker and of fair play affected the Finnish legislation: certain appeals by pupils and

⁷⁸⁶ For instance, it has been claimed that an Opera Act should secure financial resources and confirm the continuity of Finnish regional opera activities (Almila 1996); see Section 10.2.2.

⁷⁸⁷ See OPM 1/1995, p. 12; c.f. KM 31/1993, p. 3. See also Niiniluoto 1995, p. 14.

⁷⁸⁸ Yet there exists a need for regulations even in EU legislation, on the basis of protecting the weaker (Vervaele 1995, pp. 186–187).

⁷⁸⁹ K. Vihinen asks: “Piano, pianissimo, pianississimompi?” He wonders if the “open departments” will give state authorities the impression that music schools do not need state support at all. Is it the state or the parents who should pay for music education? (K. Vihinen in *Musiikinopettaja* 1/1996, p. 5.)

⁷⁹⁰ See e.g., Vervaele 1995, pp. 186–187.

their guardians have to be dealt with in a court of justice (not by provincial governments as previously). Only one paragraph (§16) was changed, yet a new Act had to be introduced to alter it.⁷⁹¹ In practice, striving for deregulation may cause a deluge of norms. This has been seen especially where EU legislation is concerned. Deregulation may sometimes be a misleading term, because new and generally more explicit regulatory structures may be simultaneously erected in place of what went before. This means that “regulatory reform” may be a combination of de-regulation and re-regulation.⁷⁹²

⁷⁹¹ Laki musiikkioppilaitoksista annetun lain 16 §:n muuttamisesta. N:o 1032. Matti Vatka, 27 September 1995.

⁷⁹² Vervaele 1995, p. 186–187; Kay & Vickers 1990, p. 223.

Chapter twelve

Some final remarks

12.1 THE MARKET OR THE STATE?	
MUSIC EDUCATION IN TODAY'S SOCIETY	254

Chapter 12 Some final remarks

12.1 The market or the state? Music education in today's society

The problem of balance between private and social needs has always created tensions. Two legitimate rights are claimed to be of importance when education supported by the state is being discussed. The first is the right of society to provide its citizens with a common set of values and knowledge. The second involves the rights of individuals, for instance families, to decide the ways in which their children are educated.

The tension between the rights of individuals and of society is an everlasting philosophical dilemma. According to liberal views, the rights of individuals should take precedence. For instance, education is primarily regarded in the United States as a private good.⁷⁹³ England also has a long tradition of private schooling. On the other hand, the Nordic welfare countries – such as Finland and Sweden – have traditionally viewed education as a public rather than a private good. In short, when individuals have to finance their education (in other words, when parents pay for the education of their children), the rights of individuals are emphasised. On the other hand, the right of society is stressed in countries in which education is financed and supported by the state.⁷⁹⁴

The notion of education as a private good presupposes that schooling enhances individual property and earnings, increases health and access to information, and contributes to social status and cultural literacy. On the other hand, education does not only serve private ends in improving the lives of the individuals who participate, it also serves the nation, the region and the community. For instance, schools provide pupils with a common set of values and knowledge. Furthermore, education also contributes to equality of social and economic opportunities. Schools are expected to play a major role in contributing to economic growth and employment for the nation and its regions. The community as a whole also benefits through the pride people feel when their culture, music, composers and performers are celebrated abroad.⁷⁹⁵ For instance, Swedish rock music and musicians, as well as the flourishing music industry, are claimed to have a positive effect on Swedish export. Furthermore, state support for education offered at municipal music and cultural schools is justified (at least in the newspapers) by

⁷⁹³ However, education is not viewed only as a private good in the U.S.A.

⁷⁹⁴ Levin 1987, p. 629; OPM 1/95; Lauglo 1985, p. 129.

⁷⁹⁵ Levin 1987, p. 630. See also Timo Cantell (1993): *The Audiences of Finnish Music Festivals*. The study of Cantell describes the audiences of three different music festivals in Finland (Kaustinen, Kuhmo, Viitasaari). Cantell states that the festivals provide an important economic bonus to the towns that host them. (Cantell 1993, pp. 75-76.)

established economic arguments.⁷⁹⁶ In Finland, national pride and reputation are emphasised more than economic effects, since the most famous Finnish musicians – such as the composer Kaija Saariaho and the pianist Ralf Gothoni – have achieved their world-wide reputation in the field of classical music. Furthermore, Finnish music schools have contributed to the economic equality of opportunities among children and the young, since the network of these schools covers the whole country. Andrew Clark writes in the *Financial Times* (27 November 2001) as follows:

The flowering of Finnish creativity these past three decades is not just a freak development on the fringe of Europe, indulged by a minority of foreign enthusiasts. There's a perfectly good reason for it. It boils down to the huge investment the Finns have made in their musical education – funded not just by a heavy tax regime, but by a consensus that music is an essential part of national culture. How else can you explain why – since the 1960s, with a population not greater than London's – Finland has produced more leading musicians than any other country in Europe?⁷⁹⁷

Educational institutions are usually expected to provide both public and private benefits. A compromise that combines elements of choice and diversity with uniformity into a school system would be ideal. For instance, educational institutions could be legally established by the state, but treated as local institutions that serve local communities. Various kinds of compromise could be made: on the one hand, the contents of education (for instance, curriculum planning) may mirror that in the surrounding community, thus offering similar kinds of economic opportunities for all children and young people. On the other hand, if local finance is accepted, financial support for education may vary in different communities reflecting differences in local wealth. This tension between the right of individuals to decide on issues concerning education – freedom in education – and the right to receive education (or to receive education of a similar standard) is a dilemma that is often difficult to solve.

⁷⁹⁶ Persson 2001, p. 245. Harry Amster: Musikexporten fortsätter att öka. STATISTIK. Sverige håller sin plats som trea i världen. Svenska Dagbladet 31.11.2001 (Amster refers, e.g., to the report *The Export of the Swedish Music Industry 2000*).

⁷⁹⁷ Andrew Clark: Spontaneous tribute to Finnish vitality. London is awash with Finnish music. *Financial Times*, 27 November 2001.

The state monopoly of educational institutions is claimed to increase control and direction by legal norms. However, the delegation of power to the municipalities, for instance, is thought to create new forms of control mechanisms based on the local policy.⁷⁹⁸ For instance, in principle, no state control is directed to municipal music and cultural schools in Sweden, and no special legislation has been enacted for these schools. However, when there is no legal regulation, other kinds of norms may take its place. For instance, political interests or tradition may replace the law. On the one hand, the aims of different interest groups may be discussed publicly (increasing democracy in the community), but on the other hand, there is always the danger of the misuse of power. Furthermore, the threat of diminishing the subsidy granted by the local government is an effective means of financial control. In the 1990s – during the recession – the Association for Swedish Music and Arts Schools (SMoK) claimed that a special Act for music and arts schools would be a more secure basis for public financial support than the promises of local politicians.⁷⁹⁹

In Finland, a special act for these schools has been regarded as the most secure basis for state financial support. The principle of equality has been one of the most important arguments justifying public financial support. According to the present Act (633/98), the objective of education is both to promote self-expression and to create a solid basis for future professional studies. The Act and statute are not very specific or detailed, and therefore achieving a balance between the aforementioned aims is a challenge for music schools. Furthermore, the Framework Curriculum for basic arts education issued by the National Board of Education will be reformed in 2002. The Framework will include 15 paragraphs that have to be followed when music schools create their own curricula. Several aims of music education, referring to the education of both amateurs and future professionals in music will be formulated in §1. Creating a good relationship to music is mentioned as one of these aims. The music schools may also take different kinds of individual needs into account in their curriculum planning (§10). An open, positive and supporting atmosphere is mentioned as an aim in §3. Collaboration between the music schools and other institutions offering music and arts education, as well as international co-operation, are also promoted.⁸⁰⁰

⁷⁹⁸ KM 1972: 2 (Kupoli), p. 21.

⁷⁹⁹ A lively discussion for and against a special act took place in the 1990s; see, e.g., Abrahamsson 1998; Lundberg 1996; Bojs 1996; Cederberg 1992; Ahlqvist 1992.

⁸⁰⁰ Liisa Vakkilainen describes the new guidelines in *Musiikinopettaja* 1/02; Framework Curriculum for basic arts education, the broad syllabus for music / Taiteen perusopetusken opetussuunnitelman perusteet, musiikin laaja oppimäärä (2002, in print).

According to Skoglund, the individual is the starting point in the Örebro Culture School in Sweden. Furthermore, the principle of the best interests of the child (as well as other articles in the United Nations Convention on the Rights of the Child) has been taken as the most important aim in this school. This principle is an open concept, and what it entails has to be determined in practice. The dreams and visions of the child are the basis of the education, which is thus offered in several musical “genres”, including pop and jazz music. Furthermore, projects are arranged in the comprehensive schools since the best-interests principle refers to the right of *every* child to receive music education. Collaboration with other educational institutions and with local arts institutions such as orchestras, the various subjects offered at the school, and local as well as international projects, are all considered to be in the “best interests” of Örebro children. The study programmes at Finnish music schools used to be narrow. On the other hand, the schools offer much more private tuition to the pupils (compared especially with the Swedish music and cultural schools), which is considered to be of crucial importance when a solid basis for future studies is being created.

The principle of the best interests of the child also refers to the autonomy of the child. In legal terms, the autonomy of the child is often used in contexts such as at what age a child is allowed to decide on issues concerning him- or herself. According to Olsson, “autonomy” refers to freedom, which is always a relative concept. Furthermore, the degree of freedom cannot be taken out of its historical and cultural context. As far as educational institutions are concerned, a high degree of autonomy enables an institution, for instance a music school, to organise the education offered according to internal values and aims, in other words according to internal control.⁸⁰¹ Very limited external control (used, for instance, by state authorities) often indicates strong internal control in the institutions. For instance, the teachers in the wind unit at the Örebro Culture School formulated the curriculum for wind instruments, and this curriculum was so detailed that it even controlled the attitudes of pupils. Strong informal control and direction have been said to be typical of educational institutions in particular. Furthermore, the degree of autonomy is always in flux; some activities are given more autonomy, whereas control in another section increases. In short, autonomy as well as freedom of activity at an educational institution such as a music school are relative.

⁸⁰¹ Olsson 1993, p. 202.

Autonomy, referring to the right of the child to decide on matters related to his or her life, has to be explored from the viewpoint of families. As Nieminen states, according to the “best interests” of the child does not mean that the child determines all the issues concerning him or her.⁸⁰² Once again, autonomy is a relative concept bound to the context. The age of the child is of paramount importance in matters related to autonomy and freedom. Furthermore, different traditions of bringing up children are part of the context. The cultural context and the boundaries limiting the autonomy of the child differ even within the Nordic countries. In a multi-cultural society (such as England), the backgrounds of children and the contexts in which they are brought up differ a lot within the same society.

A market-based system is often regarded as an alternative to state control of educational institutions. The principle of equality is such a key principle in Finland, Sweden and Germany, and attempts to introduce market principles into the field of education have been heavily criticised. Furthermore, there was severe criticism, and not only from teachers of arts subjects, in England when concepts such as “efficiency” were taken from the business world and introduced into educational institutions, specifically during the era of Margaret Thatcher. As a result, music was taken into the National Curriculum. Government control was indeed regarded as a much better solution than leaving music to the educational market.

In Finland, the right to education refers to the right of every child to receive a proper education. This right is not restricted to music education at schools as part of general education. The right to education, referring to equal opportunities regardless of social and economic background and domicile, also governs the extra-curricular music education for children and young people offered at music schools. The role of the state is to create the conditions and circumstances to promote the activities of these schools. State support enabling the creation of a network of music schools, the provision of teacher education, and the allocation of posts for teachers have been part of the project of distributing music all around the country. Now that the structure has been built, it is time for renewing the content.⁸⁰³

⁸⁰² Nieminen (1990): *Lasten perusoikeudet*.

⁸⁰³ See The Framework Curriculum for basic arts education, the broad syllabus in music, 2002 / Taiteen perusopetuksen opetussuunnitelman perusteet, musiikin laaja oppimäärä, 2002.

Music (and musics) is an instrument of communication between people all around the world, whereas regulation is an instrument in promoting the aforementioned objective of music and music education. As Napoleon claimed: a piece of music touches the feelings and has more influence on morality than a good book; it is that which the law-giver must encourage most.⁸⁰⁴

⁸⁰⁴ Grew, Eva Mary (1940): Music and Morality. *The Music Review*. P. 162

References

1 Literature

Aarnio, Aulis (1975): *Laki, teko ja tavoite. Tutkimus tavoitteellisuudesta lain tulkinnassa ja sen soveltamisessa*. Lainopillisen ylioppilastiedekunnan kustannustoimikunta. Forssa.

Aarnio, Aulis (1986): *Lain ja kohtuuden tähden*. WSOY. Juva.

Aarnio, Aulis (1989): *Laintulkinnan teoria*. WSOY. Juva.

Ahponen, Pirkkoliisa (1991): *Kulttuuripolitiikka ja sen representaatiot. Tutkimus ylevän maallistumisesta*. Joensuun yliopiston yhteiskuntatieteellisiä julkaisuja. N:o 13. Joensuun yliopisto. Joensuu.

Airaksinen, Timo & Häyry, Heta (1997): Egoismi. Nyt. In *Hyvä, kaunis, tosi – arvojen filosofiaa*. Ed. by Heta & Matti Häyry. Yliopistopaino. Helsinki. Pp. 105–116.

Aldrich, Richard (1996): *Education for the nation*. Cassell. London.

Aldrich, Richard & White, John (1998): *The National Curriculum beyond 2000: the QCA and the aims of education*. Perspectives on Education Policy. Institute of Education, University of London. London.

Alperson, Philip (1991): What Should One Expect from a Philosophy of Music Education? *The Journal of Aesthetic Education*, Vol. 25, No. 3, Fall 1991. Pp. 215–242.

Alperson, Philip (1997): Value Monism, Value Pluralism, and Music Education: Sparshott as Fox. *The Journal of Aesthetic Education*. Vol. 31, No. 2, Summer 1997. Pp. 19–29.

Anderson, Warren (1994): *Music and Musicians in Ancient Greece*. Cornell UP. London.

Arajärvi, Pentti (1994): *Oikeus sivistykseen. Sivistykselliset perusoikeudet, oppivelvollisuus ja oikeuksien toteutumisen takeet*. Lakimiesliiton kustannus. Helsinki.

Arajärvi, Pentti & Aalto-Setälä, Merja (1999): *Opetuslainsäädännön käsikirja*. Edita. Helsinki.

Arendt, Hannah (1958): *The Human Condition*. The University of Chicago Press. Chicago, London.

Aristotle: *Nicomachean Ethics*. Translated by H. Rackham. First published 1926, revised edition 1934. Harvard University Press, 1994 (reprinted). Cambridge.

Aristotle: *Nicomachen Ethics*. In *The Complete Works of Aristotle*. The revised Oxford translation. Edited by Jonathan Barnes. Volume two. Princeton University Press, 1984. Princeton, New Jersey, USA & Guilford, Surrey, U.K.

Aristoteles: *Nikomakhoksen etiikka*. Translated by S. Knuuttila. Gaudeamus, 1989. Helsinki.

Aristotle: *The Politics*. Translated by T. A. Sinclair, revised and re-presented by Trevor J. Saunders. Penguin Books, 1988. London.

Aristotle: *The Politics*. Translated by Benjamin Jowett, in *The Basic Works of Aristotle*, ed. Richard McKeon. Random House, 1941. New York.

Aristotle: *Politics*. In *The Complete Works of Aristotle*. The revised Oxford translation. Edited by Jonathan Barnes. Volume two. Princeton University Press, 1984. Princeton, New Jersey, USA & Guilford, Surrey.

Aristoteles: *Politiikka*. Translated by A. M. Anttila. Gaudeamus, 1991. Helsinki.

Aristotle: *Rhetoric*. In *The Complete Works of Aristotle*. The revised Oxford translation. Edited by Jonathan Barnes. Volume two. Princeton University Press, 1984. Princeton, New Jersey, USA & Guilford, Surrey, U.K.

Aro, Mirja & Salmenhaara, Anja (1972): *Harrastajaopistosta konservatorioksi*. Helsingin Kansankonservatorion Säätiö. Lahden kirjapaino ja Sanomalehti. Lahti.

Bereday, George Z. F. (1964): *Comparative Method in Education*. Holt, Rinehart and Winston. New York

Berlin, Isaiah (1969): *Four Essays on Liberty*. Oxford University Press. Oxford.

Best, David (1992): *The Rationality of Feeling: Understanding The Arts in Education*. The Falmer Press. London.

Bladh, Stephan (2002): *Musiklärare – i utbildning och yrke. En longitudinell studie av musiklärare i Sverige*. Göteborgs universitet. Institutionen för musikvetenskap. DocuSys. Göteborg.

Bogdan, Michael (2000): *Swedish Law in the New Millennium*. Norstedts Juridik. Stockholm.

Bouij, Christer (1998): *Musik – mitt liv och kommande levebröd. En studie i en musiklärares yrkessocialisation*. Göteborgs universitet, Institutionen för musikvetenskap. Göteborg.

Bouij, Christer (1999): Att bli musiklärare - en socialisationsprocess. *Nordisk musikpedagogisk forskning*. Årbok 3 1999. Redaktion: Nielsen, Frede, Brändström, Sture, Jorgensen, Harald, Olsson, Bengt. NMH-publikasjoner 1999:3. Gunnarshaug Trykkeri. Oslo.

Bowman, Wayne (2000): Discernment, Respons/ability, and the Goods of Philosophical Praxis. *Finnish Journal of Music Education*. Vol. 5, No 1–2. Pp. 96–118.

Broady, Donald (1987): *Piilo-opetussuunnitelma. Mihin koulussa opitaan*. Gummerus. Jyväskylä.

Brändström, Sture (1997): *Vem är musikalisk? Intervjuer med musiklärare och musiklärarutbildare*. Pedagogiska Publikationer från Kungliga Musikhögskolan, nr 3, 1997. KMH Förlaget, Kungliga Musikskolan i Stockholm. Godrings Tryckeri. Visby.

Cantell, Timo (1993): Musiikkijuhlien yleisöt – Kaustinen, Kuhmo, Viitasaari. *Tilastotietoa taiteesta* nro 7. Taiteen keskustoimikuna. Helsinki.

Castle (1961): *Ancient Education and Today*. Penguin. Harmondsworth.

- Comotti, Giovanni (1989): *Music in Greek and Roman Culture*. John Hopkins University. Baltimore.
- Cooke, George and Gosden, Peter (1986): *Education Committees. Councils and Education Press*. Longman Group. Essex.
- Copleston, Frederick (1985): *A History of Philosophy*. Part I. Image Books. New York.
- Dahlström, Fabian & Salmenhaara, Erkki (1995): *Suomen musiikin historia I. Ruotsin vallan ajasta romantiikkaan. Keskiaika – 1899*. WSOY. Porvoo.
- Daintith, Terence (1995): Regulation, De-regulation and the Forms and Ends of Justice in the European Union. In *Principles of Justice and the Law of European Union*. Ed. by Esa Paasivirta and Kirsti Rissanen. Helsinki University (KATTI, kansainvälisen talousoikeuden instituutin julkaisuja). Helsinki. Pp. 143-166.
- Department for Education and Employment (DfEE) (1995): *The English Education System: an Overview of Structure and Policy*. London: DfEE.
- Den kommunala musikskolan* (1976). Kommunförbundet. Rosenlundstryckeriet. Stockholm.
- Den kommunala musikskolan: en resurs i kulturlivet* (1984). Sv. Kommunförbundet. Stockholm.
- Dewey, John (1916): *Democracy and Education*. Macmillan. New York.
- Douzinas, Costas; Warrington, Ronnie; McVeigh, Shaun (1991): *Postmodern Jurisprudence*. Routledge. London.
- Dworkin, Ronald (1977): Is Law a System of Rules? In *The Philosophy of Law*. Edited by Ronald Dworkin. Oxford University Press. Oxford. Pp. 38–65. (Dworkin 1977a)
- Dworkin, Ronald (1977): *Taking Rights Seriously*. Duckworth. London. (Dworkin 1977b)

Dworkin, Ronald (1977 / reprinted 1979): *The Philosophy of Law*. Oxford University Press. Oxford.

Dworkin, Ronald (1978): "Liberalism." In *Public and Private Morality*. Edited by S. Hampshire. Cambridge University Press. Cambridge.

Dworkin, Ronald (1986): Can a Liberal State Support Art? In *A Matter of Principle*. Clarendon Press. Oxford. Pp. 221–233. (Dworkin 1986a)

Dworkin, Ronald (1986): Law as Interpretation. In *A Matter of Principle*. Clarendon Press. Oxford. Pp. 146–167. (Dworkin 1986b)

Dworkin, Ronald (1986): *Law's Empire*. Fontana Press. London.

Eckstein, Max A. & Noah, Harold J. (ed.) (1969): *Scientific investigations in comparative education*. Macmillan. London.

Elliott, David (1995): *Music Matters. A New Philosophy of Music Education*. Oxford University Press. New York.

Elliott, David J. (1996): Music Education in Finland: A New Philosophical View. *Finnish Journal of Music Education*. Vol. I, No I. Pp. 6–20.

Englund, Tomas (1986): *Curriculum as a Political Problem. Changing Educational Conceptions, with Special Reference to Citizenship Education*. Acta Universitatis Upsaliensis. Uppsala Studies in Education 25. Studentlitteratur. Chartwell-Bratt. Uppsala.

Eriksson, Lars D. (1999): Moralens rätta plats – i eller utanför rätten? *Retfaerd* 84, 22. årgang 1999 nr. 1. Pp. 4–12.

Evans, Jim (1994): Aristotle's Theory of Equity. In *Prescriptive Formality and Normative Rationality in Modern Legal Systems. Festschrift for Robert S. Summers*. Edited by Werner Krawietz, Neil MacCormick, Georg Henrik von Wright. Duncker & Humblot. Berlin.

Finnis, John (1980): *Natural Law and Natural Rights*. Clarendon Press. Oxford.

Fletcher, Peter (1987): *Education & Music*. Oxford University Press. Oxford.

Florestal, Ketleen & Cooper, Robb (1997): *Decentralization of Education*. Legal Issues. The World Bank. Washington D.C.

Gadamer, Hans-G. (1975/1989): *Truth and Method*. Second, Revised Edition. Translation revised by Joel Weinsheimer and Donald G. Marshall. Sheed & Ward. London.

Gardner, Howard (1983): *Frames of Mind. The Theory of Multiple Intelligences*. Basic Books. New York

Graneheim, Lars (1994): *Från musikskola till kulturskola - en studie av en skolform i förändring*. C-uppsats i musikpedagogik. Centrum för musikpedagogisk forskning. Kungliga musikhögskolan Stockholm.

Green, Lucy (2001): Music in society and education. In *Issues in Music Teaching*. Edited by Philpott, Chris and Plummeridge, Charles. RoutledgeFalmer. London. Pp. 47-61.

Grew, Eva Mary (1940): Music and Morality. *The Music Review*. Volume 1 (1940). Pp. 159–176.

Gustafsson, Jonas (2000): *Så skall det låta. Studier av det musikpedagogiska fältets framväxt i Sverige 1900–1965*. Acta Universitatis Upsaliensis. Elanders Gotab. Stockholm.

Haapala, Arto (toim.) (1990): *Arvot, tiede, taide*. Valtion painatuskeskus. Helsinki.

Habermas, Jürgen (1987): *The Theory of Communicative Action. Volume 2. Lifeworld and System: A Critique of Functionalist Reason*. (First published in 1981 as *Theorie des kommunikativen Handelns*.) Translated by Thomas McCarthy. Polity Press. Cambridge.

Habermas, Jürgen (1996): Postscript to *Between Facts and Norms*. In *Habermas, Modernity and Law*. Edited by Mathieu Deflem. Sage Publications. London. Pp. 135-150.

Hallam, S. (1998): *Instrumental Teaching: A Practical Guide to Better Teaching and Learning*. Oxford: Heinemann.

Hannikainen, Lauri (1992): *Eettiset säännöt*. Åbo Akademin ihmisoikeus-instituutti. Åbo Akademis tryckeri. Turku.

Hart, H. L. A. (1961): *The Concept of Law*. Clarendon Press. Oxford.

Hart, H. L. A. (1975): Rawls on Liberty and its Priority. In *Reading Rawls. Critical Studies of A Theory of Justice*. Edited by Norman Daniels. Basil Blackwell. Oxford. Pp. 230–252.

Hautamäki, Antti (1993): Spontaaniin yhteiskuntaan – hyvinvointia ilman valtiota. In *Hyvinvointivaltio ristiaallokossa: arvot ja tosiasiat*. WSOY. Juva. Pp. 133–244.

Heiling, Gunnar (1995): *Bedömnings- och utvärderingsfrågor i musik-utbildningen*. Musikpedagogik, forskning och utveckling nr 1995: 1. Musikhögskolan i Malmö. Lärarhögskolan i Malmö samt Tryckericentralen i Lund.

Heiling, Gunnar (1997): Om grundskolans läroplan, Lpo 94, och musikämnet - en analys med hjälp av begreppen modernism - postmodernism. In *En postmodern musikpedagogik? Ett bidrag till diskussionen om modernism och postmodernism*. Ed. by Bertil Sundin. Musikpedagogik, forskning och utveckling nr 1997: 1. Musikhögskolan i Malmö. Reprocentralen. Lund.

Heimonen, Marja (1999): *Sääntely instrumenttina. Sääntelyn tavoitteista musiikkioppilaitoslainsäädännön valossa*. Lisensiaatintyö. Sibelius-Akatemia, solistisen osaston jatkokoulutuslinja. Helsinki.

Heino, Terhi & Ojala, Maija-Liisa (1999): *Musiikkioppilaitosten perusopetuksen arviointi 1998*. Arviointi 1/1999. Opetushallitus. Yliopistopaino. Helsinki.

Heinonen, Olli-Pekka (1995): Koulutuksen ja tutkimuksen rooli tulevaisuuden Suomessa / The role of education and research in the future in Finland. In *Sivistyksessä Suomen tulevaisuus / Culture and Education – The Future of Finland*. Ed. by Liekki Lehtisalo. Opetusministeriö. Painatuskeskus. Helsinki. Pp. 71–89.

Helasvuo, Veikko (1977): The Education of Young Musicians on the Pre-Collegiate Level in Finland. In ISME Yearbook, Volume IV-1977. Papers of the ISME Seminar, Hannover 1976. Edited by Egon Kraus. B Schott's Söhne. Mainz. Pp. 103–106.

Hellsten, Sirkku (1996): *Oikeutta ilman kohtuutta. Modernin oikeudenmukaisuuskäsityksen kritiikkiä*. Gaudeamus. Tampere.

Hellsten, Sirkku (1997): *In Defense of Moral Individualism*. Acta Philosophica Fennica. Hakapaino. Helsinki.

Henley, Kenneth (1990): Protestant Hermeneutics and the Rule of Law: Gadamer and Dworkin. *Ratio Juris*. Vol. 3 No 1. Pp. 14–28.

Hidén, Mikael (1985): The Constitution. In *The Finnish Legal System*. Finnish Lawyers Publishing Company. Helsinki. Pp. 39–59.

Hirst, Paul H. (1974): *Knowledge and the curriculum. A collection of philosophical papers*. International library of the philosophy of education. Routledge & Kegan Paul. London.

Hirvonen, Airi (2000): *Pikkupianisteista solistiseksi ammattiopiskelijoiksi. Elämäkertatutkimus musiikillisesti lahjakkaista soitonopiskelijoista*. Licensiaatintutkimus. Oulun yliopisto. Kasvatustieteiden tiedekunta. 2000.

Hirvonen, Ari (2000): *Oikeuden käynti. Antigonen laki ja oikea oikeus*. Loken kirjast. Helsinki.

Holmes, Brian (1981): *Comparative education: Some Considerations of Method*. George Allen & Unwin. London.

Huttunen, Matti (2000): Musiikin kaanonit, rakenteet ja horisontit – ajatuksia musiikin historian opettamisesta. In *Hundra vägar har min tanke. Festskrift till Fabian Dahlström*. WSOY. Helsinki. Pp. 191–206.

Huttunen, Matti (forthcoming): “Lajit ja klassikot: pohdintoja lajiteoriasta ja suomalaisesta nykymusiikista.” *Sävellys- ja musiikinteoria-lehden juhlaulkaisu Usko Meriläiselle*.

- Hydén, Håkan (1984): *Ram eller lag? Om ramlagstiftning och samhällsorganisation*. Regeringskansliets offsetcentral. Stockholm.
- Häggroth, S., Kronvall, K., Riberdahl, C., Rudebeck, K. (1999): *Swedish Local Government. Traditions and Reforms*. Third, revised edition. The Swedish Institute. Elanders Gummessons. Falköping.
- Iivari, Juhani (1995): Sääntelymenettely ja mielivalta – katsaus valtion ja kuntien muuttuvaan suhteeseen laman oloissa. *Oikeus* 2/1995. Pp. 147-157.
- Jorgensen, Estelle R. (1997): *In Search of Music Education*. University of Illinois Press. Urbana and Chicago.
- Kairinen, Martti (1995): *Työoikeus perusteineen*. Painokiila. Turku.
- Kansanen, Pertti (1996): Kasvatuksen eettinen luonne. In *Kasvatuksen etiikka*. Ed. by Pirkko Pitkänen. Edita. Helsinki.
- Kansanen, Pertti & Uusikylä, Kari (1981): *Opetuksen tavoitteisuus ja yhteissuunnittelu*. Gaudeamus. Otapaino. Espoo.
- Karlsson, Maria (2002): *Musikelever på gymnasiets estetiska program. En studie av elevernas bakgrund, studiegång och motivation*. Studies in Music and Music Education 3. Malmö Academy of Music. Lund University. Media-Tryck. Lund.
- Kaufmann, Walter (1982): *Analogie und der "Natur der Sache"*. C. F. Müller. Heidelberg.
- Kavonius, Petter (2001): *Oikeusperiaatekin velvoittaa! Tutkimus oikeusperiaatteen velvoittavuuden ja voimassaolon perusteista*. Suomalainen lakimiesyhdistys. Helsinki.
- Kegel, G. (1985): *Internationales Privatrecht*. 5. Auflage. Beck. München.
- Kelsen, Hans (1960): *Reine Rechtslehre*. Franz Deuticke. Wien.
- Kemp, Anthony (1996): *The Musical Temperament*. Oxford University Press. Oxford.

Kemp, Anthony E. and Lephherd, L. (1992): Research methods in international and comparative music education. In *Handbook of Research on Music Teaching and Learning*. Edited by R. Cowell. Schirmer. New York. Pp. 773-88.

Key topics in education in Europe (2000). Volume 2. Financing and Management of Resources in Compulsory Education. Trends in national policies. European Communities. Luxemburg.

Kivinen, Osmo; Rinne, Risto; Järvinen, Marjo-Riitta; Koivisto, Juha (1995): *Koulutuksen säätelyjärjestemät Euroopassa*. Opetushallitus ja Koulutussosiologian tutkimuskeskus. Hakapaino. Helsinki.

Klami, Hannu Tapani (1979): *Finalistinen oikeusteoria*. Turun yliopiston yksityisoikeuden laitoksen julkaisuja (A:19). Turku.

Klami, Hannu Tapani (1980): *Länsimaisen oikeusfilosofian historia*. Turun yliopiston yksityisoikeuden laitoksen julkaisuja A:21. Turku.

Klami, Hannu Tapani (1985): *The Rule of Law – Are there any real alternatives?* Turun yliopisto. Turku.

Klami, Hannu Tapani (1995). Kasvu vastuuseen ja subsidiariteetti. Lakimies 6/1995. Pp. 1109–1111.

Knuuttila, Simo (1989): Selitykset. In Aristoteles, *Nikomakhoksen etiikka*. Gaudeamus. Helsinki. Pp. 213–267.

Kodály, Zoltán (1974): *The Selected Writings of Zoltán Kodály*. Translated by Lili Halapy and Fred Macnicol. Boosey & Hawkes. London.

Kosonen, Erja (2001): *Mitä mieltä on pianonsoitossa? 13–15-vuotiaiden pianonsoittajien kokemuksia musiikkiharrastuksestaan*. Jyväskylä studies in the arts. Jyväskylä University Printing House. Jyväskylä.

Kuha, Jukka (1974): Mitä yhteiskunta on tehnyt ja mitä se voisi tehdä musiikin harrastuksen hyväksi. Vuosikirja 1974. Suomen musiikkiopistojen liitto r.y. Toim. Paavo Lehtonen & Anja Salmenhaara. Kirjapaino Nova. Helsinki.

Kurkela, Kari (1993): *Mielen maisemat ja musiikki. Musiikin esittämisen ja luovan asenteen psykodynamiikkaa*. Hakapaino. Helsinki.

Kurkela, Kari (1997): Musiikillisen edistymisen arviointiperusteista. In *Onnistuuko oppiminen – oppimistuloksien ja opetuksen laadun arviointiperusteita peruskoulussa ja lukiossa*. Ed. by Ritva Jakku-Sihvonen. Opetushallitus. Yliopistopaino. Helsinki. Pp. 277–293.

Kurkela, Kari & Tawaststjerna, Erik. T. (1999): Analyysi kuuden musiikkiopiston toiminnasta ja ajatuksia musiikin perusopetuksen järjestämisestä. In *Musiikkioppilaitosten perusopetuksen arviointi 1998*. Edited by Terhi Heino & Maija-Liisa Ojala. Arviointi 1/1999. Opetushallitus. Yliopistopaino. Helsinki. Pp. 89–150.

Kurki-Suonio, Kirsti (1999): *Äidin hoivasta yhteishuoltoon. Lapsen edun muuttuvat oikeudelliset tulkinnat*. Suomalainen lakimiesyhdistys. Helsinki.

Kusch, Martin (1986): *Ymmärtämisen haaste*. Gummerus. Jyväskylä.

Laakso, Seppo (1990): *Oikeudellisesta sääntelystä ja päätöksenteosta*. Valtion painatuskeskus. Helsinki.

Last, Joan (1972): *The Young Pianist*. Oxford University Press. Translated into Finnish by Outi Tolvanen (1982): *Nuori pianonsoittaja*. Keuruu: Otava.

Lauglo, Jon (1985): Educational Change and the Control Question: Scandinavian Perspectives. In *The Control of Education*. Lauglo, Jon & McLean, Martin (eds.). Heinemann Educational Books for the Institute of Education, University of London. London. Pp. 129–141.

Laurila, Juhani (1975): Maamme musiikkioppilaitosten asema uusiutuvassa taidekasvatuksessa. In *Taide, yksilö, yhteiskunta*. Suomen Kulttuurirahasto. Vammalan kirjapaino. Vammala. Pp. 132-137.

Legrand, Pierre (1995): The Modern Law Review. Vol. 58 No 2 (March 1995). Comparative Legal Studies and Commitment to Theory. Pp. 262-274.

- Legrand, Pierre (1996): European Legal Systems are not Converging. *International and Comparative Law Quarterly* 1/1996. Pp. 52-81.
- Lehtimaja, Lauri (1995): Lakimies ja ihmisoikeudet. *Lakimies* 2/1995. Pp. 183-192.
- Lehtisalo, Liekki & Raivola, Reijo (1999): *Koulutus ja koulutuspolitiikka 2000-luvulle*. WSOY. Juva.
- Lehtonen, Kimmo (1986): *Musiikki psyykkisen työskentelyn edistäjänä. Psykoanalyttinen tutkimus musiikkiterapian kasvatuksellisista mahdollisuuksista*. Turun yliopiston julkaisuja, sarja C:56. Turku.
- Lehtonen, Kimmo (2001): "Paistaako musiikkioppilaitoksissa musta aurinko"? *Psykologia* 5/2001. Pp. 306-315.
- Lepherd, Laurence (1992): Comparative Research. *In Some Approaches to Research in Music Education*. Edited by Anthony E. Kemp. ISME Edition Number Five. ISME Research Commission. International Society for Music Education. Reading. Pp. 33–56.
- Levin, Henry M. (1987): Education as a Public and Private Good. *Journal of Policy Analysis and Management*. Vol. 6, No. 4. Pp. 628–641.
- Levinson, Sanford & Balkin, J. M. (1994): Law, Music, and Other Performing Arts. In *Postmodernism and Law. The International Library of Essays in Law & Legal Theory*. Edited by Dennis Patterson. Dartmouth. Aldershot. Pp. 1597–1658.
- Löfberg, Kalle (2000): *Kultur som ideologi*. Pedagogiska institutionen, Stockholms universitet. Utvecklingspsykologiska seminariet, Skriftserien nr 59. Stockholm.
- MacIntyre, Alasdair (1981): *After Virtue*. Duckworth. London.
- MacIntyre, Alasdair (1988): *A Short History of Ethics. A history of moral philosophy from the Homeric age to the twentieth century*. Second edition. Routledge & Kegan Paul. London (MacIntyre 1988a).

MacIntyre, Alasdair (1988): *Whose Justice? Which Rationality?* Duckworth. London. (MacIntyre 1988b)

MacIntyre, Alasdair & Dunne, Joseph (2002): Alasdair MacIntyre on Education: In Dialogue with Joseph Dunne. *Journal of Philosophy of Education*. Volume 36 Issue 1 February 2002. Pp. 1–20.

Mahkonen, Sami (1991): *Voidaanko lasta lailla suojella?* Lakimiesliiton kustannus. Helsinki.

Manderson, Desmond (1999): ET LEX PERPETUA: Dying Declarations & Mozart's Requiem. *Cardozo Law Review*. Volume 20, Numbers 5–6.

Manderson, Desmond (2000): *Songs without Music. Aesthetic Dimensions of Law and Justice*. University of California Press. Berkeley and Los Angeles.

McCarthy, Marie (1993): The Birth of Internationalism in Music Education 1899–1938. *International Journal of Music Education*. Volume 21, 1993. Pp. 3–15.

Michaelides, Solon (1978): *The Music of Ancient Greece*. An Encyclopedia. Faber and Faber. London.

Minkkinen, Panu (1998): *Correct Law: A Philosophy of the Aporetic*. Basileus. Helsinki.

Mulhall, Stephen & Swift, Adam (1992): *Liberals & Communitarians*. Blackwell Publishers. Oxford.

Music Schools in Europe. Handbook of the European Union of Music Schools (1995). Schott Musik International. Mainz. (EMU 1995)

Määttänen, Pentti (2000): Aesthetic Experience: A Problem in Praxialism. *Finnish Journal of Music Education (FJME)*. Vol. 5, No 1–2. Pp. 148–154.

Neill, A. S. (1960/ 1968): *Summerhill. Kasvatuksen uusi suunta*. Translated by Markku Lahtela. Weilin & Göös. Tapiola.

- Niemi, Irmeli (1994): Kulttuurin tulevaisuus. In *Sivistys 2017*. Ed. by Liekki Lehtisalo. WSOY. Juva. Pp. 193–211.
- Nieminen, Liisa (1990): *Lasten perusoikeudet*. Lakimiesliiton Kustannus. Helsinki.
- Niemivuo, Matti (1998): *Kansallinen lainvalmistelu*. Lakimiesliiton kustannus. Helsinki.
- Niiniluoto, Ilkka (1993): Oikeudenmukaisuus yhteiskunnallisena arvona. In *Hyvinvointivaltio ristiaallokossa: arvot ja tosiasiat*. WSOY. Juva. Pp. 97–130.
- Niiniluoto, Ilkka (1995): “Principles of Justice, Law and Welfare Society.” In *Principles of Justice and the Law of the European Union*. Edited by E. Paasivirta and K. Rissanen. Hakapaino. Helsinki. Pp. 5–22.
- Nilsson, Bo (2002): “Jag kan göra hundra låtar”. *Barns musikskapande med digitala verktyg*. Studies in music and music education no 5. Malmö Academy of Music. Lund University. Media-Tryck. Lund.
- Nozick, Robert (1974): *Anarchy, State and Utopia*. Blackwell. Oxford.
- Numminen, Jaakko (1964): *Suomen kulttuurihallinnon kehittäminen*. Aalto. Helsinki.
- Odam, George (2000): *Composing in the classroom. A creative dream*. NAME National Association of Music Education. Buckinghamshire.
- Olsson, Bengt (1993): *SÄMUS - en musikutbildning i kulturpolitikens tjänst? En studie om en musikutbildning på 1970-talet*. Göteborgs universitet, Musikhögskolan. Novum Grafiska. Göteborg.
- Otavan iso musiikkitietosanakirja* (1979). Osa 5. Otava. Keuruu.
- Paavolainen, Pentti (1999): Peilin monet kulmat. In *Aikansa häikäisevä peili*. Ed. by Pentti Paavolainen. Teatteri- ja tanssiopiskelijoiden puheenvuoroja. Elektra like. Pp. 270–284.

Palonen, Osmo (1993): *Aspects of Musical Life and Music Education in Finland*. The Sibelius Academy. Series of educational publications 8. Helsinki: University Printing House.

Peczenik, Aleksander (1995): *Vad är rätt?: om demokrati, rättssäkerhet, etik och juridisk argumentation*. Fritzes Förlag Ab. Stockholm.

Persson, Torgil (1998): *Det låg i luften: den kommunala musikskolans framväxt: en studie av musikskolorna i Mörbylånga, Tranås, Kiruna och Borås*. Göteborgs universitet, musikvetenskapliga institutionen.

Persson, Torgil (2001): *Den kommunala musikskolans framväxt och turbulenta 90-tal. En studie av musikskolorna i Mörbylånga, Tranås, Kiruna och Borås*. Institutionen för musikvetenskap. Göteborgs universitet. Göteborg.

Perälä, Hannu (1993): *Kuinka rakennetaan kärjellään seisova pyramidi? Musiikkioppilaitosjärjestelmä 1950–1990-luvuilla*. Pro gradu. Jyväskylän yliopiston musiikkitieteen laitos. (Master's thesis. Unpublished.) Jyväskylä.

Peters, R. S. (1970): *Ethics and Education*. George Allen & Unwin. London.

Petersen, Hanne (1998): *The Language of Emotions in the Language of Law*. In *Love and Law in Europe*. Edited by Hanne Petersen. Ashgate, Dartmouth. Aldershot. Pp. 12–226. (Petersen 1998a)

Petersen, Hanne (1998): *On Law and Music. From Song Duels to Rhythmic Legal Orders?* *Journal of Legal Pluralism and Unofficial Law*. Number 41/1998. Pp. 75–87. (Petersen 1998b)

Petersen, Hanne (1999): *Peripheral Perspectives on Musical Orders*. *Cardozo Law Review*. Volume 20, Numbers 5–6. Pp. 1683–1694.

Philpott, Chris & Plummeridge, Charles (2001): *Issues in Music Teaching*. RoutledgeFalmer. London.

Philpott, Chris (2001): *Equality of opportunity and instrumental tuition*. In *Issues in Music Teaching*. Edited by Philpott, Chris and Plummeridge, Charles. London: RoutledgeFalmer. Pp. 156-169.

Piaget, Jean (1951): *Play, Dreams and Imitation in the Childhood*. Translated by C. Gattegno and F. M. Hodgson. Routledge & Kegan. London.

Plummeridge, Charles (1991): *Music Education in Theory & Practice*. The Falmer Press. London.

Plummeridge, Charles (1996): Curriculum development and the problem of control. In *Music Education: Trends and Issues*. Bedford Way Papers. Institute of Education, University of London. Formara. Essex.

Plummeridge, Charles (2001): The justification for music education. In *Issues in Music Teaching*. Ed. by Philpott, Chris & Plummeridge, Charles. RoutledgeFalmer. London. Pp. 21–31.

Pohjolainen, Teuvo (1994): Normihierarkian murentuminen. *Oikeus* 1/1994. Pp. 26–40.

Pohjolainen, Teuvo (1998): Soft law in public law – hard regulation? *JFT Tidskrift utgiven av Juridiska Föreningen i Finland*. Etthundratrettiofjärde årgången. Pp. 437–461.

Pruett, K. D. (1990). Coping with life on a pedestal. In *Music and child development*. Edited by F. R. Wilson and F. L. Roehmann. MMB Music St. Louis, Missouri.

Puolimatka, Tapio (1995): *Kasvatus ja filosofia*. Kirjayhtymä. Rauma.

Pöyhönen, Juha (1985): Refleksiivinen oikeus – vihreän liikkeen oikeusideologiaa? G. Teubnerin ajatusten esittelyä ja niiden saamaa kritiikkiä. *Oikeus* 2/1985. Pp. 127–138.

Pöyhönen, Juha (1988): Materiaalinen vai refleksiivinen oikeus? Teoksessa *Teorioita oikeuden kehityksestä. Esittelyjä ja erittelyjä*. Ed. by Kaarlo Tuori. Helsingin yliopiston julkaisoikeuden laitoksen julkaisuja D:1. Helsinki University. Helsinki. Pp. 145–163.

Rainbow, Bernarr (1989): *Music in Educational Thought & Practice. A Survey from 800 BC*. Boethius Press. Aberystwyth, Wales.

Ratilainen, Anna (1994): *Selvitys musiikkikouluista ja -opistoista lukuvuonna 1992–1993*. Opetushallitus. Helsinki.

Rawls, John (1972): *A Theory of Justice*. Oxford University Press. Oxford / (1988): *Oikeudenmukaisuusteoria*, transl. By Teuvo Pursiainen. WSOY. Juva.

Rawls, John (1993): *Political Liberalism*. Columbia University Press. New York.

Rehardt, Eero (1991): *Minuuden kokeminen musiikissa*. *Musiikkitiede* 2/1991. Pp. 19–33.

Reeve, C. D. C. (1998): *Aristotelian Education*. In *Philosophers of Education. Historical Perspectives*. Edited by Amelié Oksenberg Rorty. Routledge. London. Pp. 51–65.

Refleksiv ret (1988). Nyt fra samfundsvidenskaberne. København.

Regelski, Thomas A. (1996): *Prolegomenon To a Praxial Philosophy of Music and Music Education*. *Finnish Journal of Music Education*. Vol. I, No I. Pp. 23–38.

Regelski, Thomas A. (2000): “Critical Education”, Culturalism and Multiculturalism. *Finnish Journal of Music Education (FJME)*. Vol. 5, No 1–2. Pp. 120–146.

Reid, Louis Arnaud (1970): *Feeling and Understanding*. In *Aesthetic Conceptions and Education*. Edited by Ralph A. Smith. University of Illinois Press. Urbana, Chicago, London. Pp. 45–76.

Reimer, Bennett (1970): *A Philosophy of Music Education*. Prentice-Hall. Englewood Cliffs, New Jersey.

Renshaw, Peter (1995): *New Musician - New Performer*. *Music Journal*. January 1995.

Renshaw, Peter (1993): *The Management of Creativity in Schools, Colleges and Arts Organizations*. Gresham Lecture. Gresham College. London.

- Rentto, Juha-Pekka (1995): Esivallan rajat: Subsidiariteettiperiaatteesta julkisen toimivallan oikeutettua alaa määrittävänä poliittisena periaatteena. *Lakimies* 5/1995. Pp. 717-741.
- Rentto, Juha-Pekka (1997): Valtio opetuksellisena instituutiona. Vähän valtioppia lakimiehille Aristoteleen mukaan. *Lakimies* 4-5/1997. Pp. 656–670.
- Rorty, Richard (1991): *Objectivity, relativism, and truth*. Cambridge: Cambridge University Press, 1991.
- Ruokanen, Miikka (1987): *Hermeneutica moderna*. Gaudeamus. Helsinki.
- Sándor, Frigyes (ed.) (1975): *Music Education in Hungary*. Corvina Press. Budapest.
- Satori, G. (1994): Compare why and how: Comparing, Miscomparing and the Comparative Method. In *Comparing Nations. Concepts, Strategies, Substance*. Edited by Mattei Dogan and Ali Kazancikil. Blackwell. Oxford. Pp. 14-34.
- Sava, Inkeri (1997): Taito, ilmaisu ajattelu arvioinnin kohteena. In *Onnistuuko oppiminen – oppimistuloksien ja opetuksen laadun arviointiperusteita peruskoulussa ja lukiossa*. Ed. by Ritva Jakku-Sihvonen. Opetushallitus. Yliopistopaino. Helsinki. Pp. 253–275.
- Schafer, R. Murray (1986): The Rhinoceros in the Classroom. In *The Thinking Ear*. Arcana Editions. Toronto. Pp. 237-291.
- Scheinin, Martin (1991): *Ihmisoikeudet Suomen oikeudessa. Valtionsäntö-oikeudellinen tutkimus kansainvälisten ihmisoikeussopimusten valtiosisäisestä voimassaolosta sekä ihmisoikeus- ja perusoikeusnormien sovellettavuudesta Suomen oikeusjärjestyksessä*. Suomalainen lakimiesyhdistys. Gummerus. Jyväskylä.
- Sihvola, Juha (1994): *Hyvän elämän politiikka. Näkökulmia Aristoteleen poliittiseen filosofiaan*. Tutkijaliitto. Helsinki.
- Siltala, Raimo (2000): *A Theory of Precedent. From Analytical Positivism to a Post-Analytical Philosophy of Law*. Hart Publishing. Oxford. (Siltala 2000a)

Siltala, Raimo (2000): Fragmentteja, osa III: Mistä puhumme, kun puhumme oikeudesta? *Oikeus* 4/2000. Pp. 473-492. (Siltala 2000b)

Siltala, Raimo (2001): *Johdatus oikeusteoriaan*. Forum Iuris. Helsingin yliopiston oikeustieteellisen tiedekunnan julkaisut. Hakapaino. Helsinki.

Slapper, Gary & Kelly, David (1999): *The English Legal System*. Fourth Edition. Cavendish Publishing. London.

Stanford Encyclopedia of Philosophy. <http://plato.stanford.edu/>

Stein, Peter (1986): "Comment on David Summers's Paper." *New Literary History*. Volume XVII, Number 2, Winter 1986.

Strömholm, Stig (1985): *A Short History of Legal Thinking in the West*. Norstedts. Lund.

Stålhammar, Börje (1995): *Samspel. Grundskola - Musikskola i samverkan. En studie av den pedagogiska och musikaliska interaktionen i en klassrumssituation*. Skrifter från musikvetenskapliga avdelningen, musikhögskolan i Göteborg, nr 41. Göteborgs universitet, Musikhögskolan. Novum Grafiska. Göteborg.

Sundstedt, Ragnar (ed.) (1998): *Musik för alla. Om Stockholms kommunala musikskola, historik, mål och visioner*. Stockholmsmonografier 139. Stockholmia Förlag. Västervik.

Sutela, Marjo (2001): Oikeusvertailun mahdollisuudet. Vertailukohteena kunnallinen kansanäänestysinstituutio. *Lakimies* 1/2001. Pp. 69-96.

Swanwick, Keith (1988): *Music, Mind, and Education*. Routledge. London.

Swanwick, Keith (1994): *Musical Knowledge: Intuition, Analysis and Music Education*. Routledge. London.

Swanwick, Keith (1996): The relevance of research for music education. In *Music Education: Trends and Issues*. Ed. by Charles Plummeridge. Bedford Way Papers. Institute of Education, University of London. Formara. Essex. (Swanwick 1996a)

Swanwick, Keith (1996): Music Education: Is there Life beyond School? A response to David Elliott. *Finnish Journal of Music Education*. Vol. I, No I. Pp. 41–45. (Swanwick 1996b)

Swanwick, Keith (1999): *Teaching Music Musically*. London: Routledge.

Tala, Jyrki (1987): Soft Law as a method for consumer protection and consumer influence. *Journal of consumer policy*. Vol. 10 (1987). Pp. 341–361.

Tate, Philip (2001): Comparative perspectives. In *Issues in Music Teaching*. Edited by Chris Philpott and Charles Plummeridge. RoutledgeFalmer. London. Pp. 224–237.

Taylor, Clara (1998): *These Music Exams*. The Associated Board of the Royal Music Schools. London.

Teubner, Günther (1988): Introduction to Autopoietic Law. In *Autopoietic Law: A New Approach to Law and Society*. Walter de Gruyter. Berlin.

The Education System of Finland 2001 (2001). Prepared by Eurydice Finland for Eurybase Database. National Board of Education. Hakapaino. Helsinki.

Tiihonen, Paula (1988): “Idealisessa puhetilanteessa totuuden konseksukseen päätyvä valistunut kommunikatiivinen rationaliteetti, joka ruumiillistuu teoreettisessa oikeudellisessä keskustelussa, jonka ydinalue on lainoppi.” *Oikeus* 2/1988. Pp. 166–179.

Tivenius, Olle (2001): *Skönheten och odjuret. Målformuleringsproceduren vid två kulturskolor* Skriftserie uppsats 2001:01. CD-uppsats i musikpedagogik. Musikhögskolan. Örebro universitet.

Tolonen, Hannu (2001): Oikeuden tasot ja toiminnot. Tuorin kriittisen oikeuspositivismin tarkastelua. *Oikeus* 4/2000. Pp. 509-523.

Towse, Ruth (1994): Achieving Public Policy Objectives in the Arts and Heritage. In *Cultural Economics and Cultural Policies*. Edited by Alan Peacock and Ilde Rizzo. Kluwer Academic Publishers. Dordrecht. Pp. 143–167.

Tuomikoski-Leskelä, Paula (1977): *Taide ja politiikka. Kansanedustuslaitoksen suhtautuminen taiteen edistämiseen Suomessa*. Suomen historiallinen seura. Historiallisia tutkimuksia 103. Pohjolan Sanomat. (Tuomikoski 1977a)

Tuomikoski-Leskelä, Paula (1977): Kunta taidekasvattajana; kulttuuritoimintalain sovellutusta. In *Taide, yksilö, yhteiskunta*. Suomen Kulttuurirahasto. Vammala. Pp. 116-129. (Tuomikoski 1977b)

Tuori, Kaarlo (1985): *Budjetti, laki ja suunnitelma*. Valtion painatuskeskus. Helsinki.

Tuori, Kaarlo (1990): *Oikeus, valta ja demokratia*. Lakimiesliiton kustannus. Helsinki.

Tuori, Kaarlo (1991): Sovittelu ja refleksiivinen oikeus. *Oikeus* 4/1991. Pp. 365–375.

Tuori, Kaarlo (1997): Towards a Multi-Layered View of Modern Law. In *Justice, Morality and Society: A Tribute to Aleksander Peczenik on the Occasion of his 60th Birthday 16 November 1997*. Edited by A. Aarnio, R. Alexy and G. Bergholtz. Juristförlaget i Lund.

Tuori, Kaarlo (2000): *Kriittinen oikeuspositivismi*. WSLT. Helsinki.

Tuori, Kaarlo (2001): Opetuksia ja väärinkäsityksiä. *Oikeus* 3/2001. Pp. 314–326.

Vervaele, John A. E. (1995): Principles of Justice, Deregulation and Re-regulation and the Enforcement of Community Law in the EU. In *Principles of Justice and the Law of the European Union*. Edited by E. Paasivirta and K. Rissanen. Hakapaino. Helsinki. Pp. 167–189.

Verwijnen, Jan (1991): Cultural change. In *KUPOLI. Kulttuuripolitiikan linjat (KM 1992:36)*. Opetusministeriö. Helsinki. Pp. 65-86.

Vänttinen, Matti (1996): *Vaiennut viulu eli "jalot" opinnot ja niiden päätyminen. Opintojen keskeyttämisen teoreettista tarkastelua sekä huomioita musiikkiopintojen jättämisestä*. Kasvatustieteen syventävien opintojen tutkielma. Kasvatustieteen laitos, Helsingin yliopisto. Unpublished.

White, John (1990): *Education and the Good Life. Beyond the National Curriculum*. Kogan Page Ltd. London.

Winch, Christopher & Gingell, John (1999): *Key Concepts in The Philosophy of Education*. Routledge. London.

Witchell, John (2001): Music education and individual needs. In *Issues in Music Teaching*. Edited by Chris Philpott and Charles Plummeridge. RoutledgeFalmer. London. Pp. 194-205.

Wright von, Georg Henrik (1985): Is and Ought. In *Man, Law and Modern Forms of Life*. Edited by Eugenio Bulygin, Jean-Louis Gardies and Ilkka Niinluoto. D. Reidel Publishing Company. Dordrecht. Pp. 263–281.

Zweigert, Konrad & Kötz, Hein (1998): *An Introduction to Comparative Law*. Third revised edition. Clarendon Press. Oxford.

2 Conventions, curricula, documents, legislation

Asetus opetustoimen henkilöstön kelpoisuusvaatimuksista (986/98).

Associated Board of the Royal Music Schools: Examination Regulations & Information 2000. ABRMS. Headley Brothers. London. 1999.

Associated Board of the Royal Music Schools: Annual Review 1999. ABRSM Publishing.

Finansdepartementet (1999): Att ta sig ton – om svensk musikexport 1974–1999. Rapport till ESO Expertgruppen för studier i offentlig ekonomi. DS 1999:28. Tryckt av Regeringskansliets offsetcentral. Stockholm.

Forskning om kultur (1984). Rapport från en arbetsgrupp inom HSNR (Humanistisk-samhällsvetenskapliga forskningsrådet). Ord & Form. Uppsala.

Gesetz zur Förderung der ausserschulischen Jugendbildung (Jugendbildungsgesetz). Gesetzbeschluss des Landtags von Baden-Württemberg. 24.4.1975.

Gesetz zur Förderung der Musikschulen im Land Brandenburg (Brandenburgisches Musikschulgesetz - BbgMSchulG). 19 December 2000.

Gesetz zur Förderung von Musikschulen im Land Sachsen-Anhalt. Vom 29. Mai 1997.

Verordnung zur Förderung der Musikschulen.

Richtlinien über die Gewährung von Zuwendungen zur Förderung von Musikschulen im Land Sachsen-Anhalt.

Hallituksen esitys laiksi musiikkioppilaitoksista (HE 258/94)

Hallituksen esitys Eduskunnalle koulutusta koskevaksi lainsäädännöksi (HE 86/97).

ISME Constitution and By-Laws. Adopted by the ISME General Assembly. 19 August 1978.

ISME Convention and Bylaws. <http://www.isme.org>

ISME Declaration of Beliefs for Worldwide Promotion of Music Education (1994). International Journal of Music Education. Volume 24 (1994). P. 49.

ISME Policy on Music of the World's Cultures (1994).

Komiteanmietintö 1974:2 Kulttuuritoimintakomitean mietintö. Helsinki 1974.

Komiteanmietintö 1974:139 Musiikinopetustoimikunnan mietintö. Helsinki.

Komiteanmietintö 1992:36 KUPOLI. Kulttuuripolitiikan linjat. Opetusministeriö. Helsinki 1991.

Komiteanmietintö 1993:31 Humanismin paluu tulevaisuuteen. Opetusministeriö. Painatuskeskus. Helsinki. 1996.

Komiteanmietintö 1996:4. Koulutuksen lainsäädännön kokonaisuudistus.

Kommunallag (1991:900). Sveriges Rikes Lag.

Laki (147/68) & Asetus (206/68) musiikkioppilaitosten valtionavustuksesta.

Laki (402/87) & Asetus (692/87) valtionosuutta saavista musiikkoppilaitoksista.

Laki (516/95) & Asetus (880/95) musiikkioppilaitoksista.

Laki musiikkioppilaitoksista annetun lain 16 §:n muuttamisesta. N:o 1032.

Laki (633/98) & Asetus (813/98) taiteen perusopetuksesta.

Laki ammatillisesta koulutuksesta (639/98).

Laki lapseksiottamisesta (153/85).

Lapsen oikeuksien sopimus. Suomen toinen määräaikaisraportti. Ulkoasiainministeriön julkaisu 10/1998. Edita. Helsinki.

Läroplan (1996). Blåsenheten vid Örebro Kulturskola.

Läroplanen för grundskolan (Lgr 69) (1969). Svenska Utbildningsförlaget Liber AB. Stockholm.

1994 års läroplan för de frivilliga skolformerna (Lpf 94).
Utbildningsdepartementet. Stockholm 2000.

Musiikkiopistojen opetussuunnitelman perusteet 1995. Opetushallitus. Helsinki.

Musiikkioppilaitoslainsäädäntöä uudistavan työryhmän muistio 1985: 45.
Opetusministeriö (OPM). Helsinki.

Musiikkioppilaitostyöryhmän muistio (OPM 2/93). Opetusministeriön
työryhmien muistioita 1993: 2. Helsinki 1993.

National Curriculum for England. 1999.

Opetushallitus 1998. Koulutuksen tuloksellisuuden arviointimalli

Opetusministeriön työryhmien muistioita 1/1995 (OPM 1/95). Koulutusta
koskevan lainsäädännön kokonaisuudistus. Helsinki: Yliopistopaino, 1995.

Opetusministeriön työryhmien muistioita 24/1997 (OPM 24/97).
Musiikkioppilaitostyöryhmän muistio.

Opetus- ja kulttuuritoimen rahoituksesta annettu laki (635/98).

Perusopetuksen uudistustyöryhmän muistio 11: 2001. Opetusministeriö.

Recommendation 929 on Music Education for All (1981). Parliamentary
Assembly of the Council of Europe. Thirty Third Ordinary Session.

Richtlinien für die Mitgliedschaft im Verband deutscher Musikschulen e.V.
(VdM), 1997.

SiVM 1- HE 211/91. Sivistysvaliokunnan mietintö n:o 1/1992 vp. hallituksen
esityksen johdosta laeiksi taiteen perusopetuksesta.

SiVM 29 – HE 258/94 Eduskunnan sivistysvaliokunnan mietintö 3/1998 vp.
hallituksen esityksestä laiksi musiikkioppilaitoksista.

SiVM 3/98 – HE 86/97 Eduskunnan sivistysvaliokunnan mietintö hallituksen
esityksestä koulutusta koskevaksi lainsäädännöksi.

SOU 1954:2. Musikliv i Sverige. Betänkande med förslag till åtgärder för att främja det svenska musiklivets utveckling, avgivet av 1947 års musikutredning (MU). Statens offentliga utredningar. Ecklesiastikdepartementet. Stockholm 1954.

SOU 1968:15. Musikutbildning i Sverige. Betänkande avgivet av 1965 års musikutbildningskommitté (MUK). Stockholm 1968.

SOU 1972:26. Förskolan. Del I. Betänkande avgivet av 1968 års barnstugeutredning. Statens offentliga utredningar. Socialdepartementet. Stockholm 1972.

SOU 1976: 33 Musiken – Människan – Samhället. Musiken i samhället. Musikutbildning i framtidsperspektiv. Principbetänkande av organisationskommittén för högre musikutbildning (OMUS). Statens offentliga utredningar. Utbildningsdepartementet. Göteborgs Offsettryckeri. Stockholm 1976.

Statistisches Jahrbuch der Musikschulen in Deutschland 1999. Verband deutscher Musikschulen. VdM Verlag 2000. Bonn.

Suomen Musiikkioppilaitosten Liiton lausunto 23.5.1995.

Suomen perustuslaki (731/99)

Taiteen perusopetuksen opetussuunnitelman perusteet, musiikin laaja oppimäärä. Opetushallitus. 2002.

The Secretary of State's Proposals (1999). The review of the national curriculum in England. Qualifications and Curriculum Authority. London. May-July 1999.

United Nation's Convention on the Rights of the Child (YK:n yleissopimus lapsen oikeuksista. SopS 59–60/91). The convention was ratified in Finland 21 August 1991 (Act 1129/91 and Statute 1130/91).

Verband deutscher Musikschulen. e.V. (VdM). Bonn. Brochure & Internet:
<http://www.musikschulen.de>

Verordnung über die Führung der Bezeichnung Singschule und Musikschule
(Sing- und Musikschulverordnung). Vom 17. August 1984. Auf Grund des
Art. 97 Abs. 2 Satz des Bayerischen Gesetzes über das Erziehungs- und
Unterrichtswesen.

3 Brochures, booklets and website material

Diploma Course in Music Teaching in Private Practice. University of Reading and the Incorporated Society for Musicians. Brochure.

Frommelt, Josef (2000): The European Music School Union EMU, and the Legislation for Music Schools in Europe. Lecture, December 2000. Young European Strings School of Music.

<http://www.young-european-strings.com/lecture>. 23 August 2002.

250 Jahre Städtisch Musikschule Waldkirch 1971–1991. 100 Jahre Jugendblasorchester der Musikschule Waldkirch 1891–1991. Herausgeber: Stadt Waldkirch, Musikschule Waldkirch, Mitglied im Landesverband Baden-Württemberg und im VdM. Burger-Druck, Waldkirch-Buchholz.

Junior Trinity. <http://www.tcm.ac.uk> (7.4.2002)

Skoglund, Hans (2001): Örebro Culture School – A Culture School for the Future. Unpublished paper.

SMoK. <http://www.smok.se/eng/whatis.html> (27.4.2001)

The Purcell School. Brochure (<http://www.purcell-school.org>)

Torvund, Olav (1999): Jus og musikk. <http://www.uio.no/olavt/jus-mus.htm>

Wright, David (1998): Notes on Piano Pieces. Initial-Grade 8. 1999-2000. Trinity College. London.

Örebro Kulturskola. Brochure.

Örebro Kulturskola.

<http://www.orebro.se/kulturskolan/nyheter/engelskv.html>. (18.2.2001)

4 Articles in newspapers and journals

Abrahamsson, Lisa (1998): Lång kö till musikskolan. Västerbottenskurien 10.08.1998.

Ahlqvist, Barbro (1992): Lagstifta om musikskolan. Dagens Nyheter 17.06.1992.

Airas, Juhani (1969): Musiikkiopistolakia arvostellaan tuimasti. Helsingin Sanomat 9.2.1969.

Almila, Atso (1996): Oopperalaistako selvyys rahanjakoon? Helsingin Sanomat 21.4.1996.

Amberla, Kai (1989): Juan Antonio Muro: Lisää vapautta, lisää joustavuutta. Rondo 2/1989. Pp. 8–10.

Amberla, Kai (1994): Mikä tyttöissä hirvittää? Rondo 1/1994. Pp. 14–17.

Amberla, Kai (1995a): Vapaus tulee – oletko valmis? Rondo 2/1995. P. 7.

Amberla, Kai (1995b): On aika ottaa kantaa. Rondo 5/1995. P. 7.

Amster, Harry (2001): Musikexporten fortsätter att öka. STATISTIK. Sverige håller sin plats som trea i världen. Svenska Dagbladet 30.11.2001.

Aukia, Jussi-Pekka (1990): Maailman paras musiikkioppilaitosjärjestelmä. Rondo 3/1990. Pp. 8–13.

Aukia, Jussi-Pekka (1992): Mitä tuetaan, miten tuetaan ja kenen ehdoilla? – Musiikinopetusta koskeva lainsäädäntö uusiutuu samalla kun rahat loppuvat. Rondo 1/1992. Pp. 10–12.

Bergendahl, Berit & Claesson, Peter (1998): Snåla Tongångar - trots att Musikskolan has festivalår. Göteborgsposten 12.01.1998.

Billgren, Cecilia (1998): Dansundervisningen strider mot kommunallagen. Arbetet 20.11.1998.

- Bojs, Karin (1996): MAKTEN-...VER-KULTUREN. Dagens Nyheter 02.03.1996.
- Carl-Gunnar (1996): Musiklivet förtvinar. Svenska Dagbladet 26.10.1996.
- Cederberg, Ingvar (1992): Bara de rika får råd att spela gitarr. Dagens Nyheter 20.09.1992.
- Clark, Andrew (2001): It's the real thing: a spontaneous tribute to the vitality of Finnish music. Financial Times. 27 November 2001.
- Fantapié, Anja (1982): Suomen Musiikkioppilaitosten liitto r.y. – Neljännesvuosisata menneisyyttä tulevaisuuden hyväksi. Rondo 2/1982. Pp. 46–47.
- Franzon, Johan (2000): VEM dirigerar kulturen? Göteborgsposten 05.02.2000.
- Grundström, Elina (1989): Musiikki on julmaa. Ylioppilaslehti 2.11.1989
- Haapanen, Tuomas (1980): Quo vadis musiikkioppilaitos? Rondo 3/1980. Pp. 12–15.
- Heimonen, Marja (1996): Regulation as an Instrument. A Study of Legal Regulations Governing Music Schools in Finland. Finaali 3/1996. Pp. 23–31.
- Heimonen, Marja (2001): Musiikki ja laki – aspekteja esittävän säveltaiteen ja oikeuden välisestä suhteesta. Tieteessä tapahtuu 4/2001. Pp. 27–32.
- Helasvuo, Veikko (1983): Musiikkioppilaitokset ovat oppilaita varten. Rondo 4/1983. Pp. 10–11.
- Henriksson, Karin (2001): Vad ger musiken Sverige? Svenska Dagbladet. 19 October 2001.
- Huttunen, Matti (2001): Nyt on esittäjien vuoro! Rondo 7/2001. Pp. 47–48.
- Huttunen, Matti (2002): Musiikkikulttuuri alkaa laitostua. Rondo 1/2002. Pp. 34–37.

- Hynynen, Eeva-Liisa (1999): Brittiprofessori varoittaa eriarvoistumisesta. Kuluttajanäkökulma kouluhinkin? Opettaja 18-19/1999 (7.5.1999). Pp. 26-27.
- Häyrynen, Antti (2000): Pietari ja Suomi. Kohtalonyhteys soi myös musiikissa. Rondo 3/2000. Pp. 30-33.
- Häyrynen, Antti (2001): Kamarimusiikki intiimin lähteillä. Rondo 7/2001. Pp. 30-33.
- Häyrynen, Antti (2002): Esa-Pekka Salonen etsii tasapainoa rooliensa välillä. Rondo 3/2002. Pp. 17-21.
- Johannesson, Ika (1999): Musikskolan och envishet bakom succéer. Dagens Nyheter. 25 Januari 1999.
- Kainulainen, Jussi (2002): Kellareista koulun penkille. Rondo 3/2002. Pp. 25-29.
- Karlson, Anu (1999): Hyvä opetus herättää rakkauden musiikkiin. Rondo 7/1999. Pp. 30-35.
- Kuoppamäki, Anna (2000): Teoriat eloon! Rondo 3/2000. Pp. 42-43.
- Kurkela, Kari (1995a): Tulos musiikkioppilaitoksessa. Jean S. 1/1995. Pp. 25-39.
- Kurkela, Kari (1995b): Olennaisesta taiteessa. Tiedepolitiikka 4/1995. Pp. 33-40.
- Kuusisaari, Harri (1996a): Avoimuutta vain rahakkaille? Rondo 1/1996/. P. 3.
- Kuusisaari, Harri (1996b): Hyvää lakia ei saa vesittää. Rondo 3/1996. P. 7.
- Kuusisaari, Harri (1998): Antakaa oikeus harrastaa. Rondo 2/1998. P. 5.
- Kuusisaari, Harri (1998): Oikeus harrastaa,osa 2. Rondo 7/1998. P. 5.
- Kuusisaari, Harri (2000): Tuotteistamisen tärkeys. Rondo 3/2000. P. 5.

- Kuusisaari, Harri (2001a): Arkeen ja aisteille. Rondo 10/2001. P. 5.
- Kuusisaari, Harri (2001b): Torneja purkamaan. Säveltäjät pohtivat musiikkinsa toimivuutta. Rondo 10/2001. P. 8.
- Kuusisaari, Harri (2001c): Pönötystä poistamaan. Rondo 4/2001. P. 5.
- Kuusisaari, Harri (2001d): Oikeus harrastaa, osa 3. Rondo 7/2001. P. 5.
- Kuusisaari, Harri (2002): Uusi iloinen koulutus. Rondo 3/2002. P. 5.
- Kuusisaari, Harri (2002): Tekniikka ja tulkinta. Rondo 7/2002. P. 5.
- Laakso, Ilari (1995): Oppilaan etu on tärkeintä. Rondo 6/1995.
- Lagercrantz, Leo (2001): Profeten Pagrotsky hade rätt: En frälserska är född MUSIK. Expressen 27 December 2001.
- Loponen, Päivi (2001): Kuka? ymmärtäisi pientä poikaa. Rondo 4/2001. Pp. 24-28.
- Loponen, Päivi (2002): Musiikkiteatteri innostaa opistoissa. Rondo 4/2002. Pp. 28-31.
- Lundberg, Camilla (1996): Klassiskt. Musiken får stå för fiolerna. Expressen 29.09.1996.
- Luukkonen, Markus (2002): Improvisoinnista iloa opiskeluun. Rondo 3/2002. Pp. 30-33.
- Mäkilä, Sasha (2001): Nyt on aika kamarimusiikin. Rondo 7/2001. Pp. 18-22.
- Pihlaja, Jaakko (1996): Musiikkioppilaitokset pelkäävät rahojensa puolesta. Koulutuslakimietintö kytkee musiikinopetuksen taiteen perusopetukseen. Helsingin Sanomat 13 April 1996. P. C3.
- Taiteen keskustoimikunnan kannato: Kaikki ikäluokat oikeutettava taidekasvatukseen perusopetukseen. ARSIS Bulletin 4/2001. P. 6.

- Tuomela, Tapio (1996): Musiikkioppilaitosten tulevaisuudennäkymistä. TEOSTORY 1/1996. P. 20.
- Tyynilä, Markku (1996). Ylioppilaslehti. 12 April 1996. P. 15.
- Uusikylä, Kari (1999): Kelvoton kasvatustiede. Opettaja 40/1999. P. 2.
- Vakkilainen, Liisa (2002): Opetussuunnitelmien perusteiden uudistus on haaste opettajille. Musiikinopettaja 1/2002.
- Vapaavuori, Pekka (1989): Onko musiikkioppilaitosjärjestelmämme oikeilla raiteilla? Rondo 1/1989. P. 22.
- Vihinen, Kaarlo (1995a): Musiikinopetuksen lainsäädäntöä uudistetaan. Musiikinopettaja 3/1995. P. 3.
- Vihinen, Kaarlo (1995b): Opettajat vastustavat musiikkioppilaitoslain kumoamista. Musiikinopettaja 7/1995. P. 3.
- Vihinen, Kaarlo (1996a): Koulutusta koskevan lainsäädännön kokoamishanke ja musiikkioppilaitokset. Musiikinopettaja 1/1996. Pp. 4-5.
- Vihinen, Kaarlo (1996b): Minnes menet, musiikkioppilaitos? Musiikinopettaja 2/1996. Pp. 3-5.
- Vihinen, Kaarlo (1998a): Hyvästi, musiikkioppilaitoslaki. Musiikinopettaja 3/1998. P. 3.
- Vihinen, Kaarlo (1998b): Tason lasku uhkaa – musiikinopettajat huolissaan lainmuutoksesta. Rondo 1/1998. P. 7.
- Zetterström, Margareta (1996): Musikskolan snart en social omöjlighet. Dagens Nyheter 14.12.1996.

Writer not known:

Epämusikaalista lainsäädäntöä. Rondo 2/1968

Oxford University. Drooping spires. The Economist. March 30th 2002. P. 30.

5 Interviews (*), discussions () and correspondence (***)**

Bruhn, Siglind, Dr., Life Research Associate, University of Michigan. 7 April 2002. (***)

Czajkowski, Jan, Pianist, piano teacher, Germany. 26 March 2001. (*)

Harris, Deborah, Director of The North London Colourstrings Centre. 16 November 2001. (*)

Heimonen, Hilikka, Kindergarten teacher. 5 February 2001. (***)

Odam, George, Research Fellow in Teaching and Learning, Guildhall School of Music and Drama. 6 July 2000. (**)

Perälä, Hannu, Rector, Suomalainen konservatorio. 13 June 1997. (**)

Rajamaa, Lassi, the former Rector (1993–1999), Sibelius Academy, 7 September 1995. (*)

Sharkey, Jeffrey, Director of Music, The Purcell School, England. 2 July 2001. (*)

Skoglund, Hans, Head of Stockholm Culture School; the former Head of Örebro Culture School (1998–2001). 13 and 19 February 2001; 8 May 2001. (**) (***)

Smith, Jane, Teacher, Junior School, Reading, 30 June 2000. (**)

Tawaststjerna, Erik T., Professor, Sibelius Academy, 21 August 2001. (*)

Tivenius, Olle. Oboe teacher at Örebro Culture School. 8 May 2001. (***)

Vatka, Matti, Education Councillor, Ministry of Education. Secretary of the Music School Act / laki musiikkioppilaitoksista (516/95) Working Group. 20 September 1995, 27 September 1995. (*)

Weatherstone, Kirsteen, Student at the Royal Scottish Academy of Music in Glasgow. 4 March and 6 March 1998. (***)

Wüster, Ulrich, Dr., Refernt Öffentlichkeitsarbeit, VdM. 17 April and 5 March 2001. (***)