

Interdisciplinary Studies in Human Rights 1

Manfred L. Pirner
Johannes Lähnemann
Heiner Bielefeldt
Editors

Human Rights and Religion in Educational Contexts

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Interdisciplinary Studies in Human Rights

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Faculty of Law, Friedrich-Alexander-University Erlangen-Nürnberg,
Erlangen, Germany

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Heiner Bielefeldt
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Andreas Frewer
Institute for History and Ethics of Medicine, Friedrich-Alexander-University
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Manfred L. Pirner
Religious Education, Friedrich-Alexander-University Erlangen-Nürnberg,
Nürnberg, Germany

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Heiner Bielefeldt
Editors

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Manfred L. Pirner
Religious Education
Friedrich-Alexander-University
Erlangen-Nürnberg
Nürnberg, Germany

Johannes Lähnemann
Religious Education
Friedrich-Alexander-University
Erlangen-Nürnberg
Nürnberg, Germany

Heiner Bielefeldt
Institute of Political Science
Friedrich-Alexander-University
Erlangen-Nürnberg
Erlangen, Germany

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Manfred L. Pirner

Part I
Introduction and Foundation

Introduction

Manfred L. Pirner, Johannes Lähnemann, and Heiner Bielefeldt

In the wake of the commemoration of the beginning of World War I and of World War II, it is clear once again what a global paradigm shift was achieved with the hard won Universal Declaration of Human Rights of 1948. In the light of the Declaration of 1948, moreover, we see the breadth and range of the tasks and challenges that now, as then, are posed by the interpretation and realization of human rights in the diverse cultures, social structures, conflict situations and topic areas. Among them, the relationship between religion(s) and human rights is one of the most urging and intricate issues. Although there have been some recent book publications mirroring current research and discourse on this topic, little work has been done on reflecting human rights and religion *in the context of public education*. This is the focus of the present book. Its strength is to interrelate fundamental questions about the role of religions in human rights-based pluralistic societies from different religious and non-religious perspectives with educational questions and concepts from different cultural and political backgrounds.

In his opening contribution “Human Rights, Religion, and Education” *Manfred L. Pirner* offers a theoretical framework for the thematic field of the book that is derived from political theory, but, as he contends, is also highly appropriate for fundamental perspectives of public education. Building mainly on John Rawls and Jürgen Habermas, he advocates a “pluralist reading of human rights” that keeps a reasonable balance between the universal normativity of human rights and the intrinsic value of diverse religions and thus opposes a secularist reading of human rights that marginalizes, devalues or excludes religions. As a conclusion, the important role of religious education in human rights education and in public education as a whole comes into view for promoting “complementary learning processes” (Habermas) of religious and nonreligious people.

M.L. Pirner (✉) • J. Lähnemann • H. Bielefeldt
Friedrich-Alexander-University Erlangen-Nürnberg, Nürnberg, Germany
e-mail: manfred.pirner@fau.de; johannes@laehnemann.de; heiner.bielefeldt@fau.de

At the beginning of the first thematic section of the book, “*Human Rights and Religion—Interdisciplinary Perspectives and Examples*”, legal expert and women’s rights activist *Ziba Mir-Hosseini* offers an Islamic perspective. In her contribution “Human Rights and Islamic Legal Tradition”, she advances a new interpretation of Islamic legal tradition using the example of the role of women. Central herein is the differentiation between fundamental legal principles, for which the Sharia is the classic instance, and the collections of laws which as *fiqh* represent time-bound legal rulings and jurisprudence. The womens’ movement *Musawah* (“equality”) is internationally working on the concrete realization of this approach with broad response that has hardly come to public attention yet.

In his fundamental contribution, “Human Rights between Universalism and Religious Particularism”, Protestant systematic theologian *Friedrich Lohmann* points to the double face of religions as both promoters and obstructers of human rights. On the one hand, the transcendental focus of religions implies “self-relativization” and therewith tolerance and solidarity. On the other hand, religions traditionally often exhibit exclusion and salvation triumphalism, which lead to the restriction or even elimination of other faith communities. The conclusion to be drawn from this is that enlightenment and education are essential tasks for religious communities.

Heiner Bielefeldt widens this perspective by outlining freedom of religion and belief as a test case for the universality of human rights in his contribution. Here limitations and endangerment of this human right derive partially from the religious communities themselves (and by no means just from Islam!), but also from national ideologies—for instance in China—and finally from new radical secular or liberalist positions that seek to exclude religions from the public sphere and restrict them to the purely private one. A particular challenge is to be found in the fact that new conflicts have arisen, not only in regions with a long history of tensions in human rights and particularly in freedom of religion—as in Saudi Arabia and Northern Ireland—, but also in regions in which different ethnic and religious groups have co-existed over comparatively long periods of time—as in Lebanon, in the former Yugoslavia, and presently in Egypt, Syria, Nigeria, Myanmar, to name only a few.

That Germany, too, has again and again experienced conflicts and tensions around the human right of freedom of religion is made clear by *Mathias Rohe* in regard to public schools. He sketches the legal parameters and describes the major areas of controversy over recent years, including the topics of headscarves, swimming instruction, sex education and holidays.

Gundula Negele uses the example of the Bahà’ì to show how a religious community that suffered and is still suffering strong oppression and defamation in its land of origin has become active internationally in behalf of human rights—in spite of the fact that in Iran all its potential for development has been radically restricted. The Bahà’ì International Community (BIC) has been a presence as an NGO (Non Governmental Organization) at the United Nations for many years. The BIC traces its advocacy for human rights directly to the principle of the dignity of the individual, which is theologically anchored in the Bahà’ì religion. Here there is conscious reference to the responsibility of the religious leader, who must stand up

for freedom of conscience, the free choice of religion, the freedom to change religions, to practice religion and share it with others.

Yahya Hassan Bajwa shows this for the case of the Ahmadiyya Muslims in Pakistan. He offers a detailed description of the processes which—in spite of religious freedoms anchored in the constitution—have led to exclusion and persecution of the Ahmadis (among other things through the introduction of blasphemy laws): societal, social, and in this case also dogmatic influences (no new revelations can or may arise after the Koran!) are analyzed—and the international contribution to combating this unjust situation is shown to be essential.

From an Iranian Shiite perspective, *Saeid Edalatnejad* addresses the question of how Islamic faith and human rights can be interrelated in a constructive way. He stresses the flexibility in the interpretation of Islamic legal tradition, particularly in view of the unrestricted freedom of religion which, according to his view, must be achieved in societies ruled by Islam, not only for the different varieties of Islam, but also for all non-Muslims. The pragmatic rational approach he suggests is to re-activate the traditional method of ‘forgetting’ or ‘ignoring’ certain Islamic teachings in order to contextualize Islam in the modern world.

The religious roots of human rights and their relationship to the basic convictions of a religion with similar political and social influence is the subject of *Andreas Nehring’s* contribution on human rights education in the Buddhist context. Here the political conflicts in which Buddhists are involved—in Tibet as well as in Sri Lanka and in Myanmar—form the framework from which Buddhism—in the past largely viewed as more politically detached—is presently rearticulating itself in the sense of human dignity as centrally anchored in human rights. The author highlights the example of the Dalai Lama, who participated in the Declaration of a Global Ethic, and the movement of Engaged Buddhism with its sense of social responsibility. At the same time he presents a discussion of the reasons underlying human rights, for instance the sense of mutual interdependence of all that exists, as a lively process of discourse in a global context.

The second section of the present volume, *Human Rights Education and Public Religious Education—Pedagogical Perspectives*, opens with a contribution by *Wilna A.J. Meijer*, an expert in general pedagogy from The Netherlands. In connection with the wording of the UN documents on the right to education she poses the critical question of whether these documents are more closely aligned with the “third world”/globalization discourse rather than with pedagogical discourse. Always when education is placed in political agendas (be they global, national or local), a characteristic tension arises: that namely education is instrumentalized according to the ideals and future projects of the present generation of adults, while from a pedagogical perspective the future should remain open for the responsibility of the present children who are the future adults. Meijer’s contribution makes it particularly clear that discourse on the human right to education requires further differentiation.

As a specialist in political didactics, *Armin Scherb* introduces a concept of education in human rights founded on philosophical pragmatism. His point of departure is John Dewey’s definition of democracy not as a form of government,

but rather as a form of life. Thus education in democracy is always education in human rights at the same time. From this follow illuminating perspectives for the subject-oriented treatment of didactic problems in democracy and human rights education.

On the basis of his book “The Right of the Child to Religion,” which is well respected far beyond Germany, *Friedrich Schweitzer* explicates the thesis that the right to religious education can, indeed, be regarded as a human right. The Universal Declaration of Human Rights (1948) emphasizes the right of the parents “to choose the kind of education that shall be given to their children” (Art. 26) after declaring that education should “promote understanding, tolerance and friendship among all nations, racial or religious groups” (which includes religious education). Moreover religious education can be understood as part of the “freedom of thought, conscience and religion,” which is guaranteed as a basic human right in Art. 18. The most relevant document in this context, the UN Convention on the Rights of the Child (1989), includes references to this right but cannot be regarded as entirely satisfactory from the standpoint of education. Schweitzer explains and reflects on the legal situation in particular from the perspective of religious education and in the light of interreligious education. He shows that there is a necessity for further developing the understanding of religious rights of children in a multi-religious context and in view of the challenges of interreligious education.

Hans-Georg Ziebertz offers an empirical perspective, which is indispensable for the topic of this book. He addresses the question of how Christian and Muslim young people value human rights. He presents significant results of a study conducted in 12 countries. Altogether there was a high level of esteem for human rights on the part of Christian as well as Muslim youth, especially for the rights of children, the rights of women, freedom of speech, protection against torture, freedom of assembly, the right to demonstrate, and the separation of state and religion (with most of these rights there was slightly more agreement on the part of Muslim youth). These results contradict certain stereotypes often circulated by the media that western (Christian) thought is naturally more connected with human rights, while Islam is thought to have a problematical relationship with human rights. The Muslim young people in this study do not conform to this prejudice.

The following contributions show how the theoretical considerations and empirically won insights can find a home in concepts for integrating human rights into religious education at public schools. *Thomas Schlag* develops a specific profile for human rights education in Protestant religious education on the basis of creation theology argumentation and the basic ideas from the New Testament and Reformation of “justification and freedom” in connection with a realistic non-idealized image of humanity. His treatment includes consideration of the affective and pastoral aspects as well as dialogue with other denominations and religions, together with secular and legal views of religious and ethical education.

Bernhard Grümme presents similar arguments from a Catholic point of view. Following Hans Joas, he sees religious reasons as *one* significant driver of human rights. He exemplifies the specifically Christian motivation using the example of

creation in the image of God, a holistic approach that includes the cognitive, emotional and social dimensions and which presents a concept of justification founded upon the “right of the Other” based on the dual commandment of love.

Reinhold Boschki's contribution supplements these perspectives from the didactics of religious education with a “culture of remembrance” which takes the idea seriously that human rights were hard won out of the experience of catastrophe, whereby particularly the inhumanity of the existence of spectators became apparent. In contrast, religious education has potential for “education against indifference”, an education in sensitivity and solidarity.

And finally, in this section, *Zehavit Gross* from Israel shows how the Jewish tradition of commemorating, Jewish spirituality and religious pedagogy contribute to a holistic culture of remembrance, as well as to the transmission of an ethical orientation—and therewith to a culture of human rights. The heart of her paper rests on the interpretation of the Exodus as the central historical experience of the people of Israel and of the Seder meal with all its theological and religious-didactical significance.

The contributions of the third section of the present volume, *Human Rights Education and Public Religious Education—International Perspectives*, make it clear how strongly the specific contexts for religious and interreligious education have to be taken into consideration, in spite of the recognition of human rights learning as a global task.

In order to gain such a differentiated viewpoint *Henrik Simojoki* poses the question of how religious education can contribute to the formation of a human rights vision that bears witness to the “new contextuality” of religion in a globalized world. The view transmitted by the mass media, which mostly reinforces stereotypes of a clash of civilizations, frequently determines the conduct of dialogue locally. Simojoki speaks of “glocal” constellations of interreligious co-existence in world society. He draws the conclusion that a localizing didactical approach is necessary. Such an approach should utilize the local potential for dialogue and not exclude controversial topics—a goal that requires that both Christian and Islamic religious education learn to cooperate. Of no less importance is dealing critically with the presentation of religion in the media. A further task is to cultivate political and religious discernment. And finally, sensitivity has to develop for the diversity of contexts in which the identities of young people are now being formed, as this no longer simply proceeds in traditional religious patterns of socialization.

Bruce Grelle offers a US-American perspective. He first identifies an emerging international framework for thinking about public religious education—or “religion education” as he calls it—and human rights. He then describes an approach to teaching about religion in American public schools that is based on the First Amendment to the US Constitution and the “3 Rs” of religious liberty—rights, responsibility, and respect. While acknowledging both strengths and limitations, the chapter argues that this approach promotes respect for basic human rights while providing education about religion that is both constitutionally permissible and academically sound in the US context.

Taking a more legal perspective, *Erik Owens* complements Grelle's analyses by focusing on the relationship between religious freedom and civic education at American public schools. He points to broad cultural and legal changes in recent decades (including the Supreme Court's accommodationist and federalist shifts) that challenge citizens and their legislative representatives to take more responsibility than ever for protecting religious freedom in the United States. The author contends that fulfilling this civic duty—not to mention getting along with fellow citizens in an increasingly pluralistic society—will require much more knowledge of religion than is presently conveyed to students in public schools. He explains why American public schools should teach about religions, how this serves to protect religious freedom, and why it is a positive and properly civic endeavor.

Peter Schreiner has taken on the challenge of analyzing the most important formulations of European institutions in regard to human rights and religious education. He shows that the protection of human rights has been a central concern of European institutions for many years, whereas the perception of the connections between human rights education and religious education has only recently, and then only partially, come to attention. Nevertheless awareness appears to have grown for the view that precisely interreligious education has an important function for the promotion of understanding and respect in the sense of a culture of human rights.

Philip Barnes—from a background of long years of experience with interreligious learning in Great Britain—makes it clear that the present dominance of the phenomenological approach in British Religious Education with its somewhat feeble goal of the formation of tolerance is insufficient to realize the special potential of the religions, with their call for a community marked by respect, love and care.

By way of contrast, *Norman Richardson* takes a yet still divided society in Northern Ireland as his point of departure, where over 90% of school students still have separate religious education. Principles of human rights are often used to justify the existence of confessional schools, but also increasingly to highlight the significance of intercultural learning. The significance attributed to the one or other viewpoint can be the source of strong differences of opinion and sharp conflicts. Many of the problems connected with this have been discussed internationally from the perspective of human rights—for instance in the OSCE's "Toledo Guiding Principles on Teaching about Religion and Beliefs in Public Schools" and in statements of the Council of Europe. The Toledo guidelines, with their esteem for a religious education that overcomes prejudice, appear tailor-made for the burning issues of Northern Ireland. The guidelines provide an inclusive approach to religious education, as Richardson explains.

Yet another entirely different perspective, arising from a specific context which has become historical, is offered by *Cornelia Roux*. She outlines the constellations in South Africa after the end of Apartheid and sheds light on the South African educational horizon on human rights on the basis of an empirical study of young people. She documents previous religious and cultural knowledge and the growing insight that awareness of the different cultures is important for the orientation and articulation of different population groups in a multicultural context. Here at one

and the same time, the challenges, as well as the opportunities, for religious education are to be seen.

That human rights work and learning with human rights represents a fundamental task for the diverse religions in their existence with one another is, last not least, discussed by *Johannes Lähnemann* in the example of the NGO *Religions for Peace (RfP)* as the largest international coalition of religions, with a total of nine World Assemblies (from 1970 in Kyoto to 2013 in Vienna). He shows the steps that needed to be taken on the way to interreligious dialogue and how the cooperation expanded in content, regionally and from global to local activities. He also demonstrates how, in spite of failures in severe conflicts, concrete results in processes of peacemaking and reconciliation were achieved on the basis of human rights values such as tolerance and respect for the dignity and equality of mankind. In this process the spiritual foundations of faith communities in all their diversity (and without mixing them) have proved a many-faceted wellspring for shared involvement.

In his conclusion *Manfred L. Pirner* gathers the different central themes of the discussion in the present volume and supplements them through his own fundamental and conceptual reflections on a religious pedagogy of human rights. As a point of departure he takes the social philosophy thesis explicated in his opening contribution that religions, in the present “post-secular society” (Habermas), can offer indispensable contributions to an “overlapping consensus” (Rawls), and therewith to the promotion of a common culture of human rights, as well. Religious education in the public sphere can promote human rights education in a threefold way—structurally by supporting youth in the perception of their rights to freedom of religion; indirectly by conveying ethical foundations for a culture of human rights; and directly by making human dignity and human rights an explicit topic.

A large part of the contributions assembled in this book goes back to an international conference that took place in 2013 in Nürnberg, Germany (the 11th International Nürnberg Forum). For the book publication they were complemented by additional texts in order to cover several open questions and fields of research. We are therefore indebted to all authors who have enabled the present volume to offer a multifaceted academic discourse on the topic with many impulses for educational, societal and political practice.

Furthermore, we are grateful to Martina Mittenhuber, head of the City of Nürnberg’s Office of Human Rights, for her supportive cooperation and to all sponsors of our conference: the Protestant Church of Bavaria, the Kost-Pocher Foundation of the City of Nürnberg, the Fritz- and Maria-Hofmann-Foundation, the Luise-Prell-Foundation, phone-book publisher Hans Müller, the Bavarian Association of School Teachers, the Archdiocese of Bamberg, the “Apfelbaum” Foundation (lawyer Dr. Hans-Martin Schmidt) and the University of Erlangen-Nürnberg Institute for Anthropology of Religion. Our final thanks go to a wonderful conference team at the Chair of Religious Education, among them Dr. Werner Haußmann and Dr. Andrea Roth who also contributed to the making of the book.

Human Rights, Religions, and Education. A Theoretical Framework

Manfred L. Pirner

Abstract This contribution develops a theoretical framework for clarifying the relationships between human rights, religions and public education, in particular the relationship between human rights education and public religious education. It builds on the hypothesis that such clarification benefits from engagement with recent social and political theory. Drawing mainly on the positions and concepts of John Rawls and Jürgen Habermas, it advocates a pluralist reading of human rights that keeps a reasonable balance between the universal normativity of human rights and the intrinsic value of diverse religions and opposes a secularist reading of human rights that marginalizes, devalues or excludes religions. As a conclusion, the important role of religious education in human rights education and in public education as a whole is emphasized for promoting “complementary learning processes” (Habermas) of religious and nonreligious people.

1 Point of Departure: Trends and Problems in the Discourse on Human Rights, Religion and Human Rights Education

The relationship between human rights and religion(s) is complex, intricate and a major controversial issue in human rights discourse. Over the past decades, however, two major positions have emerged. One of them, which I will call the *secularist reading* of human rights, advocates a strictly secular way of understanding and justifying human rights that marginalizes, devalues or even excludes religious contributions to human rights discourse. The other position, which I will call the *pluralist reading* of human rights, emphasizes that human rights discourse can profit from or even depends on the support and interpretation from various cultural, worldview and religious perspectives. Both approaches are mirrored in present concepts of *human rights education* as well.

M.L. Pirner (✉)

Friedrich-Alexander-University Erlangen-Nürnberg, Nürnberg, Germany

e-mail: manfred.pirner@fau.de

In the secularist view, which is shared not only by theoreticians but also by many human rights activists and groups (for an overview, see Freeman, 2004), the concept of human rights is purely secularized and must be so in order to ensure its universality and its priority over other values. As to the genealogy of human rights, the concession may be made that some of their roots go back to religious traditions, but even then—the argument goes—it is crucial that these religious elements were secularized when they were assimilated into the concept of human rights. In this secularist perspective, religions are no longer needed to support human rights, rather they tend to be seen as potential and factual impediments to the promotion of human rights. They are mainly regarded as a source of conflicts that needs to be regulated by human rights, especially by the right to freedom of religion and belief—although, as Heiner Bielefeldt has pointed out, the secularist view may even reach a stage where the legitimacy of the right to freedom of religion and belief as *a human right* is questioned (see Bielefeldt, in this volume). Religions, in this view, are seen predominantly as part of the problem and not as part of the solution. The relationship between human rights and religions thus is a one-way road: religions are expected to adopt and integrate human rights standards into their body in order to become more humane, but are not trusted to have anything to contribute to the culture or discourse of human rights.

In the field of human rights education one prominent example of a secularist reading of human rights is that of the British authors Audrey Osler and Hugh Starkey in their well-written and highly reflective book “Teachers and Human Rights Education” (Osler & Starkey, 2010). In the chapter “Values, cultures and human rights”, in which the need for contextualizing human rights in various cultures is underlined, regrettably no attention is given to the various religions and their potential to contribute to the understanding and acceptance of human rights in society. Accordingly, no reference is made in the book to religious education—which is an ordinary non-denominational subject in all British schools, with explicit curriculum objectives touching on citizenship and human rights education (cf. Bowie, 2011; Gearon, 2004; Barnes, in this volume).

By contrast, the *pluralist reading* of human rights argues that they can be understood and approved of from different worldviews or religious perspectives. It holds that their roots in diverse, secular as well as religious traditions point to the fact that they can and should be underpinned, interpreted, concretized and further developed today from such diverse perspectives. Also, in this view, the universal claim of human rights can only be disclosed to people by contextualizing them into diverse cultures, religions and worldviews (see e.g. Witte & Green, 2012; Ziebertz & Crpic, 2014). The universality of human rights, it may be argued, does not exclusively depend on the universality of human reason but can also rely on the universal communal ethical fundamentals of diverse religious traditions, such as have, for instance, been assembled in the declaration “A Global Ethic” by the *Parliament of the World’s Religions* in 1993 (cf. Küng & Kuschel, 1993) or been chosen as a basis for joint action by the NGO *Religions for Peace* (see Lähnemann, in this volume). This congeniality between the basic contents of human rights and the basic contents of major religions’ ethical principles can strengthen the

confidence that conflicts between certain human rights and certain religious values can be overcome.

*This book and the theoretical framework offered in this contribution advocate such a pluralist reading of human rights.*¹ It is obvious, however, that it is not easy for this kind of approach to keep the balance between the universalistic claim of human rights and the legitimacy of specific cultural or religious perspectives and at the same time to avoid cultural or religious relativism that views religion as being in competition or an alternative to human rights (cf. Gustafson & Juviler, 1999; van der Ven, 2010).² James Nickel has recently suggested that in light of the widespread acceptance that human rights have received in recent decades in most parts of the world “perhaps the debate about relativism and human rights has become obsolete” (Nickel, 2014). In a similar estimation Jack Donnelly has stated that “[F]or their own varied reasons, most leading comprehensive doctrines [i.e., religions and worldviews; M.P.] now see human rights as the political expression of their deepest values” (Donnelly, 2013, p. 59). Yet, ongoing conflicts and tensions between human rights and religious communities as well as the perennial task of winning over the next generation in ever more multi-cultural and multi-religious societies to the cause of human rights point to the importance of clarifying the on-going relationship between human rights and diverse cultures and religions.

In the field of human rights education, US authors Fuad Al-Daraweesh and Dale T. Snauwaert (2015) have recently advanced a stimulating concept that seeks to move “beyond [Western] universalism and relativism”. Building on John Rawls and employing a “relational and hermeneutic epistemology” they discover “isomorphic equivalents” to human rights in other, primarily Asian, cultures and aim at a “fusion of horizons” (Gadamer) that takes these cultures as seriously as human rights culture. My impression is, that the criticism of being too harmonistic that has been voiced against Gadamer’s hermeneutics also applies to this concept. I will try to show below that a hermeneutics of difference that, following Jürgen Habermas, employs the key concept of “translation” is probably more promising and realistic in this context.

It is beyond the scope of this contribution to do justice to Al-Daraweesh & Snauwaert’s book, but I definitely do share the authors’ notion that a concept of human rights education—as well as a concept of public religious education³—

¹ As Bruce Grelle points out, there are indications that an international framework may also be about to emerge on the role of religion in public education that is closely related with human rights (see Grelle, in this volume). While he mainly evaluates official documents on UN, EU and US levels, this contribution will draw on theoretical, philosophical concepts.

² An example of such a competitive view of religions and human rights can be found in the suggestion by the Canadian professor of comparative religion Arvind Sharma to initiate a separate “Universal Declaration of Human Rights by the World’s Religions” and thus to complement the “secular” UN Declaration (Sharma, 2009).

³ I am well aware that in the US context the notion of “religious education” is mostly associated with denominational instruction in religious communities. However, in the European context, “religious education” predominantly refers to the school subject, which in most European countries is a compulsory part of public education. To accentuate this, I will sometimes use the notion of “public religious education”.

needs to clarify the relationship between the universal claim of human rights and the particular cultures and religions in which people live *on the level of epistemology and social or political theory*. While Al-Daraweesh and Snauwaert concentrate on the opposing pair of “universalism and relativism” I will, in the following, primarily refer to the closely related discourse on “liberalism and communitarianism”. And while they highlight the tension between Western and Eastern values, I will focus on the tension between secular and religious values. Just as for them, John Rawls’ political theory will be a pivotal reference point for me, because I still consider his theoretical concept as one of the most thoughtful and productive available. It is my impression that the controversies over Rawls’ early work and position have, at least for some discussants, impaired the reception of his late work that I will be referring to. Jürgen Habermas has in many ways linked his deliberations with Rawls’ thoughts, developed them further and contributed additional illuminating insights, which is the reason why I will draw on his thinking as well.

The following reflections⁴ will concentrate on the relationship between human rights, religion and education *within pluralistic, liberal-democratic societies*; questions of international relationships or, for example, of predominantly Islamic countries will not be discussed.⁵ My hypothesis is that discourse on the urgent question for pluralistic societies of “how citizens who remain deeply divided on religious, philosophical, and moral doctrines, can still maintain a just and stable democratic society” (Rawls, 2005, p. 10) is closely linked with the human rights issue and is also highly relevant for public education, because it has implications for the question of how a consensus over the task and major objectives of public education can be found. Also, the concepts of human rights education as well as of public religious education are dependent on answers to the question of which contributions religions and religious citizens can make to the common good of society. It seems highly significant that probably the two most influential political philosophers of our time, Rawls and Habermas, have, as will be shown, in the course of their academic lives come to revalue positively the contributions religions can make to modern societies and the global community.⁶

⁴ A more comprehensive elaboration of the framework introduced here and its significance for public religious education can be found in the up-coming German book publication Pimer, 2016.

⁵ This is why Rawls’ book “Political Liberalism” (1993) seems more important to me than his publication “The Law of Peoples” (2001/1999). In the latter book, he draws, for international law in general, strong parallels to “Political Liberalism” whose principles he transfers from the society of citizens to the “Society of Peoples”. Yet, he explicitly touches on human rights only briefly and presents a very narrow view of their functions that I will not follow in my own reception of Rawls’ thinking.

⁶ See the identical estimation in Bedford-Strohm (2011), p. 45; Bedford-Strohm (1999).

2 “Overlapping Consensus” and “Complementary Learning Processes”: Essential Cornerstones of Pluralistic Societies, According to Rawls and Habermas

According to John Rawls (2005, p. 10) cohesion in pluralistic societies cannot be attained by aiming at a common “comprehensive doctrine” of the good life, because the central characteristic of such societies is that they embrace citizens with different and sometimes conflicting comprehensive doctrines. Rather it suffices to find a consensus on basic “political conceptions” or “political values”, such as his “theory of justice” (Rawls, 1971) or, in our case, the values of the Universal Declaration of Human Rights. It is crucial for understanding Rawls’ theory that he categorically rejects the idea that there should be a kind of *civil religion* to function as a unifying bond in a pluralistic society, as Robert N. Bellah has advocated (1967/1974). Neither, Rawls insists, is his concept of political liberalism supposed to be a *comprehensive* liberalism; it is therefore not intended to be in competition with or even to be a substitute for comprehensive religious or nonreligious doctrines (Rawls, 2005, pp. xxvii–xxxviii). The same can be said to be true of the concept of human rights, which also does not claim to present a comprehensive view of good life, but rather concentrates on the basic preconditions for humans to be able to live a good life according to their diverse ideas of what such a good life is like. It is enough, Rawls argues, if citizens find a consensus on conceptions whose range is limited to the political realm. Asking *how* such a consensus can be reached and how such conceptions can be justified Rawls offers basically two answers.

The first one rests on the supposition that almost all citizens are capable of reason and therefore of “reasoning in the public forum about constitutional essentials and basic questions of justice” in terms of what Rawls calls “public reason” (Rawls, 2005, p. 10). Consequently, in this first mode of justification, the political conception “is worked out first as a freestanding view that can be justified *pro tanto* without looking to, or trying to fit, or even knowing what are, the existing comprehensive doctrines” (ibid., p. 389).

To illustrate this point, Rawls refers to the fact that many citizens come to affirm the principles of justice incorporated into their constitution and political practice without seeing any particular connection between those principles and their comprehensive worldviews (ibid., p. 160). If we apply this argument to human rights, we can say that there are many people from different religions or worldviews who approve of human rights just because they consider them as politically reasonable, without seeing any particular connection to their religious or worldview beliefs. Thus they may reach a consensus concerning human rights on the basis of public reason as Fig. 1 tries to illustrate.

In view of the critical discussion that Rawls’ concept of public reason has triggered especially among communitarian and religious readers, it is important to note that his idea is not one of a “secular” reason in an ideological sense. In his

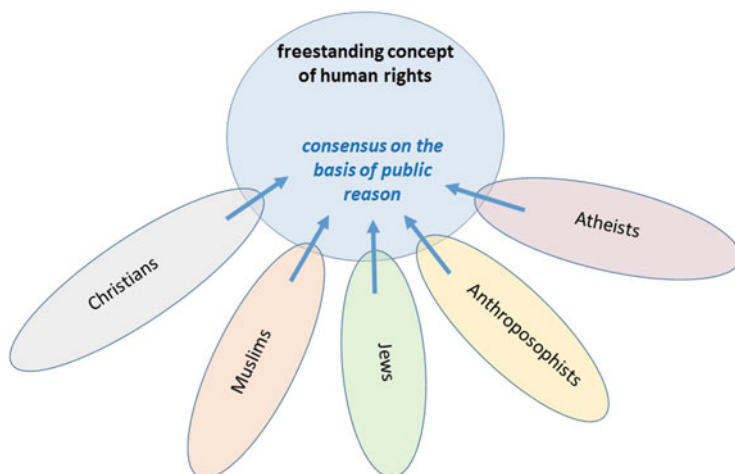


Fig. 1 The freestanding concept of human rights based on John Rawls. *Source:* Own graph

essay “Public Reason Revisited” (1999) he explicates, how he imagines “public reason” to come about.

“Citizens realize that they cannot reach agreement or even approach mutual understanding on the basis of their irreconcilable comprehensive doctrines. In view of this, they need to consider what kinds of reason they may reasonably give one another when fundamental political questions are at stake. I propose that in public reason comprehensive doctrines of truth or right be replaced by an idea of the politically reasonable addressed to citizens as citizens.

Central to the idea of public reason is that it neither criticizes nor attacks any comprehensive doctrine, religious or nonreligious, except insofar as that doctrine is incompatible with the essentials of public reason and a democratic polity.” (Rawls, 1999, p. 547).⁷

Rawls also emphasizes that political liberalism “does not try to fix public reason once and for all in the form of one favored political conception of justice” (Rawls, 1999, p. 582). Rather, public reason is understood to be dynamic and open to development. And, as Rawls explicitly points out, it must be distinguished “from what is sometimes referred to as secular reason or secular values.” He defines secular reason as “reasoning in terms of comprehensive nonreligious doctrines” whereas public reason confines itself to the realm of political values and is in itself neither religious nor nonreligious (p. 583). This is why, among others, concepts derived from religious traditions such as “Catholic views of the common good and

⁷ Of course it should be noted here that Rawls assumes comprehensive doctrines in general to be in “irreconcilable” conflict with each other—which makes it necessary that they switch to public reason. The possibility that several or even all the comprehensive doctrines in a community may discover common ethical principles in their diverse traditions, as in the Global Ethic Declaration mentioned above, is not taken into account here—but will come into view in Rawls’ second idea, that of the “overlapping consensus”.

solidarity” are also admitted to contribute ideas of public reason, as long as “they are expressed in terms of political values” (p. 583).

To sum up, Rawls’ first answer to the question of how a consensus on political values can be reached in a society of ideological differences is that it can be developed as a “freestanding concept” on the basis of public reason. Rawls argues that this is principally sufficient to provide common ground in a pluralist society.

However, Rawls’ *second answer* to the question of how such a common basis can be achieved is that the societal consensus *significantly gains breadth, depth and stability*, if, in addition to the freestanding justification, the political conceptions *can be linked to different comprehensive doctrines and shown to be compatible with them*: “[. . .] even though a political conception of justice is freestanding, that does not mean that it cannot be embedded in various ways—or mapped, or inserted as a module—into the different doctrines citizens affirm.” (Rawls, 2005, p. 387). In this mode of an “*overlapping consensus*” Rawls sees the most reasonable, deepest and most durable basis for social cohesion, because in this mode, the political values are tied up with the deepest convictions of a person.

“Citizens’ mutual knowledge of one another’s religious and nonreligious doctrines [. . .] recognizes that the roots of democratic citizens’ allegiance to their political conceptions lie in their respective comprehensive doctrines, both religious and nonreligious. In this way citizens’ allegiance to the democratic ideal of public reason is strengthened for the right reasons. We may think of the reasonable comprehensive doctrines that support society’s reasonable political conceptions as those conceptions’ vital social basis, giving them enduring strength and vigor.” (Rawls, 1999, p. 592).

Thus, only the overlapping consensus provides what Rawls calls a full “public justification” of a political conception, in which case “citizens take one another into account as having reasonable comprehensive doctrines that endorse that political conception, and this mutual accounting shapes the moral quality of the public culture of political society” (Rawls, 2005, p. 387).⁸

It should be noted here that the overlapping consensus in Rawls’ terms is not just the result of an empirical stocktaking of different religions and worldviews in order to find commonalities. As Heiner Bielefeldt has pointed out, it is rather a normative idea, which, it is true, “allows for a variety of religious or ideological views, but at the same time marks the boundaries of tolerance” (Bielefeldt, 1998, p. 146). The underlying normative premise is namely that individuals—and also religions—“acknowledge each other in their difference through granting each other equal freedom and equal participation” (Bielefeldt, 1998, p. 147).⁹ In this way, for Rawls, the “basic rights, liberties and opportunities” embedded in a freestanding

⁸ As Rawls emphasizes here, this does not mean that people are expected to agree with the content of another comprehensive doctrine. The question of the truth of any comprehensive doctrine is not the issue here.

⁹ This is why the endorsement of the human right of freedom of religion or belief can be called a “test case” for religions as to their compatibility with democratic values (see Bielefeldt, in this volume).

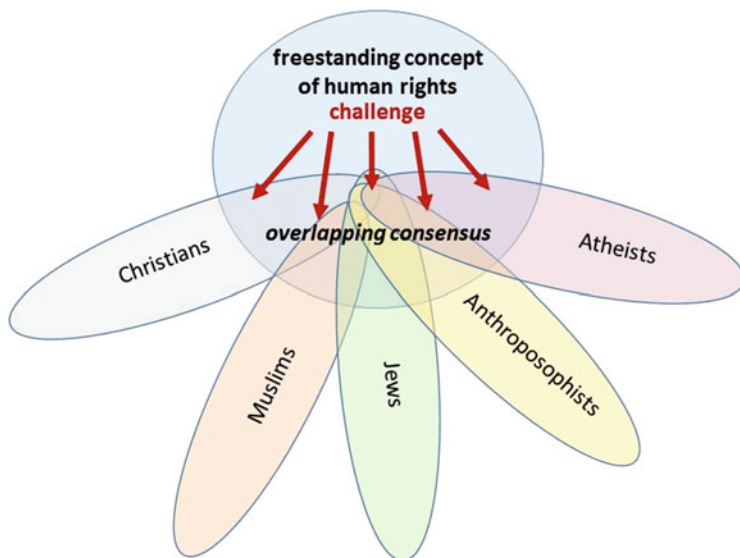


Fig. 2 Rawls' idea of the overlapping consensus, with reference to human rights. *Source:* Own graph

political conception are assigned a normative priority over against the norms of comprehensive doctrines (Rawls, 1999, pp. 581–582). Rawls' hope is that the political conception, which has been worked out on the basis of public reason, will be able to challenge the comprehensive doctrines to affirm it and that it “will have the capacity to shape those doctrines toward itself” (Rawls, 2005, p. 389). This, we might add, is exactly what happened with the concept of human rights in general and with certain human rights in particular: They have challenged and still are challenging diverse religions, prominently the Christian churches and Islamic communities, to affirm them and to acknowledge them as stimulations for their own internal development towards a more humane and inclusive ethic. A contemporary example of this kind of process is the challenge constituted by the *UN Convention on the Rights of Persons with Disabilities* that has not only triggered multiple state activities to improve the situation of disabled people but also stimulated or supported a revised understanding of, for instance, biblical texts and theological concepts of disability. Also, the discourse on the human rights of homosexual citizens has prompted many religious communities to re-think their own attitude towards homosexuals. Figure 2 tries to illustrate the idea of the overlapping consensus.

Jürgen Habermas agrees with Rawls that a societal consensus merely as a *modus vivendi*, in which citizens accept political concepts or values irrespective of their worldviews just in order to maintain civil peace, is not an ideal basis for a beneficial coexistence. Rather should “religious citizens have to acquire the secular legitimation of the community on the premises of their own faith” (Habermas, 2012, p. 324; my translation). In this way, in Habermas' German context, the two big churches,

the Roman-Catholic and the Protestant Church, in the course of the twentieth century have come to approve of and support liberalism, democracy and international human rights—for *theological reasons and with theological arguments*.¹⁰ But of course, Habermas admits, such a change of mentality cannot be prescribed or legally enforced to free and equal citizens, but “is at best the consequence of a learning process” (Habermas, 2012, p. 325; my translation).

However, in Habermas’ view, such a learning process is also necessary on the part of non-religious citizens. “Do not”, he asks, “the same normative expectations that we direct towards an inclusive civic society prohibit a secularist denigration of religion just as much as, for instance, the religious rejection of equal rights for men and women?” (Habermas, 2012, p. 326; my translation). Consequently, Habermas advances the concept of a “*complementary learning process*” of religious and non-religious citizens. His central idea is that both sides, secular and religious citizens, should become self-reflective and aware of their restrictions, so that they develop a willingness to listen to each other, take each other’s contributions to public discourse seriously and eventually also learn from one another (Habermas, 2008, pp. 111–112).

For his own philosophical discipline and agnostic position Habermas has repeatedly advocated openness to learning from religious traditions and positions, and he has argued that the “special articulative power” and “semantic potential” of those traditions, when it comes to vulnerable forms of humane coexistence, have not yet been exhausted (Habermas, 2001, p. 25). Such learning processes should also be facilitated by the constitutional state, because it must be in its interest “to conserve all cultural sources that nurture citizens’ solidarity and their normative awareness” (Habermas, 2008, p. 111).

Highly compatible with Habermas’ notion of a complementary learning process is Heiner Bielefeldt’s idea of human rights discourse as a *common open learning process* of people with various religious and nonreligious worldviews. Bielefeldt reconstructs the history of human rights as such a learning process to which different cultures, worldviews and religions made their contribution. And this learning process remains incomplete and open and therewith continues to thrive through further participation of various cultures, worldviews and religions (cf. Bielefeldt, 2007, 2009).

¹⁰ Rawls on his part gives an example of the possibility for Islam to support constitutional democracy from within the Islamic tradition by referring to Abdullahi Ahmed An-Na’im’s book *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law* (Syracuse: Syracuse University Press, 1990). Na’im suggests reevaluating the Qur’anic texts from the Meccan period as superior to those of the Medina period. (Rawls, 1999, p. 590).

3 “Public Reason” and the “Translation” of Religious Language

Both Rawls and Habermas articulate the vital concern that religious citizens and religious groups should participate in public discourse and thus that an exchange or learning process between religious and secular citizens should take place. The question of how such learning processes can be possible, is firstly a hermeneutical question and secondly a question of political theory. For both aspects the concept of “translation” that Habermas introduces plays a crucial role.

As to the hermeneutical aspect, Habermas points to the fact that in the history of philosophy ideas and beliefs from the Christian tradition have repeatedly been transformed into a generally accessible language by “conserving translations”. Habermas’ classic example is Immanuel Kant’s translation of the Christian topos of God creating humans in his image into the secular concept of human dignity, which belongs to the foundations of human rights (Habermas, 2008, p. 110). It is interesting that in a late phase of his life Rawls himself conceded that his ‘secular’ theory of justice had roots going back to his own religious thinking in his youth. Habermas has underlined this and stated in his analysis of Rawls’ posthumously published undergraduate thesis (submitted to the Department of Philosophy at Princeton University) that it revealed that Rawls’ political theory was to a considerable extent a successful translation from Christian thought into secular thought (cf. Rawls, 2009; Habermas, 2012, pp. 257–276; for a similar estimation see Weithman, 2012).¹¹

For Habermas, translation is the mode of a “secularization that does not destroy”, but rather preserves the semantic potential of religions instead of declaring it as obsolete (Habermas, 2001, p. 29). However, he also emphasizes that there is no complete translation possible. “When sin turned into guilt, the trespassing against divine commandments into the violation of human laws, something got lost.” (Habermas, 2001, p. 24). Different from Hegel, who asserted that religious thoughts and values can be completely assimilated into philosophical reflection, and different from present philosophers such as Herbert Schnädelbach, who maintains that after having secularized their values religions are dispensable, Habermas adheres to the view that religions still have a humanizing potential that should not be disregarded.

As to the political aspect, the pivotal question is, whether religious citizens should be allowed to make their contributions to public political discourse, for instance on human rights issues, *in their religious language and based on their religious convictions*, although these cannot be shared by their nonreligious fellow-citizens. Rawls initially took a rather restrictive position on this issue, arguing that religious citizens were only allowed to contribute, if they were able to translate their religious views into the generally accessible language of public reason. Yet, already

¹¹ I am indebted to Philip Barnes for drawing my attention to Paul Weithman’s essay.

in the “Introduction to the paperback edition” of his book “Political Liberalism”, published in 1995, he modified his attitude:

I now believe, and hereby I revise VI:8 [the corresponding chapter in “Political Liberalism”, M.P.], that reasonable such doctrines may be introduced in public reason at any time, provided that in due course public reasons, given by a reasonable political conception, are presented sufficient to support whatever the comprehensive doctrines [introduced are said] to support.” (Rawls, 2005, pp. xlix–l).

In his later essay Rawls distinguishes even more clearly between a narrow and a “wide view of public political culture”, in which religious perspectives can at any time be entered, but makes the same *proviso* that “proper political reasons” must follow to complement them (Rawls, 1999, p. 591).

In a similar way, Habermas distinguishes between the informal public discourse into which religious perspectives can be introduced at any time, and the “political process of decision-making in the context of parliaments, courts and governments” where religious arguments can “only count if their relevant substance has been translated into a publicly accessible language” (Habermas, 2007, p. 412; my translation). The decisive step Habermas takes beyond Rawls is his conceptualization of the task of translation as a *dialogical cooperative endeavor of religious and nonreligious citizens*. He argues that it would be unfair to expect only of believing citizens to split up their identity and translate their religious convictions into a secular language in order to have the chance of winning majorities for their arguments. To be fair, the non-religious citizens should vice versa be required to “preserve a sense for the articulative power of religious languages” (Habermas, 2001, p. 21) and to be open to learn from religious discourse. Even more clearly Habermas has explicated his argument a few years later:

The neutrality of state power vis-à-vis different worldviews, which guarantees equal individual liberties for all citizens, is incompatible with the political generalization of a secularized worldview. Secular citizens, in their role as citizens, may neither deny that religious worldviews are in principle capable of truth nor question the right of their devout fellow-citizens to couch their contributions to public discussions in religious language. A liberal political culture can even expect its secular citizens to take part in the efforts to translate relevant contributions from religious language into a publicly intelligible language. (Habermas, 2008, p. 113).¹²

In Habermas’ view, the liberal state must not discourage religious persons and communities from expressing themselves in a religious language in public discourse, “for it cannot be sure that secular society would not otherwise cut itself off from key resources for the creation of meaning and identity” (Habermas, 2008, p. 131).

¹² It is a similar, but not quite the same idea when Rawls speaks of “reasoning from conjecture”: “In this case we reason from what we believe, or conjecture, may be other people’s comprehensive doctrines, religious or philosophical, and seek to show them that, despite what they might think, they can still endorse a reasonable political conception of justice. We are not ourselves asserting that ground of toleration but offering it as one they could assert consistent with their comprehensive doctrines.” (Rawls, 1999, p. 591; see also p. 594).

Rawls has listed a number of examples, in which he sees *positive* reasons for people to explicitly introduce their comprehensive doctrines into public discussion.

“Consider, for example, a highly contested political issue—the issue of public support for church schools. Those on different sides are likely to come to doubt one another’s allegiance to basic constitutional and political values. It is wise, then, for all sides to introduce their comprehensive doctrines, whether religious or secular, so as to open the way for them to explain to one another how their views do indeed support those basic political values.” (Rawls, 1999, p. 593).

Rawls also refers to the religiously motivated Abolitionists in the nineteenth century and Martin Luther King’s Civil Rights Movement in the twentieth century as positive examples of religious perspectives that were productively introduced into the civil debate to support reasonable conceptions of political justice, or, we might say, to support basic human rights. He even advocates a form of religious argument as legitimate that he calls “witnessing”, in which citizens express their religiously justified dissent in certain points (e.g. the Quakers’ strict pacifism or the Catholic opposition to abortion) without questioning the constitutional democratic society and its majority decisions principally (cf. Rawls, 1999, p. 595).

4 Conclusion: Implications for Religion and Human Rights in Public Education

Rawls’ and Habermas’ political theories including the interpretations and further deliberations by Bielefeldt have far reaching implications for public education in general and the role of religion and human rights in public education in particular. I will concentrate my deliberations on seven points.

1. Both Rawls and Habermas have developed theoretical perspectives and arguments that can support and consolidate what I have called the pluralist reading of human rights. It should have become evident that the concepts of public reason, overlapping consensus and complementary learning processes through translation ensure a reasonable well-reflected balance between the universalistic claim of human rights and the significance of specific religious perspectives in pluralistic societies. In this framework religions are in principle valued positively as potential resources of humanity and important social forces within societies that can support human rights and contribute to their understanding, dissemination and further development on several levels and in multiple ways. Yet, they are also realistically perceived as potential impediments to human rights, if they are not willing to accept the human rights’ normative priority in the public space in case of conflict with religious values.
2. In this framework education and learning are of pivotal importance. It is true that human rights, as all legal systems, have a double character, which Habermas concisely named in the book title of his legal philosophy “Between Facts and Norms” (German original: 1992, in English: 1996): They are, on the one hand,

legal rights that can be factually enforced by coercive measures. On the other hand, they imply what a society views as ethically valid, normative and legitimate. As both Rawls and Habermas emphasize, political culture in liberal democratic societies lives from the consent of their free and equal citizens to basic political values and rights. Habermas has rightly pointed out that in this respect there can be no coercion, but this consent can only be the consequence of a learning process—which cannot be guaranteed.¹³ Because citizens in democratic societies are considered as free and equal, the importance of a liberal, non-manipulatory education that stimulates such learning processes cannot be overestimated. In almost all parts of the theoretical framework sketched here the task of education and learning is implicitly present. It becomes especially prominent and explicit in Habermas' concept of a complementary learning process of religious and nonreligious citizens and Bielefeldt's idea of human rights discourse as a common learning process of people from various cultures, religions and worldviews. At the core of these learning processes seems to be the virtue of self-reflection that helps to realize the limits and particularity of one's own worldviews—whether secular or religious—and thus to become open to the worldviews of others and to the acknowledgement of public reason as a common ground. This, consequently, constitutes a substantial dimension both of human rights education and public religious education.

3. Taking Habermas' concept of complementary learning processes of (diverse) religious and (diverse) nonreligious citizens seriously, would mean to assign academically grounded religious education a central role in public education as well as in human rights education. Such religious education can on the one hand undertake the task of disclosing to religious students possible religious justifications and interpretations of democratic institutions and liberal values such as human rights in terms of Rawls' overlapping consensus. On the other hand, it can also serve the objective of "preserving a sense for the articulative power of religious languages" (Habermas) in secular, nonreligious students (but also in their religiously affiliated, yet mostly not well religiously educated fellow students). To this end, an introduction into religious language(s) and religious insider perspectives seems just as necessary as an introduction into possibilities—and successful models—of translating (a particular) religious language in such a way that it becomes accessible to students with secular worldviews or other religious backgrounds.
4. Defining these basic tasks of public religious education means, of course, challenging all those approaches of religious education or courses of religious studies that confine themselves to teaching about religion in terms of a phenomenological, informational approach. To be sure, offering information about various religions and worldviews in public schools is doubtlessly likely to

¹³ It is in this context that the famous quote from German constitutional law expert Ernst Wolfgang Böckenförde belongs that "the liberal, secularized state lives from preconditions which it cannot itself guarantee" (Böckenförde, 1976, p. 60).

promote tolerance and understanding and thus facilitate a peaceful coexistence in a pluralistic society. However, in analogy to Rawls' overlapping consensus it can be said that the basis for such a coexistence will be broader, deeper and more enduring, if students realize that different religions and worldviews have in the past contributed and are still contributing to the common good in society and that they support and promote the understanding of the basic political values on which societal cohesion is built. Thus, it will be shown that diverse religions and worldviews deserve not only respect but also openness to learning from them. Such a concept of public religious education is likely to foster not only a weak form of tolerance between people with different religious and non-religious worldviews, but a strong form of tolerance that implies mutual acceptance of the different Other—in his or her remaining otherness and strangeness—and the openness to cooperate for the sake of a better life for all. It also requires the promotion of critical thinking about the tensions and conflicts between religions and human rights. Learning to discuss critically controversial issues of religions in a peaceful manner is an important objective of public religious education that can contribute to a democratic culture of debate in our societies.

5. It should be remembered, however, that Rawls' idea of the overlapping consensus is not an empirical description but a normative challenge. As outlined above, it relies on the already found consensus of fundamental constitutional norms and political values that *challenges* the diverse comprehensive doctrines to find internal perspectives of endorsing these political values and thus to pave the way towards an overlapping consensus that had not existed before. With regard to public religious education this implies a *triadic* rather than a dyadic structure of learning. The complementary learning processes of religious and non-religious people (Habermas) are not just about learning from each other in the sense of interreligious learning, but are always directed towards and informed by public reason, in its consolidated form of basic constitutional and political values such as generally acknowledged human rights, and in its fluid form of public or human rights discourse. Consequently, in addition to the above mentioned two major tasks of public religious education—introduction into religious language(s) and introduction into ways of translating them into publicly accessible language—a third fundamental task consists in the introduction into the language and basic concepts of public reason and public space.
6. Vice versa it is desirable to integrate religious and worldview perspectives in concepts of civic or citizenship education and human rights education. As initially pointed out, in contemporary concepts of human rights education secular arguments and perspectives tend to dominate teaching and learning while religious perspectives are marginalized or excluded.
7. Taking the ideas of overlapping consensus and complementary learning processes seriously, however, also has a bearing on public education beyond human rights education and religious education. It implies, namely, a *pluralist understanding* of the “secular” or ideologically “neutral” character of institutions of public education such as schools and their educational objectives. Just as society as a whole is bound together by common political values on the basis of public

reason—among which human rights values play a pivotal role—public education is guided by major educational values that correspond to the political values and are based on public reason as well as, we might say, ‘educational reason’. Here, in the field of public education also, an overlapping consensus should be envisaged, to which the different religions and worldviews can contribute. The diverse religious and worldview communities should be allowed to introduce their convictions into public discourse on public education issues. Public schools should not be places where religions and worldviews are excluded, because they are considered to disturb school peace and productive learning. Rather public schools should be places in which diverse religious and nonreligious teachers and students are allowed to express their religious or nonreligious convictions—in a way that conforms with and at best supports the educational objectives and principles of public education, which include the promotion of complementary learning processes of religious and nonreligious students.¹⁴

To conclude, it can be said that a pluralist reading of human rights in the framework offered here has far-reaching implications for public education on different levels. The authors of this book publication may not all fully subscribe to this framework. But all of them hope with their texts to contribute to an improved, conceptually sound integration of religious aspects into human rights discourse and education as well as to a wider and more profound integration of human rights into theological discourse and of human rights education into public religious education.

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¹⁴ This, of course, should also apply to faith-based schools. Their existence can be seen as supporting the idea of liberal pluralism in the field of public education. Similar to public religious education they offer the special chance to disclose to their students specific religious ways of understanding and promoting human rights and other societal values and at the same time to facilitate openness to learning from other religions and worldviews (for more on human rights and religious schools see Pirner, 2012).

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Prof. Dr. Manfred L. Pirner is Professor of Religious Education at the Friedrich-Alexander-University Erlangen-Nürnberg, Germany.

Part II
Human Rights and Religion:
Interdisciplinary Perspectives
and Examples

Human Rights and Islamic Legal Tradition: Prospects for an Overlapping Consensus

Ziba Mir-Hosseini

Abstract The encounter between human rights law and Islamic legal tradition was largely academic until the last decades of the twentieth century. Following the widespread international adoption of human rights instruments such as CEDAW, and the concurrent rise of Islamist political movements that attempted to enforce pre-modern interpretations of the Shari'a, adherents of the two seemed destined for conflict; at least for growing mutual distrust and contempt. But is this clash inevitable?

Can we find a way of reconciling these two polarized forces? Is there common ground on which they can engage in productive debate? While the case has been made that some advocates of universal human rights show ethnocentric if not 'fundamentalist' tendencies that they would do well to reflect upon, in my paper I shall focus on the new reformist and feminist voices in Islam, and their potential and promise for changing the terms of the debate with human rights law. I shall explore the political and hermeneutical challenges faced by advocates of human rights in Muslim contexts, and the prospects of success in translating the religious value of human dignity into legal rulings within an Islamic framework. The struggle for human rights in Muslim contexts, I argue, is enmeshed in an intricate dialectic between theology and politics, both of which must be acknowledged if we are to find the common ground with human rights.

The encounter between Islam and human rights has been the subject of impassioned and tangled debate. This debate is nowhere more intense and polarized than in the area of women's rights, which in most Muslim-majority countries continues to be regulated by the patriarchal ethos of established interpretations of the *Shari'a*. With the expansion of human rights discourses in the 1970s and 1980s, and the concurrent rise of Islamist political movements, adherents of the two viewed each other

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Z. Mir-Hosseini (✉)

Centre for Middle Eastern and Islamic Law, University of London, London, UK

e-mail: zm4@soas.ac.uk

with growing distrust and contempt; they seemed destined to clash. But was this clash inevitable? Can we find a way of reconciling these two polarized forces? Is there common ground on which they can engage in productive debate?

I want to explore the political and hermeneutical challenges faced by advocates of human rights in Muslim contexts, and their potential and promise for changing the terms of the debate between Islam and human rights law. I shall do this with particular reference to *Musawah*, which defines itself as a global movement for equality and justice in the Muslim family. *Musawah*—which means equality in Arabic—was initiated by the pioneering Malaysian pressure group, *Sisters in Islam*. Launched at a large gathering in Kuala Lumpur in February 2009, it is among the new reformist and feminist voices that are working within both Islamic and human rights frameworks. In *Musawah*, we (I was one of founding members) seek to link scholarship with activism to bring fresh perspectives on Islamic teachings and to contribute constructively to the reform of family laws and practices.

My aim here is twofold. Firstly, to explore the work of these new reformist and feminist voices and the prospects of their success in forging an overlapping consensus between Islamic legal tradition and international human rights laws. Secondly, to show how the struggle for human rights in Muslim contexts is enmeshed in an intricate dialectic between religion and politics, which must be recognized if we are to find the common ground.

1 My Approach and Premises

But first, a word on my position: where I am coming from. My approach and analysis are those of a trained legal anthropologist, but I do not claim to be a detached observer. As a believing Muslim woman, I am a committed participant in the debates over—and the struggle for—gender equality in law; and those who are familiar with my publications know that my research has centred on the laws regulating sexuality in the Islamic legal tradition, i.e. family law, rulings on *hijab* (women's covering) and *zina* (sex outside marriage). I examine these laws from a critical feminist perspective, and attempt a kind of “ethnography” of the juristic constructs on which the whole edifice of gender inequality in Islamic legal tradition is built. This paper is based upon my perspective as an insider to the debates, as an advocate of women's human rights in Islam; but also, given my home discipline, anthropology, as an observer of my own participation in the debates.

I also want to make a plea for more clarity and honesty in these debates about Islamic and human rights law, and to point to their rhetorical and political dimensions, such that these debates have become a front, a battlefield, for unstated agendas and identity politics.

Thus, there is a plethora of literature and a host of arguments, both in the media and in academia, seeking to convince us that Islam and human rights are incompatible. The problem with such arguments is that both “human rights” and “Islam” are “essentially contested concepts”, a term that I take from the philosopher Bryce

Gallie, who coined it for those concepts that have “disagreement at their core”, such as “religion”, “social justice”, “work of art” and “democracy”; these are evaluative concepts that involve endless disputes about their proper use on the part of their users (Gallie, 1956). In other words, they mean different things to different people and in different contexts, and are subject to multiple discourses and widely ranging perspectives that can be addressed at different levels. Proponents of both Islam and human rights, however, claim universality and the aim of ensuring justice and proper rights for all humanity. But, as anthropologists remind us, “the universal can never establish itself because it must be approached from the specific” (Dembour, 2001, p. 75). This is indeed the paradox of the universality of human rights; its universal values and norms can never free themselves from the specific contexts that shaped them and the struggle to achieve them. In other words, the universal values of human rights always encompass the particular setting in which they are translated into action—and this dynamic tension between the universal and the particular is indeed necessary and healthy.

I use the notion of “human rights” in a relatively limited sense, as a framework that began in 1948 with the *Universal Declaration of Human Rights*, and has been developed by the United Nations in subsequent documents and instruments. These documents are the product of a specific political experience, the holocaust; they are the expression of a moral and political commitment to humanity against the coercive power of the state. In the words of Louis Henkin, a participant in the process of establishing international norms,

“Developed during the decades following the Second World War, international human rights are not the work of philosophers, but of politicians and citizens, and philosophers have only begun to try to build conceptual justifications for them. The International expressions of rights themselves claim no philosophical foundation, nor do they reflect any clear philosophical assumptions; they articulate no particular moral principles or any single comprehensive theory of relations of the individual to society. That there are ‘fundamental human rights’ was a declared article of faith, ‘reaffirmed by the peoples of the United Nations’ in the United Nations Charter. The Universal Declaration of Human Rights, striving for a pronouncement that would appeal to diverse political systems governing diverse peoples, built on that faith and shunned philosophical exploration” (quoted in Waltz, 2004, p. 801).

As human rights approaches are relatively well known, I shall devote more attention here to the legal tradition in Islam, and the crucial distinction between *Shari’a* and *fiqh*. *Shari’a*, literally “the way”, in Muslim belief is the totality of God’s will as revealed to the Prophet Muhammad in the Koran. *Fiqh*, literally “understanding”, is the science of jurisprudence, the process of human attempts to discern and extract legal rules from the sacred sources of Islam—that is, the Koran and the Sunna (the practice of the Prophet, as contained in *hadith*, traditions), as well as the “laws” that result from this process. What we “know” of *Shari’a* is only an interpretation, an understanding; *fiqh*, on the other hand, like any other system of jurisprudence and law, is human and mundane, temporal and local. Any claim that a specific law or legal rule “is” *Shari’a*, is a claim to divine authority for something that is in fact a human interpretation.

It is essential to stress this distinction and its epistemological and political ramifications. *Fiqh* is often mistakenly equated with *Shari'a*, not only in popular Muslim discourses but also by specialists and politicians, and often with ideological intent: that is, what Islamists and others commonly assert to be a “Shari'a mandate” (hence divine and infallible), is in fact the result of *fiqh*, juristic speculation and extrapolation (hence human and fallible).¹ In line with emerging feminist voices in Islam, I contend that pre-modern interpretations of the *Shari'a* can and must be challenged at the level of *fiqh*, which is nothing more than the human understanding of the divine will—what we are able to understand of the *Shari'a* in this world at the legal level. In other words, so-called “Islamic law” consists of “man-made” juristic constructs, shaped by the social, cultural and political conditions within which Islam's sacred texts are understood and turned into law. I suggest that it is more analytically fruitful and productive to speak of “Islamic legal tradition” rather than “Islamic law”.

I also suggest that we must be wary of statements beginning “Islam says...” or “Islam allows...” or “Islam forbids...”. Islam does not speak, rather it is people who claim to speak in the name (that is, with the authority) of Islam, selecting sacred texts, usually out of context, that appear to justify their claims, and repressing other texts that oppose them. Moreover, those who talk of *Shari'a*, or indeed of religion and law in relation to Islam, often fail to make another distinction now common when talking of “religion” in other contexts, namely, between faith (and its values and principles) and organized religion (institutions, laws, and practices). The result is the pervasive polemical and rhetorical trick of either glorifying a faith without acknowledging the abuses and injustices that are committed in its name, or condemning it by equating it with those abuses. Of course, faith and organized religion are linked, but they are not the same thing, as implied by conflating them in the labels “Islamic” or “religious”.

In short, we may talk about religion, law and culture as distinct arenas of human behavior, but in practice it is hard to separate them. Social reality is far too complex. Religious beliefs and practices not only are shaped by the cultural contexts in which they originate, function and evolve, but they also influence cultural phenomena. Law, too, not only controls behavior but is shaped by religious as well as cultural practices; and all these beliefs and practices are in turn subject to relations of power—rulers, governments, structures of inequality. The meanings of laws and religious practices also change with shifts in the power relations in which they are embedded, and in interaction with other cultures and value systems. The same holds true for international human rights laws and instruments; not only are they the products of culture and power relations, they also have produced a new culture of international rights. Merry (2003) discusses with insight the ways in which “culture”—and, along the way, anthropology as a discipline that studies culture—has been demonized in certain human rights discourses, which do not take into

¹ Among current scholars of Islamic law, Kamali (2006, pp. 37–39) and El Fadl (2001, pp. 32–35) use this distinction; An-Na'im (2000, pp. 33–34) does not.

consideration the rethinking of the concept of culture in anthropology in recent decades. This has parallels with the demonization of religion by those unaware of theoretical developments in religious studies.

2 The Turning Points

After this prolonged introductory note, let us now move to what I see as the first turning point in the encounter between Islamic legal tradition and international human rights laws. It is important to remember that Muslim states were participants in the process of constructing the key human rights standards and norms embodied in the three documents that now form the bed-rock of international human rights law: the Universal Declaration of 1948; and two binding treaties of 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Social, Economic, and Cultural Rights (ICESCR). Susan Waltz, in her study of the United Nations record of documents from 1946 to 1966, shows how Muslim and Arab diplomats participated in the process. These documents show not only the sharp difference of opinion and approach among the diplomats representing Muslim states, but also the role they played in shaping UN standards and instruments. There were tensions and disagreements, but there was also room for dialogue and consensus building. Significantly, with the exception of Saudi Arabia, these diplomats represented Muslim countries at a time when secular and liberal tendencies were dominant in those states.

But the 1967 Arab-Israeli war and the subsequent radicalization of Muslim politics changed everything; and two events in 1979 placed the advocates of Islamic legal tradition and international human rights law in two opposite camps. The first was the Iranian Revolution, which brought an end to a US-backed monarchy and introduced an Islamic Republic. This marked a zenith in the revival of Islam as both a spiritual and a political force. The second event was the adoption by the UN General Assembly of CEDAW (the Convention on the Elimination of all forms of Discrimination against Women). This gave a clear international legal mandate to those advocating equality between men and women, and to the notion of women's rights as human rights.

The decades that followed saw the concomitant expansion, globally and locally, of two equally powerful but opposed frames of reference. On the one hand, with the encouragement of CEDAW, in the 1980s the international women's movement expanded. CEDAW gave women's rights activists what they needed most: a point of reference, a language and the tools to resist and challenge patriarchy. By the early 1990s, a transnational movement coalesced around the idea that violence against women was a violation of their human rights, and succeeded in inserting it into the agenda of the international human rights community. In their campaigns, they made visible various forms of gender-based discrimination and violation rooted in cultural traditions and religious practices. Protection from violence

became a core demand of women's human rights activists (Merry, 2006, pp. 19–24).

In Muslim contexts, on the other hand, in Iran and some other countries, Islamist forces—whether in power or in opposition—started to invoke Islam and Shari'a as a legitimizing device to reverse the process of reform and secularization of laws and legal systems that had begun earlier in the century. Tapping into popular demands for social justice, the Islamist rallying cry of “Return to Shari'a” led to the (re-) introduction of laws that conformed with traditionalist Islamic jurisprudence, notably regressive gender policies, with devastating consequences for women: compulsory dress codes, gender segregation, and the revival of cruel punishments and out-dated patriarchal and tribal models of social relations.

Political Islam's drive for “Islamization”, however, had some unintended consequences; the most important was that, in several countries, the classical jurisprudential (*fiqh*) texts were brought out of the closet, exposing them to unprecedented critical scrutiny and public debate. A new wave of Muslim reform thinkers started to respond to the Islamist challenge and to take Islamic legal thought onto new ground. Unlike earlier twentieth-century reformist thinkers, these new thinkers no longer seek an Islamic genealogy for modern concepts like equality, human rights and democracy. Instead, they place the emphasis on how religion is understood, how religion knowledge is produced, and how rights are constructed in Islamic legal tradition. They also use the conceptual tools and theories of other branches of knowledge to expand on the work of earlier reformers and develop further interpretive-epistemological theories. In this respect, the works of Mohammad Arkoun (Günther, 2004), Khaled Abou El Fadl (2001), Nasr Hamid Abu Zayd (Kermani, 2004), Mohammad Mojtahed Shabestari (Vahdat, 2004) and Abdolkarim Soroush (Sadri and Sadri, 2000) are among the most important.

Meanwhile, attempts by Islamists in Iran, Pakistan and elsewhere to translate anachronistic patriarchal interpretations of the *Shari'a* into policy provoked many women to increasing criticism of these notions, and spurred them to greater activism. Increasingly, women came to see no inherent or logical link between Islamic ideals and patriarchy, nor any contradiction between their Islamic faith and their struggle for equality. By the early 1990s, there were signs of a new way of thinking about gender that is feminist in its aspiration and demands, yet Islamic in its language and sources of legitimacy (Badran, 2002, 2009; Mir-Hosseini, 1996, 2006). Some versions of this new discourse came to be labelled “Islamic feminism”—a conjunction that was unsettling to many Islamists and some secular feminists. This new discourse has been nurtured by feminist scholarship that is reclaiming the egalitarian message of the *Qur'an*, and developing a critique, from within, of patriarchal ethics of the *Shari'a* and of the gender biases of *fiqh* texts.

In short, these developments brought Muslim women onto centre stage and made them active participants in the production of religious knowledge and in the process of law making. At the same time, the idea of gender equality became inherent to global conceptions of justice, acquiring a clear legal mandate through CEDAW, which all Muslim states (except Iran, Somalia and Sudan) have ratified—though in most cases subject to “Islamic reservations” (Krivenko, 2009; Musawah, 2011).

The politics of the “war on terror”, in the aftermath of the 11 September 2001 attacks in the USA, brought another level of entanglement to the politics of human rights and Islam. The illegal invasions of Afghanistan and Iraq—both partially justified as promoting “human rights” and “women’s rights”—combined with the double standards employed in promoting UN sanctions, showed that international human rights and feminist ideals, like the *Shari’a* and Islamic ideals, are open to manipulation, and that there is a wide gap between the ideals and the practices of their proponents (Mir-Hosseini, 2012).

3 A New Dialogue

Many of us, as scholars and activists, found ourselves in the crossfire. On the one hand, Islamists were denying us equality in the name of *Shari’a*, and on the other, hegemonic global powers were pursuing a neo-colonial agenda in the name of feminism and human rights. The way out of this predicament, for us, was to bring Islamic and human rights frameworks together. Otherwise, our century-old quest for equality and democracy would continue to remain hostage to the fortunes of domestic political groups and global agendas. In February 2007, Zainah Anwar, founder and director of the established Malaysia-based women’s group *Sisters in Islam*, took the initiative to organize a workshop in Istanbul that brought together a diverse group of activists and scholars from different countries. *Sisters in Islam* is one of the few Muslim women’s organizations that has no qualms in identifying as both Islamic and feminist. Since its inception in 1988 it has argued for women’s rights and equality within an Islamic framework (Anwar, 2013). The Istanbul meeting led to the formation of a planning committee, charged with the task of setting out the vision, principles and conceptual framework of a new global movement with the aim of forging a new strategy for reform.

Given the close link between religious and political identity in Muslim contexts, if we wished to abolish patriarchal laws and customs among Muslims, we knew that it was not enough, and it is sometimes counterproductive, to dismiss them as anachronistic or attack them on human rights grounds only. To achieve sustainable and deep-rooted change we needed dialogue and consensus; we knew that we must demonstrate the injustices that arise from patriarchal customs and laws based on the classical *fiqh* notion of marriage; and, in this case, we must offer defensible and comprehensible alternatives within a framework that recognizes equality and justice in Islam. This is only possible by linking scholarship with activism and developing a holistic framework that integrates Islamic teachings, universal human rights law, national constitutional guarantees of equality, and the lived realities in Muslim contexts.

To this end, we commissioned a number of concept papers by reformist thinkers such as Amina Wadud, Khaled Abou El Fadl and Muhammad Khalid Masud. We used them as a way of opening new horizons for thinking, to show how the wealth of resources within Islamic tradition, and in the *Qur’anic* verses on justice,

compassion and equality, can support the promotion of human rights and a process of reform toward more egalitarian family relations. These papers were published as the book *Wanted: Equality and Justice in the Muslim Family*, available in Arabic, English, and French, and became the basis of a wider discussion with a larger group of scholars and activists (Anwar, 2009). This discussion then shaped the *Musawah Framework for Action*, a document that took us 2 years to produce, in consultation with Muslim scholars and human rights and women's rights activists, and in the course of two other workshops in Cairo and London, followed by constant electronic communication among the members of the committee.

Drawing on the new wave of reformist thought and feminist scholarship in Islam, in the *Framework for Action* we grounded our claim to equality and arguments for reform simultaneously in Islamic and human rights frameworks. The distinction between *Shari'a* and *fiqh* gave us the language, the conceptual tools, to challenge patriarchy from within Islamic legal tradition. The genesis of the gender inequality inherent in Islamic legal tradition, we argued, lies in a contradiction between the ideals of the *Shari'a* and the patriarchal structures in which these ideals unfolded and were translated into legal norms. Islam's call for freedom, justice and equality was submerged in the norms and practices of Arab society and culture in the seventh century and the formative years of Islamic law. Patriarchal norms were assimilated into *fiqh* rulings through a set of theological, legal and social theories and assumptions that reflected the state of knowledge of the time, and were part of the fabric of society. This was done by the sanctification of existing marriage practices and gender ideologies and the exclusion of women from the production of religious knowledge.

The further we move from the era of the Prophet, we argued, the more we find that women are marginalised and lose their political clout; their voice in the production of religious knowledge is silenced; their presence in public space is curtailed; their critical faculties are so far denigrated as to make their concerns irrelevant to law-making processes. There is an extensive debate in the literature on this, which I will not enter. Some argue that the advent of Islam weakened the patriarchal structures of Arabian society, others that it reinforced them. The latter also maintain that, before the advent of Islam, society was undergoing a transition from matrilineal to patrilineal descent, that Islam facilitated this by giving patriarchy the seal of approval, and that the *Qur'anic* injunctions on marriage, divorce, inheritance, and whatever relates to women both reflect and affirm such a transition.

In February 2009, after 2 years of consultation with scholars and women's groups, *Musawah* went public with the *Framework for Action* at a gathering in Kuala Lumpur that brought together 250 Islamic scholars, human rights activists, policy-makers and women from 47 countries. For its first 5 years, *Musawah* and its small secretariat have been housed by *Sisters in Islam* in Kuala Lumpur, but it hopes to move elsewhere by the end of 2014. It has three inter-related areas of activities: knowledge building, international activity and outreach.

One of the main challenges that we face is that of bridging the gap between the conceptions of justice that underpin notions of gender in the classical *fiqh* texts that underpin Muslim family laws, on the one hand, and human rights documents such

as CEDAW on the other. In 2011 we initiated a long-term and multifaceted project on rethinking the two central juristic concepts, rooted in the *Qur'an*, that lie at the basis of this discrimination. These are *qiwamah* and *wilayah*, which as understood and translated into legal rulings by Muslim scholars place women under male authority. There are two interconnected elements to the project. The first is the production of new feminist knowledge that critically engages with those concepts and redefines them in line with contemporary notions of justice.² The second element of the project involves documentation of the life-stories of Muslim women and men in different countries with the aim of understanding how these two legal concepts are experienced, understood, and contested in their lived realities.³

For the project, we have commissioned eight background papers that expound and interrogate the construction of these two concepts in classical *fiqh* texts and their underlying religious and legal doctrines. These papers focus on the theological, jurisprudential, ethical, historical and sociological and legal aspects of *qiwamah* and *wilayah*; and naturally *Qur'anic* Verse 4: 34, from which the jurists derived the term *qiwamah*, is the centre of our inquiry. The Life Stories element of the project is revealing the extent of their disconnect from contemporary notions of justice and socio-economic imperatives. Our main objective is to bring insights from feminist theory and gender studies into the debates around Muslim family law, and to counter apologetic arguments based on ideology and hypothetical cases rather than on empirical evidence regarding women's experience and the lived realities of Muslim families.

International Advocacy is another area of *Musawah* activities, in which we engage with the International Human Rights treaties and instruments, with a particular focus on CEDAW. Our aim here is to break down the perceived dichotomy between "Islam" and "human rights" and to promote perspectives derived from the *Musawah Framework*. We have shared the Framework with the CEDAW Committee and other relevant actors, as an alternative approach that demystifies religious-based objections and constructs arguments based on Islamic teachings, human rights, constitutional guarantees of equality, and social realities. We have also submitted thematic reports on Article 16 of CEDAW, on which many Muslim states have placed reservations on the grounds of its incompatibility with "Islamic Shari'a".⁴ This article requires "state parties to take all appropriated measures to eliminate discrimination against women in all matters relating to marriage and family relations".

In order to understand the dynamics of interaction between these Muslim countries and the CEDAW committee, and to offer our egalitarian interpretation of the *Shari'a*, we conducted a study in which we reviewed the documents of 42 countries with a Muslim majority or significant Muslim minority populations

² See <http://www.musawah.org/what-we-do/knowledge-building>.

³ See <http://www.musawah.org/what-we-do/qiwamah-and-wilayah>.

⁴ See <http://www.musawah.org/international-advocacy/thematic-reports>.

that reported to the Committee between 2005 and 2010. Published as *CEDAW and Muslim Family Laws: In Search of Common Ground* (Musawah, 2011), the report consists of three parts. The first examines the justifications by Muslim states that failed to reform discriminatory elements of family laws in their countries. The second part examines the CEDAW committee's responses to such justifications. In the final part, we show how the *Musawah Framework of Action* can be used to respond to Muslim states' justifications for non-compliance and to open possibilities for more just and equal Muslim family laws.

The report reveals that the Muslim states and the CEDAW Committee have been talking across each other, and how the language and rhetoric of each side has hindered a meaningful dialogue. The justifications offered by states for their failure to introduce legal equality were either that the laws and practices in their respective countries are based on *Shari'a* and are therefore immutable, or that customs, traditions and culture prevent them from implementing the CEDAW Committee's recommendations. The CEDAW Committee, not being in a position to challenge the state's version of the *Shari'a*, reiterated its obligation to reform discriminatory laws and to comply with the Committee's recommendation. It is this dialogue of the deaf that we have aimed to break by introducing the *Musawah* framework, and in particular the crucial distinction between *Shari'a* and *fiqh*. Through training sessions and seminars, we have introduced the *Musawah* approach to women's human rights NGOs and activists who are involved in preparing CEDAW shadow reports and are engaging with CEDAW Committee members on key issues related to Islam and women's rights in their countries. Shadow reports, which are submitted by NGOs, provide activists with an opportunity to present their own narrative of the status of women's rights in their respective countries as distinct from that presented by their government.

In the area of outreach activities, *Musawah* aims to disseminate its approach and influence the public discourse on Islam and women. We do this through seminars and workshops, newsletters, our website and the new media (twitter and facebook) as well as organizing short courses on "Understanding Islam from a Rights Perspective" for women leaders and activities. The aim is to build the capacity of Muslim women leaders and activists, who are critically involved in working on the rights of women at the national, regional or international level, enabling them to respond the challenge of conservatism and extremism in their countries. Such courses are part of the process of reviving the lively legacy in the Islamic legal tradition of difference and diversity in *Qur'anic* interpretation and juristic opinion, a legacy that has become obscured in modern times with the instrumental use of Islam to serve the political interests of competing groups.

4 Concluding Remarks

Let me end by returning to the questions that I set out to explore in this paper. I sought to shift the focus from the impassioned and entangled debate on whether Islam and human rights are compatible, to the reality on the ground, that is, from theory to ethnography. I used the case of *Musawah* to show how new reformist and feminist voices in Islam are challenging from within the pre-modern conceptions of gender and rights in the Islamic legal tradition. The very existence of these voices is a clear indication that a “paradigm shift” in the Islamic legal tradition is well underway; pre-modern interpretations of the *Shari’a* that sanction discrimination on the basis of gender and faith are becoming irrelevant to the ethical values of many Muslims. We become aware of the old paradigm only when the shift has already taken place, when the old rationale and logic, previously undisputed, lose their power to convince and cannot be defended on ethical grounds.

The tension between religious traditions and international human rights laws is not confined to Muslim contexts, rather it is ubiquitous, and shades into on-going animated debates between universalism and cultural relativism. In the case of Islam, however, this tension has a sharp political edge because of the unresolved issue of Palestine, and the rise of post-colonial Islamist movements in the last 2 decades of the twentieth century. In the new century, the “war on terror” has added a new layer of complexity to the situation. Rightly or wrongly, many Muslims perceive the war to be directed against them and their religion. This has not only increased their sense of insecurity and the appeal of traditional values, it has also, in their eyes, eroded the moral high ground of human rights law.

Recent developments in the Muslim world suggest that we are on the threshold of a new phase of relations between Islamic and human rights legal systems, which has been ultimately catalysed by reactions to both the Islamist slogan of “return to *Shari’a*”, and the US escalation of the “war on terror”. Both “Islamic” and “international human rights” laws have been desanctified, and both have been discredited for their frequent manifest failures in practice to live up to their claims and promises. Advocates of both “Islam” and “human rights” have had to acknowledge that gross injustices have been carried out in the names of both; that we need to separate ideals from practices; that we must not compare the ideals of Islam with Western practices, nor the ideals of human rights with Muslim practices.

This new realism has changed the terms of the debate, and shifted the politics of “Islam” and “human rights” to a level where an honest and constructive dialogue has become possible. But a true dialogue is only possible when the two parties treat each other as equals and with respect; otherwise it is a dialogue of the deaf. And it is precisely this dialogue of the deaf that new feminist and reformist voices in Islam are aiming to end. In doing so, they are paving the way for an overlapping consensus between Islamic legal tradition and human rights law. This consensus can only come through education on both sides, and through engaging in an internal dialogue within Muslim communities, as well as cross-cultural dialogue to show how the principles and ideals of Islam reflect universal norms that have resonance

in contemporary human rights standards. What is missing is the political will to see this dialogue take place, and put its agreements into practice.

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Dr. Ziba Mir-Hosseini is Professorial Research Associate at the Centre for Middle Eastern and Islamic Law, University of London, UK, a legal anthropologist and women's human rights activist.

Human Rights Between Universalism and Religious Particularism

Friedrich Lohmann

Abstract Religions in past and present are marked by an ambivalence with regard to the universal scope of human rights. They foster the universalism inherent to human rights, but they also establish exclusive claims that, e.g., restrict unlimited and free exercise of religion in a particularistic manner to the own religion. The present contribution traces this ambivalence back to the inner character of religion, namely to the idea of a transcendent, salvific reality which is included in any religious interpretation of life. This idea sets free immediate feelings of exclusive belonging, but it also entails an attitude of self-relativization, tolerance, and solidarity which is in affinity with the human rights universalism and should prevail in the long-term reflection about one's own religion. This leads to the following conclusion: religious education as self-enlightenment is human rights education.

1 Introduction

Imagine there's no heaven
It's easy if you try
No hell below us
Above us only sky
Imagine all the people living for today
Imagine there's no countries
It isn't hard to do
Nothing to kill or die for
And no religion too
Imagine all the people living life in peace.
[...]
Imagine no possessions
I wonder if you can

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F. Lohmann (✉)
University of the German Armed Forces, Munich, Germany
e-mail: friedrich.lohmann@unibw.de

No need for greed or hunger
 A brotherhood of man
 Imagine all the people sharing all the world.

Already in 1971, long before “9-11” and the intense discussion about religiously fueled violence this event has brought about, John Lennon immortalized doubts on the peacefulness of religions in his song “Imagine”. He puts religion in a line with nationalism: just as the subdivision of the world into nations, “countries”, favors peace-inhibiting claims of belonging, religions and their ideas of salvation legitimize killing others or oneself. Following John Lennon, it is only in a world without religion that the universal “brotherhood of man” can become reality.

This critical view of religion—and John Lennon is just one of its many adherents—seems to be the backdrop of the tension expressed in the title of my contribution: “human rights between universalism and religious particularism”. What is the issue at stake? Well, human rights by definition have a universal scope. They state claims that can be made by *every* human being as a human being. If we said: “there is freedom of thought only for those wearing glasses”, we would be stating a right of those wearing glasses, but not a human right. Human rights are characterized by the fact that they do not establish differences. Without any privilege or exclusion, they endow *all* human beings equally and universally with the same rights. They stand for Lennon’s “brotherhood of man, sharing all the world”. Religions, in contrast, seem to be shaped by the fact that they put into effect feelings of belonging which are particular, not universal. Just as the idea of a nation feeds on the distinction from other nations, religions seem to claim exclusivity: some are members of “my” religion, others are not. And the “heaven” I am hoping to get to is also exclusive: access to it can be granted only to those who share my religion, not to every human being universally. This exclusivism often has the immediate consequence of denying free exercise of religion to members of other religious groups. Therefore, religious particularism indeed opposes human rights universalism. And religious belonging seems to foster violence even stronger than nationalism because what is at stake in religion is not only the distribution of power on earth—John Lennon speaks of “possessions”—, but literally heaven and hell.

So far, this is the critical image of religion that puts its focus on religious particularism and therefore emphasizes the incompatibility of a religious worldview and the idea of human rights and their essential universalism. A current proof for its relevance is, e.g., Joseph Kony’s “Lord’s Resistance Army” and its ideology that represents a bloody synthesis of messianic chosenness, chiliastic eschatology, and a biblically founded ideal of purity (Kaplan, 2010, pp. 89–90). On the other hand, there are more than enough examples in the history of humanity where a religious worldview and effort has brought forward peace, in sharp contrast to John Lennon’s skeptical approach. Markus Weingardt’s book “Religion Macht Frieden” (“Religion Makes Peace”) is just one recent publication that documents religiously motivated peacebuilding efforts in our time (Weingardt, 2007; see also Czada, Held, & Weingardt, 2012; Mokrosch, Held, & Czada, 2013). An example is the work of the “Truth and Reconciliation Commission” in post-Apartheid

South Africa, in which representatives of the church played a key role. Many of the greatest pacifists of all time have been deeply religious people, and the issue of human rights was and is supported by many religions of the world, even if it is true that this was not always the case.

How can this “ambivalence of religion” (Oberdorfer & Waldmann, 2008), this “Janus face” (Forst, 2013, p. 47) of religion with regard to human rights, be explained? Obviously, universalism *and* particularism can both be derived from religion. In order to get this straight, we are obliged to focus on the notions of the universal and the particular within religion. We could, perhaps we even should, change the title of my contribution slightly if we want to get through to the real problem: “religion between human rights universalism and particularism”. Which stance is taken up by a religious view of reality with regard to the egalitarian universalism as it is implied by the idea of human rights? Do religions by definition emphasize what is particular to them, the “you and me” (understood as an exclusive “you or me”)? Or is it, in contrast, possible to speak of an inherent affinity between religion and universalism? In this paper, I will argue for the second hypothesis, and I am going to contend that a religious person has a basically positive relation to human rights universalism, or that he or she at least should have one, following their own religious presuppositions of thought. The distinction from other people, “particularism”, is, then, only a secondary phenomenon of religion.

In order to justify this contention, I will first of all, in part two, focus on the characteristics of a religious view of reality within the many different views of reality we know. Following that, I am going to show that this substance of religion implies some human attitudes that foster human rights universalism. On the other hand, it seems to be possible to explain out of this substance why religions have particular implications as well. These particular implications and their degenerated offspring, religious particularism, will be the topic of part four of my contribution where I will also try to show that any religious particularism and exclusivism comes down to a misunderstanding of oneself. That is—and this will be my last thesis in the fifth part—the reason why religious education and self-enlightenment is so important. Someone who reflects on the foundations of his or her religious view of reality cannot help becoming a human rights universalist. Religious education is human rights education.

2 What Is Religion?

At first sight, it seems to be an easy task to provide a definition of religion, given that we use the word “religion” a lot. We use it in singular and in plural, and we use it as an adjective—“religious”. But what is the essential, sufficiently distinctive difference between a religious and an irreligious person? How can we define the phenomenon mirrored by this distinction?

What seems to be clear is the fact that religions are ways to interpret life. A religious person has a distinctive approach to reality, an approach from which he or

she interprets past and present, and then gains orientation for the further organization of personal living. But what, in turn, makes a religious approach to reality distinctive? What is characteristic of a religious interpretation of life? This is where the discussion about a specific notion of religion begins. I think there are four different proposals in the scientific debate on a definition of religion that can be distinguished.

The first, radical suggestion comes down to the claim to forego altogether the concept of religion as a mode of classification. This suggestion has gained momentum in the context of post-colonialism. “Religion” is deconstructed to be a Western concept, invented in order to restrict the legitimate plurality of religious expressions in the world, a tool of power, acknowledging religious value only to those expressions which are in conformity with the Western view of “religion”. Not all religious phenomena could be included by means of a unifying concept (Ahn, 1997, p. 519; Asad, 1993, p. 29). However, this last remark shows that those who are radically opposed to a unifying concept of religion, nevertheless, act on the assumption that some phenomena of life are to be called religious and others are not. And anyone who calls a certain kind of phenomena “religious” must presuppose a concept of religion, at least implicitly, which, then, is the tool to distinguish between religious and irreligious phenomena. This may be an analytical concept, developed at a writing desk (Smith, 1982, p. XI). But even those who are critical of such a concept cannot get along without it. Therefore, the only justifiable requirement from their side is not to forego altogether a concept of religion but to deduce it from the phenomena, without imposing it from a preconceived position.

Looking from the phenomena, the second suggestion characterizes a religious person by a certain *attitude*: religion is linked to an attitude of awe, if not submission. The original meaning of the Latin word “religio” speaks in favour of this view. Cicero and Lactantius already dealt with this original meaning in Antiquity, and both agree, despite all differences, that the word “religio” expresses such an attitude of awe (Schlieter, 2010, pp. 29–37). Today we often speak of “religious zeal”, which testifies to a similar connection. This example, however, also shows that a definition of religion by means of an attitude is not distinctive enough: someone can also wash his car or collect signatures against road construction with “religious zeal”.

The third suggestion is to understand religion through its *function*, the definition of religion as a practical search for meaning with the function of coping with contingency being particularly popular: religion helps to handle the imponderabilities of daily life (e.g. Luhmann, 1992). However, this approach also seems unable to capture the specific character of a religious interpretation of life. Coping with contingency is the aim of *each* comprehensive interpretation of life. A scientific explanation of life, e.g., has no other aim than that. The investigation of natural laws intends to understand seemingly contingent phenomena like lightning and thunder in order to cope with them. The difference with regard to a religious interpretation lies only in the fact that natural sciences relocate the reality-forming power into the natural world itself—by means of laws that are valid everywhere and everytime—, whereas a religious interpretation of reality finds the real cause in something that is beyond the world appearing to our senses.

This brings us to the fourth and last suggestion to determine what characterizes a religious view of reality: religion is marked neither by a specific attitude nor by a specific function; rather it is characterized by a significant reference to something beyond our world of space and time. Religion is consciousness of transcendence. It works with a concept of reality that is hierarchized. In the perspective of a religious interpretation, reality, being more than the here and now, has to be thought of as related to something else, something transcendent that is free from the limitations of human life on earth and relevant for salvation. This last point, the reference to salvation, is important. It distinguishes the religious consciousness of transcendence from other varieties of meta-physics, which speak of transcendence only in the perspective of an impartial observer. Religions take the perspective of do or die; for them, the success of one's life in its integrity is at stake. And this success presupposes an attitude of awe towards the "whole other" as well as a belief in its reality-defining power. Therefore, the attitude-oriented and the functional approaches to religion are not neglected here; primacy, however, is given to the *content* of religion and to its characteristically hierarchical notion of reality. This content-oriented definition of religion seems to me the one that is the most distinctive. It encompasses, without being too comprehensive, all phenomena which we usually call religious. Such a definition also enables a rather clear judgment about whether claims for religious privileges are raised rightfully or not. The worldview of Scientology, e.g., which is centered around a (more) successful life only here and now, would in this perspective be no religious worldview, Scientology could not be called a church.

3 Religion and Human Rights Universalism

A religious view of reality means a referring to transcendence with an attitude of awe. This basic attitude implies other attitudes which are the reason why so often in history religion and commitment to human rights were joined closely.

(1) From a religious perspective, the world of appearance, to which the thinking and acting ego belongs, is relativized. In the religions of the world, to be conscious of one's own finiteness and fallibility is as common a topos as it is to accept that all human knowledge is only preliminary. We can call this a tendency towards *self-relativization*. It should be even more pronounced in the monotheistic religions because they imagine the "whole other" not divided in a relativizing plurality of deities and therefore make the distance between the I and the origin of the saving reality particularly gaping (Lohmann, 2012). Self-relativization is here in close connection with an attitude of humility. If, as in Muslim, Jewish, and Christian belief, worship of the One God is accompanied by a ban to represent God in images, this interdiction mirrors exactly this feeling of distance: neither any object within the world of appearance nor any "religious" image produced by the believing person is able to do justice to the divine. Someone who knows about the Absolute and its distance from his or her own self will be particularly reluctant to claim

absoluteness. This has been formulated succinctly in a dictum that is attributed to Reinhold Niebuhr: “We all have a right to views of the Absolute, but none of us has a right to absolute views” (quoted in Shriver, 2002, p. 53). Insight into the relativity of one’s own thinking and acting implies the loss of any feeling of self-righteousness. In this sense, the whole message of Jesus can be interpreted as a challenge to the leaning towards self-righteousness present within the religious establishment of his time. And Jesus explicitly includes himself into this challenge. When someone approaches him as “good teacher”, he answers: “Why do you call me good? No one is good except God alone” (Luke 18:19 ESV). Someone who relativizes himself in such a manner is open to the claims of others, as they are expressed in human rights, and is not willing to ignore them in an attitude of self-righteousness.

(2) The relativization of the world of appearance also has important implications concerning the attitude of a religious person with regard to the differences that, on the surface, shape this world. “Around the hero everything becomes a tragedy; around the demigod everything becomes a satyr-play; and around God everything becomes—what? perhaps a ‘world’?” (Nietzsche, 1886/1907, p. 97 [Part 4, No. 150]). In this dictum, Nietzsche has the One God in mind in whose presence everything becomes world, the non-divine. But his dictum can be enlarged. For any religious view of reality, even when it does not involve theistic belief in a God, it is true that in face of the sacred everything else gets profane. This second relativization again has an important consequence with regard to human rights: it can become a source of *tolerance*, tolerance concerning differences that reveal themselves in social life but appear to be marginal from a religious standpoint. And the notion of “tolerance” is right to the point: we do not speak here of exact conformity nor of indifference. Tolerance implies to have a well-informed opinion and it contains both: a component of objection and a component of acceptance (Forst, 2013, pp. 18–23). Differences are “tolerated” within a large margin (whereupon the margin is decided by one’s own worldview).

(3) Insight into one’s own imperfection and need of salvation and the difference-neglecting effect of religion together lead to a feeling of *solidarity* with every being that has life and the same need of salvation. This feeling can express itself in a belief in creation that puts the whole world of appearance under the common sign of createdness. The image of a “brotherhood of man”, as sung by John Lennon, stems from this notion of a common passive origin of life. Common brotherhood means to have common parents and to owe one’s life to a similar act of origination. “Did not he who made me in the womb make him? And did not one fashion us in the womb?” (Job 31:15 ESV). This is, in his oath of purity, the question of the biblical Job regarding his servant, a rhetorical question because Job wants to say that his servant has, stemming from this common origin, rights that Job would never have even thought to impinge upon. Later in history, it was Las Casas who based himself on the same belief in creation, spoke of a natural right of kinship between all human beings (Las Casas, 1994, p. 310), and inferred from it that the native Americans as well, as any other human beings, ought to be evangelized by the word and not by the sword (e.g., Las Casas, 1994, p. 107). A religious view of reality with its connected

belief in a common origin implies a solidarity between humans that is both universal and egalitarian. This is an important backing for the idea of human rights that is decisively determined by the conviction that each human being as a human being has equal rights, independently of any socially grown differences in standing and possession.

Self-relativization, tolerance, and solidarity—when emphasizing these three attitudes of a religious person, I find myself in agreement with the great theologian of religion Friedrich Schleiermacher. Schleiermacher attests that the religious person has “sensibility and taste for the infinite” (Schleiermacher, 1799/1996, p. 23) and infers from it consequences for the relationship between human beings: “And when we have intuited the universe and, looking back from that perspective upon our self, see how, in comparison with the universe, it disappears into infinite smallness, what can then be more appropriate for mortals than true unaffected humility? When we also perceive our fellow creatures in the intuition of the world and it is clear to us how each of them without distinction is his own representation of humanity just as we are, and how we would have to dispense with intuiting this humanity without the existence of each one, what is more natural than to embrace them all with heartfelt love and affection without any distinction of disposition and spiritual power?” (Schleiermacher, 1799/1996, p. 45). Each human being is an “own representation of humanity” that ought to be dignified—this basic conviction of the entire idea of human rights is supported by a religious view of reality that takes its own consciousness of transcendence seriously.

4 Religion and Particularism

For a religious person, nothing is “more natural than to embrace them all with heartfelt love and affection without any distinction of disposition and spiritual power” (Schleiermacher, 1799/1996, p. 45). Why then, given that the attitudes of self-relativization, tolerance, and universal solidarity are well-founded in a religious worldview, do religious persons in reality way too frequently not practice these attitudes and instead distinguish themselves by presumptuousness, intolerance, and exclusivism? My explanation for this discrepancy starts from the point where religions differ from a sort of cool, contemplating metaphysics: at the question of salvation which is immediately linked to religiousness. Religion deals with the “ultimate concern” of a human being (Tillich, 1951, pp. 11–15). This entails strong emotional ties, with the transcendent reality itself as well as with the intermediaries who represent it (prophets, priests). Religious communities come up which seem to offer a pre-sight of the other world and therefore all too often bring about exclusive separation, presumptuousness, and intolerance (Kippenberg, 2008). Or in a more individualistic variation: one thinks to have already found salvation and infers from it a pretension of certainty and truth which is not in accordance with the attitudes of self-relativization, tolerance, and universal solidarity. From the perspective of a theoretician of religion, both—the communitarian and the

individualistic variation of particularism—can be identified as fundamental misunderstandings, because they wrongly attribute the infinite, comprehensive character, which belongs to the object of religious adoration, to its representatives on earth or one’s own feelings and convictions, even though these are merely humans or mere feelings and convictions of a finite consciousness. It is only through this mix-up and self-overestimation—and not through monotheistic belief in itself which is protected against such a misapplication by aniconism—that the violence-justifying “Mosaic distinction” (Assmann, 2010) between those who have the truth and those who do not have it comes to the fore. A mix-up which has had deadly consequences all too often throughout human history. Take, e.g., the following statement made by Augustine: “Wherefore, if the power which the Church has received by divine appointment in its due season, through the religious character and the faith of kings, be the instrument by which those who are found in the streets and hedges—that is, in heresies and schisms—are compelled to come in, then let them not find fault with being compelled, but consider the goal towards which they are being compelled” (Augustine, 1887, pp. 1279–1280 [Letter no. 185, 24]; translation amended; cf. Forst, 2013, p. 54).

The insight into the fact that the access to claims of truth, also in their religious form, has an unavoidable particular perspective (Lohmann, 2002) must be distinguished from such a sectarian particularism. The (correct) insight means that the infinite is present only in the finite, the general in the individual, the universal in the particular. This undeniable fact entails, by the way, besides a rehabilitation of individual consciousness just in its finiteness, also the *particula veri* of religious collectivization: human beings as bodily beings need also *in rebus religionis* the bodily community with others and the reciprocal uplifting in dialogue. But this high esteem of the particular, which results from the substance of religion itself, should never justify any form of self-righteous particularism. That is why it is the task of religious self-enlightenment, beyond this *particula veri*, to hold on to the basic distinction between two levels of reality as it is characteristic for a religious view of reality. This distinction is undermined when a person or a group of persons, while being part of the (relative) world of appearances, pretend absolute knowledge and withdraw on that foundation from the universal solidarity of all humankind or, even worse, appoint themselves as judges with legitimate power over diverging convictions and forms of belief, as did Augustine. As said before: this dangerous misunderstanding is, given the content of religious convictions, not without a reference point. Therefore religion demands continuous work of education, which supports both the insight into one’s own fallibility and finiteness as well as the insight into the enriching potential of interpretations of reality by oneself and others.

5 Religious Education as Education in Human Rights

With regard to the history of the human rights movement, the religions indeed show a Janus face: they have, represented by individual persons who were shaped by religious convictions, pushed forward the realization of the human rights idea decisively; but they also have stood in the way of this realization, by being self-righteous in their pretension of truth, oppressing movements of liberty and combating those who held other convictions.

In this history, when it comes to Christianity, it is a bold simplification to go with Jellinek (and Troeltsch) and to ascribe only to the Protestant free churches a positive contribution to the development of the human rights idea (Jellinek, 1895/1901). The theology of the reformers Luther and Calvin has in the long run promoted the human rights movement as well (Lohmann, 2010; Witte, 2007); the same is true for the Dominican Bartholomé de las Casas and his advocacy for the rights of native Americans. It was under Las Casas's influence that Pope Paul III stated already in 1537, "that the Indians, albeit living outside of the lap of the Church, are not and should not be deprived of their liberty and the dominion of their possessions, because they are human beings and therefore capable of belief and salvation, and they should not be destroyed by slavery, but invited to life by sermons and examples" (Paul III, 1537/2007, p. 493, translation F.L.). On the other hand, it is equally true that, over long periods of time, the main Christian churches had problems with the human rights idea. Concerning the Roman Catholic Church, Rudolf Uertz has retraced the long way leading to the "Declaration on Religious Freedom" of the Second Vatican Council (Uertz, 2005). And for the Protestant side it is symptomatic that Wolfgang Huber and Heinz Eduard Tödt, in their plea for human rights as "perspectives of a human world" which was published for the first time in the 1970s, still felt themselves obliged to classify the human rights into the themes "which are not of theological origin and nevertheless of theological relevance" (Huber & Tödt, 1988, p. 11), whereas it can be taken for granted today that the human rights are not alone, but *also* of theological origin.

Still in our days the religions present themselves ambivalently with regard to human rights. This is even more regrettable when it is taken into account that the religions could play a much more positive role, given their inherent tendency towards self-relativization, tolerance, and global solidarity, and their close link to the emotional needs of the human person. Often religions are instrumentalized by the governmental or civil elites in order to suppress the idea of human rights. "Religious" violence takes shape on a breeding ground with many sources, as can be shown by the "Lord's Resistance Army" which was already mentioned as an example above (Allen and Vlassenroot, 2010; Kaplan, 2010, pp. 80–117). Often the religions themselves stand in their own way, regressing, as explained above, into exclusive strategies of separation and claims of absolute truth. And often both, extrinsic and intrinsic factors, come together, secular and religious elites joining forces in an inscrutable amalgam in order to enforce their respective agenda. In these situations, it is crucial to support those who, within their respective religions,

recommit to the proper sense of religion, which is characterized by the intention to keep alive the consciousness of transcendence, free from all particular and secular interests, and, in this way, to make life in the present world more valuable through its relativization.

Such a religious self-enlightenment should be a focus of interest for all those who are interested in a world in which the respect of human rights plays a more important role than currently—in order to make John Lennon’s vision of a “brotherhood of man” a global reality, beyond all sorts of particularism. Religious education is education in human rights: Someone who elucidates the inner meaning of his or her religion cannot help becoming an advocate of universal human rights.

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Prof. Dr. Friedrich Lohmann is Professor of Protestant Theology and Ethics at the University of the German Armed Forces, Munich, Germany.

Test Case Freedom of Religion or Belief

Heiner Bielefeldt

Abstract The human right to religious freedom carries provocative potential. While freedom and equality with regard to matters of religious orientation and practice was—and is still being—campaigns against by religious traditionalists, the right to religious freedom is met with ever growing suspicion by liberal circles, too. This is a surprising phenomenon. Indeed, freedom of religion or belief may well be the only classical-liberal human right that arouses mixed feelings in some groups of the liberal scene, including even in the human rights community itself. This contribution describes irritations and misunderstandings with reference to recent examples from the United Nations. After that, I am going to deal with the question of the challenges for education and teaching—especially in the field of religious education—that arise from this finding.

1 Objections from Different Sides

No doubt about it: Building bridges between religious traditions and human rights is possible; even more: it is sometimes impressive reality. This is seen in the involvement of individuals who clearly embody the successful linking of religious concerns and human rights commitment in their biography, in their actions and in their organizations.¹ It is, however, equally evident that there are barriers to overcome and misunderstandings to clear up in the process. Religious normative traditions and human rights standards of equal freedom can not only provide reciprocal inspiration and empowerment, but frequently their relationship is kind of intricate. Again and again it happens that incompatible views clash with each other. In any case, to postulate an easy reconciliation between religious traditions and modern human rights would hardly do justice to the challenges that emerge here.

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¹ Among the best-known examples are Desmond Tutu and Shirin Ebadi.

H. Bielefeldt (✉)

Friedrich-Alexander-University Erlangen-Nürnberg, Erlangen, Germany
e-mail: heiner.bielefeldt@fau.de

In two “test fields” the problems and tasks of critical mediation are revealed in a particularly striking manner. The first topic area can largely be circumscribed with the concept of “*gender*.” Here it is a matter of equality between men and women, the equitable acceptance of diverse sexual orientations and gender identities and similar postulates with which many religious communities (not all) still have difficulties. Ziba Mir-Hosseini clearly delineates in her contribution how reforms advocated from the perspective of the UN Convention for the Elimination of all Forms of Discrimination against Women (CEDAW) can be successfully reinforced and advanced by a critical *relecture* of religious texts or sources from religious law.²

The second test case is freedom of religion or belief. This may be astonishing, as freedom of religion or belief is, after all, about vested interests of religious communities: the religious socialization of children, the possibilities of the public presence of religious symbols and motifs, the expansion of religious infrastructure and much more. However, the specific mode in which such themes often are addressed in human rights discourse imply many a challenge for traditional religious self-understandings, since freedom of religion or belief has the structure of a universal right to freedom to which individuals of diverse orientation can lay equal claim, among them competitors, critics of religion, dissidents, schismatics, converts or adherents of feminist re-interpretations of religious sources.

That the relationship of humans to God should become a matter for legally protected personal freedom was, and is, for many believers a strange, possibly even a monstrous idea. Wouldn't this mean that man was exalting himself over his Creator? Wouldn't freedom of religion end in relativism and instability? Wouldn't this threaten to undermine the religious foundation of every moral commitment?

Because of such fears the Catholic Church fiercely opposed the right to freedom of religion or belief on principle for a long time. In his notorious “*Syllabus Errorum*” (1864) Pope Pius IX attacked it as a false path, which would inevitably lead to the modern “*pestilence of indifferentism*.” Not before the Second Vatican Council did the Catholic Church completely revise its oppositional stance and produce the conciliar declaration “*Dignitatis Humanae*” (1965), a theologically based acknowledgement of the right to religious freedom. But traditionalist skepticism and rejection continue to exist even today. It can be found in practically all religious traditions, in Islamic or Islamist perspectives no less than in some currents of Buddhism, in Hindu fundamentalism just as in ultraconservative Christian denominations.

Nowadays, conservative or traditionalist resistance toward freedom of religion or belief hardly expresses itself in confrontative language of the kind seen in the “*Syllabus Errorum*”. The idea and semantics of human rights have become so internationally pervasive that a direct attack would lead to total isolation. Instead there are multiple tendencies to dilute the human right to freedom of religion and belief through the comingling with a vague rhetoric of “*tolerance*”, thereby

² See the contribution by Ziba Mir-Hosseini in this volume.

weakening its potential for critically challenging existing religious or politico-religious hegemonies. This is done both on the part of some religious communities as also on the part of some governments. The latter often reduce freedom of religion from the start to a preset catalogue of permitted religious options by recognizing only “normal religious practice” (thus the diction of the People’s Republic of China), only the “divinely revealed religions” (so the wording in many Arabic countries) or only the “known religions” (a formulation from Greece). Other states grant privileges to those religions that have made “constructive contributions” to the national history and culture of their country. Conservative lobby groups from the respective hegemonic religious communities often do their part to maintain the politico-religious status quo.

Most recently, freedom of religion or belief is becoming more clearly a matter of dispute within “liberal” circles, as well. This is the real surprise. Here we probably have a unique case in which a classic liberal human right encounters skepticism, which in turn regards itself as liberal.³ Even within human rights organizations one occasionally encounters ambivalent feelings as soon as talk turns to freedom of religion.

Apparently, many regard religion as a haven for obscurantism, bigotry and fundamentalism and consequently as a danger for the achievements of freedom. This results in demands for the reduction of the public importance and social influence of religion. Religion, so they say, should henceforth become a strictly private matter and be systematically banned from public schools and other public institutions. A human right that expressly includes the freedom to public manifestation of religious beliefs—individual as well as communal—has no place in such an agenda. In addition it is occasionally assumed that freedom of religion and belief constitutes a “special right” for the religiously interested. Instead of equal freedom for all, it is—according to this opinion—rather a matter of clientelism and privileges.

The objections sometimes culminate in the claim that the right to freedom of religion and belief does not legitimately belong in the canon of human rights at all. During the debate on the religiously motivated circumcision of boys, which was partially conducted quite aggressively in Germany during the summer and fall of 2012 (see Bielefeldt, 2012, pp. 63–71), the author of this contribution was confronted again and again with the question of what should take priority, human rights or freedom of religion and belief. When someone formulates the question in such a manner, they have, in their own mind, already excluded freedom of religion and belief from the canon of legitimate human rights.

More and more in most recent times the question is being posed: isn’t it sufficient if all persons are respected in their private lives and they have the rights to freedom of expression, assembly and association? Shouldn’t it then be time to

³This points to the fact that quite different tendencies and movements are behind the label “liberal.” This is similarly true of the concepts “conservative” and “traditionalist.” The present article does not aim to analyze these differences.

recall the French Revolution, which knew no special right to freedom of religion in its “Declaration of Human and Citizens’ Rights” in 1789 and instead confined itself to the clarification that in the framework of freedom of speech all views, “even those of religious kinds” may be freely expressed?⁴

Freedom of religion, to put it pointedly as a textbook case, is thus subjected to pressure from two sides: from the side of some religious or politico-religious traditionalists who fear a culture of freedom, but also from the side of some liberals who have difficulties with the topic of religion in general. The complementary fears reinforce each other mutually. In view of the current expansion of politico-religious authoritarianism, particularly in large parts of the Islamic world, liberal (or less liberal) secularists critical of religion are finding arguments for a restrictive agenda which leaves little room in general for the viewpoints of religious freedom. Precisely through this they aggravate the suspicions of many traditionalists that western modernism will ultimately result in no less than the destruction of religious identities and the erosion of all religious loyalties. In societies which are still struggling with the heritage of postcolonial humiliation such fears can easily coalesce with ideas of conspiracy and even develop into—not seldom consciously fostered—political paranoia.

The purpose of the present contribution is to defend freedom of religion or belief, which is bindingly guaranteed as a human right in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights and other international documents.⁵ At the same time the purpose is not a mere theoretical clarification of misconceptions, which in fact abound in matters of freedom of religion, but rather the development of a consistent human rights *practice* in the implementation of the freedom of religion or belief.

An orientation is provided by the principles that support a human rights approach in general. These include: (1) normative universalism, according to which human rights apply to *all human beings* on the basis of their dignity; (2) the orientation of all human rights toward *freedom*; and finally (3) the postulate of *equality* already inherent in universalism, practically formulated in prohibitions of discrimination (see Bielefeldt, 1998). A cogent formulation of this structure is to be found in Article 1 of the Universal Declaration of Human Rights, whose much cited initial sentence reads: “All human beings are born free and equal in dignity and rights.”

⁴ Article 10 of the Declaration of Human and Civil Rights from August 1789 states, “No one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established Law and Order.”

⁵ Freedom of religion is found on a global dimension in Article 18 of the *Universal Declaration of Human Rights* of 1948, as well as in Article 18 of the *International Covenant on Civil and Political Rights* of 1966. In November of 1981 the United Nations additionally adopted the *Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief*. This is supplemented by regional civil guarantees, such as Article 9 of the *European Convention on Human Rights* of 1950, as well as guarantees in individual state constitutions.

2 Privileging the “Homo Religious”?

The suspicion that religiously active individuals are privileged is almost obvious in the concept of freedom of religion. For this reason, it is important to always remember that this is a shorthand formulation for a human right that is conceived far wider in scope and the full title of which is “freedom of thought, conscience, religion and belief.” The entire title is probably too long to have been preserved in daily language usage. In English it has become customary to speak of “freedom of religion or belief.” In German even formulation “Religions- und Weltanschauungsfreiheit” [freedom of religion and belief] seems too awkward to have a chance of replacing the brief “Religionsfreiheit” [freedom of religion]”, which is still commonly used.⁶ All the more reason then for clarifying explanations.

As a human right inherent in all human beings, freedom of religion or belief cannot be confined to a particular circle of religiously motivated individuals. In other words, the term is not only meant for the “homo religiosus” in the more limited sense, but is rather relevant *for all human beings*, in so far as it protects their profound, existential convictions and the accompanying ethical or ritual practices. The UN Committee in charge of monitoring the *International Covenant on Civil and Political Rights* pointed this out with desirable clarity in 1993. In a “General Comment” on Article 18 (that is on freedom of religion and belief) the Committee emphasized: “Article 18 protects theistic, non-theistic and atheist beliefs, as well as the right not to profess any religion or belief. The terms ‘belief’ and ‘religion’ are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.”⁷

The line defining the scope of the freedom of religion and belief, then, does not run between religious and non-religious positions, but rather between the *existential convictions* that basically determine the identity of a human being (or a group of human beings) and less existential positions. The Preamble to the *UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* from 1981 states that religion or belief is, for a human being, “one of the fundamental elements in his conception of life.” In the words of Paul Tillich: Religion—and the same thing can be said of belief—is what “ultimately concerns” a person (this conception is referred to by Durham & Scharffs, 2010, p. 45).

What this means in detail naturally has to be worked out again and again in dealing with concrete cases. The European Court of Human Rights in a judgment of 1982 demanded that beliefs which enjoy the protection of the human right to freedom of religion and belief must have “a certain level of cogency, seriousness,

⁶ In the following comments I will occasionally use the shorter formula and occasionally the longer designation.

⁷ UN Human Rights Committee, General Comment Nr. 22, Section 2.

cohesion and importance”.⁸ In so doing the Court established a list of formal criteria in order to avoid a degeneration of applications of this field of human rights into triviality or arbitrariness, and at the same time to remain open for a broad variety of positions, which might claim recognition under freedom of religion or belief.

For example, a few years ago the Strasbourg Court of Human Rights vindicated the inmate of a prison in Poland, who as a vegetarian demanded meatless food and who successfully claimed this right on the basis of his conscience.⁹ Similarly, the Court recently handed down a decision that substantiated the human rights status of conscientious objectors to military service on the basis of their conscience with reference to freedom of thought, conscience, religion and beliefs.¹⁰ In the practice of the UN Committee in charge of monitoring the International Covenant on Political and Civil Rights, by the way, cases of conscientious objectors on the basis of conscience make up the majority of individual complaints (which are not particularly numerous) to which the Committee has declared its position with reference to Article 18.

The objection that the freedom of religion and belief ultimately means privileging religiously engaged persons can be countered for sound reasons. However, the fact remains that this human right actually does result, in the practice of many countries, in a sort of canon of predetermined religions. In Egypt these amount to three religions (Judaism, Christianity and Islam), in Indonesia, six (Islam, Hinduism, Buddhism, Catholicism, Protestantism and Confucianism), and in the People’s Republic of China, five besides Atheism (Buddhism, Taoism, Catholicism, Protestantism and Islam).¹¹ The examples listed show that particularistic narrowing of the understanding and practice of the freedom of religion and beliefs continue to be widespread. Word that atheists and agnostics could claim this right has by no means gotten around everywhere, even in Europe, and finds insufficient acceptance in the legal practice of many countries. In this regard, the universalism of human rights is important insofar as it remains a critical thorn in the side of narrowed viewpoints.

3 A “Less Liberal” Right?

One would think that the liberal character lies at the core of the human right to freedom of religion and belief, and indeed this finds recognition and further differentiation in the relevant international treaties. Article 18 of the *International Covenant on Civil and Political Rights* clearly states that a human being cannot be legitimately restricted in the inner realm of freedom of thought, conscience, religion

⁸ EGMR to Campbell & Cosans vs. the United Kingdom (appl. 7511/76 & 7743/76) from February 25, 1982.

⁹ See EGMR on Jakobski vs. Poland (appl. 18429/06) from December 7, 2010.

¹⁰ See EGMR on Bayatyan vs. Armenia (appl. 23459/03) of July 7, 2011.

¹¹ The listed examples were taken from: U.S. Department of State, 2013 Annual Report on International Religious Freedom, accessed at www.state.gov/g/drl/rls/irf.

and beliefs. With reference to this “forum internum” the right to freedom is thus protected absolutely. This includes the freedom of conversion.¹² External manifestations of religion or belief (in the “forum externum”) are also protected—albeit not fully free from possible restrictions¹³—including the practices of individuals and communities which can take place in private or public.

The human right to freedom of religion and belief thus means a *comprehensive human right to freedom*, the right of each individual to find his or her own way in questions of religion or worldviews, to stand up for one’s own position, to join or leave a religious community, to form new associations, to practice religious rituals alone or together with others, to formulate religious criticism or to defend one’s own beliefs against such criticism, to raise children in the convictions of the family, to acquire books on religion or beliefs (also to import them from abroad) and to distribute them in society, to live life according to one’s own religious or non-religious convictions alone or together with others and to make this in publicly known (see Taylor, 2005, pp. 203ff.). Since rights to freedom are defined by leaving it up to the human individuals when and how they actually make use of their freedom, this means that in addition to the “positive” right to freedom of religion or belief, there is necessarily also “negative” flipside of that freedom. This includes the right to refrain from engaging in religion or beliefs, *not* to become involved, *not* to be religious, *not* to join a religious community, etc. Both aspects belong together, like the two sides of a coin.

At the same time the idea stubbornly persists that freedom of religion is somehow a “less liberal” right. In a major way the debates and positionings in regard to the topic of prohibition of blasphemy probably have contributed to this; in this context the right to freedom of religion or belief has repeatedly been functionalized as an alleged counter-right to the right to freedom of expression, which itself is often appreciated as the epitome of a liberal right. Even in some judgments of the European Court of Human Rights such antagonism was constructed. The notorious example is the judgment of the Otto Preminger Institute versus Austria. At stake was the film “Das Liebeskonzil” [The Council of Love], which the Austrian authorities had removed from circulation because they saw it as an attack against the sentiment of the Christian population. In its judgment of September 20, 1994 the Strasbourg Court absolved Austria from the accusation of violating freedom of expression, because it viewed the protection of religious

¹² UN Human Rights Committee, General Comment No. 22, Section 5: “The Committee observes that the freedom to ‘have or to adopt’ a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one’s current religion or belief with another or to adopt atheistic views, as well as the right to retain one’s religion or belief.” See also the Annual Report of the General Assembly from September 9, 2012, which, in my function as Special Rapporteur for freedom of religion or belief, I treated under the topic “the right to conversion as part of freedom of religion or belief.”

¹³ The limits of legitimate restrictions of freedom of religion in the *forum externum* are to be found, for example, in Article 18, paragraph 3 of the International Convention for Civil and Political Rights.

sentiment as a valid reason for the restriction of this freedom.¹⁴ As background of their judgment, the majority of the judges assumed a basic conflict between freedom of expression and freedom of religion or belief, whereby the latter allegedly also entailed the protection of religious sentiment. Precisely this, however, was criticized by three of the Strasbourg judges. In their dissenting opinion they emphasized that the European Convention for Human Rights did not contain a right to protection of religious sentiments and that such a right could principally not be derived from the freedom of religion or belief.¹⁵

Over a period of more than 10 years there was a similar constellation of conflicts in the United Nations, namely in the fierce debates over “combating defamation of religions”, which took place in the UN Human Rights Council (respectively, in the predecessor institution until 2006, the Commission on Human Rights) as well as in the UN General Assembly. Resolutions on this very topic were regularly proposed by the Organization of Islamic Cooperation (OIC), an organization of states with 57 member countries, and always found a majority¹⁶ (see the criticism in Blitt, 2011, pp. 121–211). At the same time, these initiatives met with strong criticism and usually invoked unanimous rejection by western countries. The peak of this confrontation was the clash over the Danish caricatures of Mohammed in the years 2005 and 2006, which triggered sensitive reactions of many Muslims around the world. The outrage, which partially continues even today, may be understandable given the provocative and insulting character of some of the caricatures. At the same time, the resolutions on “combating defamation of religions”, on a closer look, prove to be highly problematical. For they convey the impression that religions *per se* can claim legal protection against any infringements on their reputation—an idea completely at odds with concept of human rights. In addition, the resolutions, with their call for restrictive measures, carry authoritarian overtones that can hardly be ignored. Opponents rightly fear that the ultimate consequences could be that an anti-blasphemy legislation of the type in Pakistan, where vaguely defined infringements can even incur the death penalty (see Freedom House, 2010, pp. 69–87) might be superficially “justified” within the semantics of human rights, which would be utterly absurd.

¹⁴ The decisive passage reads: “The issue before the Court involves weighing up the conflicting interests of the exercise of two fundamental freedoms guaranteed under the Convention, namely the right of the applicant association to impart to the public controversial views and, by implication, the right of interested persons to take cognizance of such view, on the one hand, and the right of other persons to proper respect for their freedom of thought, conscience and religion, on the other hand.” EGMR *Otto Preminger Institut vs. Austria* (appl. 1347/87) from September 20, 1994, Section 55.

¹⁵ See EGMR, *Otto Preminger Institut vs. Austria*, Joint Dissenting Opinion of the Judges Palm, Pekkanen and Makardzyk, Section 6: “The Convention does not, in terms, guarantee a right to protection of religious feelings. More particularly, such a right cannot be derived from the right to freedom of religion, which in effect includes a right to express views critical of the religious opinions of others.”

¹⁶ See Commission on Human Rights resolutions 1999/82, 2000/84, 2001/4, 2002/9, 2003/4, 2004/6, 2005/3; General Assembly resolutions 60/150, 61/164, 62/154, 63/171, 64/156, 65/224; Human Rights Council resolutions 4/9, 7/19, 10/22, 13/16.

In fact, in the resolutions on combating defamation of religions, the human rights approach is systematically replaced by a kind of “protection of the honor” of religions—more precisely, for certain religions and in particular for Islam. From the viewpoint of human rights this is a false path (see Temperman, 2008, pp. 485–516). To invoke freedom of religion or belief for the purpose of the authoritarian combat of so-called defamation of religions ultimately means denying its very character as a human right to freedom. Among the achievements of Asma Jahangir, UN Special Rapporteur on freedom of religion or belief from 2004 to 2010, was the systematic objection to such attempts at an anti-liberal reinterpretation of religious freedom.¹⁷ At the peak of the clash over the Danish Mohammed caricatures she made it clear that freedom of religion or belief does not include the right to be spared religious criticism. Instead of acting as a brake against the use of the freedom of expression, the freedom of religion or belief, with its protection of the components of intellectual and communicative freedom actually, reveals a positive proximity to the freedom of expression, as pointed out by Jahangir. Whosoever attempts to establish the freedom of religion or belief as a systematic counter-authority against the freedom of expression, she argued, not only creates an ideological support for excessive restriction of it, but above all obscures the very human rights significance of the right to freedom of religion or belief itself. Jahangir thus took a strong stance for a consistent interpretation of the freedom of religion or belief as a universal right to freedom.

In March 2011, the Organization of Islamic Cooperation (OIC) declined, for the first time in a long while, to table a draft resolution on “combating defamation of religions.” Several players—among them the UN High Commissioner for Human Rights, Navi Pillay, the General Secretary of the OIC, Ekmeleddin Ihsanoglu, as well as US Foreign Secretary Hilary Clinton—had endeavored in advance to overcome the old confrontation, which had hardened into an empty ritual, and to get the debate moving again.¹⁸ For this purpose a new and more productive topic wording was introduced, namely: combating religiously based intolerance and stigmatization. The resolution submitted by the OIC in March 2011 to the UN Human Rights Council bears the complicated title: “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against persons based on religion or belief.” It was approved by consensus.¹⁹ This Resolution 16/18 of the Human Rights Council has since functioned as a reference document for relevant debates in the United Nations. While the earlier resolutions on defamation of religions created the impression that religions as such (or at least some of them) needed to be placed under legal

¹⁷ See Report of the Special Rapporteur on freedom of religion and belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, Implementation of General Assembly Resolution 60/251 of March 15, 2006 entitled “Human Rights Council”, A/HRC/2/1, p. 10.

¹⁸ In addition Clinton and Ihsanoglu initiated a series of conferences which ran under the heading “Istanbul Process”.

¹⁹ See Human Rights Council resolution 16/18 from March 24, 2011.

protection, Resolution 16/18 refers to human beings as having rights against stigmatization, discrimination and massive forms of hate speech. The title of the resolution hence lists “persons” as the subject of protection. This is a crucial difference.

In spite of all proximity between freedom of expression and freedom of religion, this does not, from the outset, exclude collisions between human rights concerns in the realm of both rights. When polemic attacks against certain religions or beliefs and their followers arise in the name of freedom of expression and reach such a furor that they threaten to poison social relations or even to create an atmosphere of intimidation in which people no longer dare to bear public witness to their convictions or to practice their faith visibly, then this can lead to infringements on freedom of religion and belief. In such cases, to combat this and take remedial action is a human rights imperative. For this reason, the UN Office of High Commissioner for Human Rights has been conducting debates over the last years about what measures should be taken against incitement to ethnic and religious hate. The central outcome of several workshops on this topic conducted on all the continents and resulting in a detailed plan of action in October 2012 (the “Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”²⁰) consists of the insight that religiously based forms of “hate speech” are best countered by “*more speech*” rather than restrictions. Above all, media-related and civil-social counter-initiatives are called for, especially rectifications and wide-reaching public solidarity action, while legal penalties such as sanctions or other restrictive measures can only be justified in extreme cases and must always be connected with high and clearly defined thresholds.

Even in acute cases of collision between freedom of religion and freedom of expression the most important form of remediation is again the targeted use of the freedom of expression and other rights to communicative freedom. Alone for this reason it would be pointless to set up an abstract contradiction between freedom of religion and freedom of expression. On the contrary, both rights can mutually support each other: Just as freedom of religion or belief can only flourish where people have the option of speaking publically about their grievances, so also in return freedom of speech presupposes respect for everyone’s freedom to hold and develop identity-shaping convictions, as individuals and in community with others. In this interrelatedness, however, it is apparent that freedom of religion or belief, when understood correctly, is just as genuinely “liberal” as freedom of expression.

²⁰ See A/HRC/22/17/Add.4 appendix.

4 Ambivalence in the Concept of Secularity

Just how strong skeptical reservations against freedom of religion have become even in our latitudes lately was shown by the recent discussion over ritual circumcision of boys triggered by the ruling of the Cologne District Court on May 7, 2012.²¹ No doubt it was a difficult topic which involved reconciling differing perspectives. The main opponents of circumcision generally left little room for freedom of religion and belief. Not rarely they even gave the impression that they regarded this human right as a relict of pre-modern times that has no right to further existence in a “secular” modern legal system. The circumcision debate is a good example for the ambivalence attached to the concept of secularity and its derivatives from the very beginning and continuing to the present day.

The idea that freedom of religion and belief stands in a tense relationship to the secular legal order of the state, however, proves after a closer look to be a misunderstanding. On the contrary, the secularity of the state and jurisprudence finds a normative foundation in this human right. If the state takes its obligation to freedom of religion and belief seriously, including its inherent claims to equality, then the state cannot identify with one certain tradition of religion or belief at the cost of the followers of another religion or belief. The resulting “*non-identification*” thus is a consequence of the human rights structural principle of “*non-discrimination*” (see similarly: Oebbecke, 2000, pp. 287–327, here p. 292). It is at the same time an expression of respect for the human freedom to orient oneself in questions of religion and belief. Thus, in a human rights perspective, the meaning of the neutrality principle can be more precisely qualified through the formula of “*respectful non-identification*.”

The basic principle of “*respectful non-identification*” forms the deep grammar of the secular constitutional state, which from this foundation proves to be both modest and yet demanding. The modesty manifests itself in the deliberated self-restriction concerning the aspirations of the state: The state is neither instrument of salvation nor the authority for a comprehensive orientation of meaning. As a secular, “purely worldly” state it is not at the service of the “truth” of a worldview, a religious belief or a religious law. Rather it leaves the search for meaning and for comprehensive truth to human beings, who are responsible for finding their own path in life in freedom, either as individuals or in community with others. At the same time, it is precisely in this option for human freedom that the positive normative demand can be found, which the secular constitutional state formulates and for which it stands. Because enabling equal freedom for everyone, is the *fundamental political-legal responsibility* of the state bound by human rights. This responsibility ultimately points to the due respect for the dignity of every human being as the basic foundation of any legal order. Respectful non-identification can well coexist with formal cooperation between the state and religious communities. It is not a matter of

²¹ See Landgericht Köln, Aktenzeichen 151 Ns 169/11. The decision from Mai 7, 2012 did not become known in the wider public until the end of June.

an abstract and ultimately even completely unrealistic lack of relationship between state and religious or worldview communities, as has occasionally be proposed, but rather a matter of *fairness* in such cooperative relationships, which should be arranged in a way that the state does not take sides unilaterally, but rather engages the plurality of our society in an affirmative way.

As a matter of fact, however, by no means are all countries that call themselves “secular” guided by the normative principle of respectful non-identification as understood above. On the contrary, the wide semantic field of secularity manifests a deep ambiguity, which often gives rise to confusion and misunderstanding (see Lübbe, 1965).²² Both the past and present offer all kinds of examples of confessional communities with comprehensive worldview claims that partly use the notion of secular for describing their identity. A classical example was the “Secular Society”, for which its founder, George Holyoake, in the mid-nineteenth century devised the semi-religious slogan “Science is the available providence of man” (see Holyoake, 1896, p. 35). In Germany, as well, secular communities of belief arose at the end of the nineteenth century, among them the “Deutsche Gesellschaft für Ethische Kultur” [the German Society for Ethical Culture] founded by Friedrich Jodl and Ferdinand Tönnies (see Lübbe, 1965, p. 42). The extent to which a secular worldview can take on religious language can be illustrated by the “Monistic Sunday Sermons” published by the Monist League connected with Ernst Haeckel (see Lübbe, 1965, p. 51).

If ideological secularism should try to take over state power, this could lead to new varieties of “confessional states”. One example for such aspirations is offered by the mid-nineteenth century scientific religion designed by Auguste Comtes, who called it the “religion de l’humanité”. Its “sociocratic” claim is constructed in complete analogy to the theocratic ideas of Joseph de Maistres and other philosophers of the Catholic counter-revolution, a position which Comte opposed, but for which he also felt open admiration (see Comte, 1967, Vol. 3, p. 605). In his vision of progress, scientifically educated sociologists were to take the place of the traditional Christian clergy. As “priests of humanity” in alliance with the emerging powers of the economy and industry they were to shape public life and to bind the state with their confession based on “love, order and progress” (see Comte, 1967, Vol. 1, p. 321ff.). The nature of Comte’s vision was the concept of a secularist confessional state which uses all the means at its disposal in order to help the belief in science and progress achieve hegemonial validity.

It is not surprising, in view of this, that “secular” positioning up to the present day often sounds ambiguous, whereby the task arises to listen exactly and urge explanations. However, the prerequisite for this to succeed is a clear categorical differentiation between doctrinal secularism on the one hand, as it is often found

²² Similarly ambiguous is the word field ‘laicism’. On this, see Maclure and Taylor (2011). Maclure and Taylor in this book argue for an “open secularism”, which they sharply distinguish from ‘culture war’ or ideological variants of secularism.

today,²³ and constitutional secularity. Constitutional secularity is a matter of the fairness principle that stands *in the service* of equal implementation of freedom of religion or belief for all. It is not an end in itself or value *per se*, but rather has the status of a second order principle that only derives its significance from the normative human right to freedom of religion and belief which takes precedence over it. Similarly, Martha Nussbaum has argued: “The idea that there should be a separation of church and state is mentioned a lot, but I argue that it should be seen as posterior to the ideas of equality and liberty.” (Nussbaum, 2008, p. 20). From this standpoint, the difference between constitutional secularity and a “secularist” confessional state (in the doctrinal understanding of secularism) is not just a gradual one, but rather one of principle; we can even see it as its systematic opposite.

This clarification is, not least, important for the criticism of state religions. In the Islamic world the model of state religion—typically in connection with a constitutionally based special status for the Islamic Sharia—is still widespread and is the rule among Arab countries (see Stahnke & Blitt, 2005, pp. 947–1077). But also in Europe and South Asia there are a number of countries with official religions (see Robbers, 2003, pp. 139–163). Moreover, in addition to formal state religions there are different varieties of state privileging for certain religions that can take the form of quasi state religions, for instance justified by their impact on the historical and cultural identity of the country. That this might create problems—of varying nature in detail—for guaranteeing freedom of religion and belief without discrimination to all, is an assumption confirmed by a number of concrete cases. Although state religions and other varieties of official status of certain religions are not prohibited by international law, those countries which maintain such constructs are at least under a heavier burden of proving that this does not lead to a *de facto* or even *de jure* discrimination and unequal treatment of the followers of other religions or beliefs.²⁴

Now, apologists for state religions and other official privileging like to counter-argue that the prohibition of discrimination in the form of unequal treatment is from the outset illusory. Every country, as we hear the allegation again and again, is unavoidably based on a leading belief: in secular countries this is then “secularism”, which in itself allegedly represents a post-religious comprehensive worldview. The difference between a state that is officially religious—for instance an Islamic state—and a secular state rests alone on the fact that the former is frank about its affiliation, whereas the latter is more covert about it. However, this motif—that has already been used by Carl Schmitt and his disciples (see Schmitt, 1990)—is nothing more than a dialectical sleight of hand trick: the conscious *non-identification* with

²³ Characteristic components of an ideological secularism can be detected in this country in the environment of the Giordano-Bruno-Stiftung.

²⁴ See UN Human Rights Committee, General Comment No. 22, Section 9: “The fact that a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers.”

religion is tacitly turned into a state *identification with non-religion* (or doctrinal secularism). Every secular state appears accordingly as a quasi- or post-religious variant of a confessional state in which atheists or agnostics set the political tone, while those religiously engaged in such a state are allegedly bound to suffer discrimination.

A way out of this supposed dilemma is only possible on the basis of a categorical differentiation between constitutional secularity based on freedom of religion or belief on the one hand, and the different varieties of doctrinal secularism—which possibly aim for political influence or even the occupation of state power—on the other. One must admit that it is not easy to relate this conceptual differentiation empirically to a complex reality, in which religious, philosophical, cultural and political factors occur in a practically indissoluble commixture. Yet, whoever draws the consequence of such phenomenal ambiguity by forgoing a categorical defense of the secular rule of law state altogether, entirely gives up the opportunity to present a fundamental alternative to state discrimination on the basis of religion or belief at all.

5 Advocacy for a Consistent Human Rights Perspective

That freedom of religion and belief should evoke skeptical queries is hardly a new experience. What is relatively new, however, is that critical questions are being put forward not only from the side of conservatives, but increasingly from liberal or secularist perspectives. This leads to challenges in communicating with different target groups (more details in: Bielefeldt, 2013, pp. 36–69).

Religious conservatives, who have a hard time with consistent freedom of religion and belief, can be assumed to realize that living together in our irreversibly pluralistic societies can only succeed when the state guarantees all persons their liberty rights. The names of God are multiple and in some religious traditions God is even absent. Prophetic religions that have fought about the rank of the prophets among one another for centuries exist next to religions that know nothing of prophets, and what is sacred to one is possibly blasphemous or completely incomprehensible to another. To place certain religious traditions, identities, practices, laws and institutions as such under the guardianship of the state and possibly protect them against questioning and competition would inevitably be misguided. The consequences would be discrimination, marginalization, societal division and all the accompanying turmoil. For this reason, the subjects of legal rights in the field of religions and belief can only be *human beings* in their dignity, freedom and equality. Human rights protection does not apply to the truth of religion, but solely to the free search of humankind for truth, not in the sacredness of divine law, but rather in the personal and communal freedom to live a religious life, not in the pre-eminence of one true church, but in the opportunity for public manifestation of a multitude of beliefs by the believers themselves. The view can no longer be taken for granted that for many people religious orientations and practices have

existential significance, and that a free society should make room for them, not just in the private sphere, but also in the public one (see Habermas, 2005, pp. 119–154). The pragmatic anthropocentrism of state upheld secular jurisprudence must not be mistaken for an doctrinal orientation of the law towards an exclusively anthropocentric worldview, which at the utmost manages to *tolerate* religious convictions, rituals and expression. In the debate over the circumcision of boys in Germany there was a partial outbreak of sarcastic, contemptuous tones aimed at persons with basic religious beliefs that was difficult to bear. This made it clear how important it is to continue to validate the liberality of a pluralistic society, to which the human right of freedom of religion contributes, and to counter the doctrinal rigidity found in certain forms of liberalism or secularism.

In the end it must be a matter of aligning the understanding and practice of freedom of religion and belief consistently with the structural principles of universalism, freedom and equality. For clientelistic narrowings, such as anti-liberal and even more, anti-egalitarian re-interpretations of religious and philosophical views are to be found in many varieties. The character of religious freedom as part a universalist human rights agenda is being undermined or even distorted into authoritarianism by projects to combat “defamation of religions”, by politically motivated demands for the exclusive recognition of a certain religion or by projects to banish religions from public life. Also, the demand for an equitable fulfillment of this human right through a secular rule of law state that is neutral towards religion and belief continually meets with principal resistance or is rejected from the outset as meaningless. There are many good reasons, in this respect, for concrete criticism of misunderstandings and an often inconsistent practice of the freedom of religion and belief. However, this criticism should be aimed at *reinforcing* the importance of this human right. Because freedom of religion and belief not only still forms an indispensable element in human rights; without respect for the religious and philosophical beliefs of human beings and the individual and communal practices which they engender, the overall claim of human rights would collapse.

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Prof. Dr. Heiner Bielefeldt is Professor of Human Rights and Human Rights Politics at the Friedrich-Alexander-University Erlangen-Nürnberg, Germany, and UN Special Rapporteur for the Human Right of Freedom of Religion and Belief.

Religion in Schools from a Legal Viewpoint

Mathias Rohe

Abstract Religious life in German schools has led to some fierce controversies in the last years. The centre of attention has shifted from “fundamentalist” Christians who campaigned against things such as sex education, to the presence of Islam. Teachers wearing headscarves, the exemption from co-educative swimming lessons, ritual prayers during recess and, last but not least, the introduction of Islamic religious education are being dealt with by courts and politicians. This contribution aims at outlining the legal context of such conflicts and elaborating reasonable solutions to them. Since the German secular constitutional law opens broad fields for religion in public space, the German situation may serve as an example for European legal systems and societies with a generally positive attitude towards the societal potential of religious life and convictions, and for weighing up conflicting interests in public space more generally. It may also be used for comparison with more laicist approaches in other European and Western countries.

1 Introduction: The Legal Framework

German religious constitutional law follows the model of free religious secularism (see Campenhausen & de Wall (2006), pp. 338–340, 356–357). This differs, for instance, from the strict laicism of France (except for the districts of Alsace and Moselle)¹, which attempted to reduce the strong influence of the Catholic Church with their restrictive laws of 1901 and 1905. On the contrary, Germany subscribes to a model of free religious secularism, as is evident for instance in Art. 4, 7 (3) and 140 of the German Constitution, as well as throughout religious constitutional law.

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¹ There the reform laws were not introduced because this area was part of the Reichsland Elsass-Lothringen and belonged to Germany.

M. Rohe (✉)

Erlangen Centre for Islam & Law in Europe, Friedrich-Alexander-University Erlangen-Nürnberg, Erlangen, Germany
e-mail: mathias.rohe@fau.de

Far from being banned from the public sphere, religion is quite visible there, can engage in debate, forms an important part of university research and education, and finds its place in confessional religious instruction in the public schools of many German states and in many facets of further cooperation between federal and religious organisations. Here, religion is not seen as a potential threat to the power of the federal government but rather as a positive resource for community life and social meaning-making.

Freedom of religion applies equally to all individuals.² The federal government is obligated to ensure equal treatment of all religions and world views. Insofar as certain religious communities, at least those from the Christian spectrum, enjoy special rights, they derive their special rights from historical developments and, hence, deserve legal protection. In contexts, including the school system, where the Christian character of Germany, its states or certain institutions is emphasised, the emphasis is not placed on faith but rather to be understood in the sense of a culture-forming factor.³ Individual attempts to interpret the Constitution as giving precedence to the dominant Christian religion and thus diminishing the status of other religions, particularly Islam, are mistaken.⁴ In the significant words of Martin Heckel (2009, p. 353): “The remembrance of the Christian origins of, and impact on, our modern social and national system should be strongly kept in mind in view of the historical obliviousness of the pluralistic society. But it cannot be misused for a direct or allusive rechristianisation or reconessionalisation of the secular forms of religious law.”

Federal neutrality towards religions in concrete terms means that the government and its institutions must not intervene in inner-religious debates on the “right” stance or interpretation.⁵ This applies to the Christian understanding of the Eucharist as well as to Jewish and Muslim religious rituals. Thus, if a certain action or position is to be qualified as being religious, it generally falls within the protective realm of the applicable fundamental rights. Of course, this does not mean that all kinds of religious views take precedence over other legal positions. Although it is true that constitutional law has not imposed legal restrictions on the freedom of religion, as it has with other freedoms, there is a consensus that religious rights have to be reconciled with other fundamental rights with which they clash. The clashing rights then have to be weighed against each other in the individual case in view of the proportionality of their violation. As Konrad Hesse has pointed out, they have to

² The recent literature on this has meanwhile grown. See the exhaustive overviews in Muckel and Tillmanns (2008), pp. 234 with further references; Anger (2003), pp. 34–36; on the school system in general Rathke (2005), esp. pp. 106–108. For the basics on religious freedom in Germany, von Campenhausen and de Wall (2006), pp. 39–41, 52–53, 84.

³ See BVerfGE 41, 29, 52 and 41, 65, 78; BVerfG NVwZ 2008, 72, 74; Epping et al. (2013), Art. 4 para. 42.1 et seq. with further references.

⁴ On this, see the impressive fundamental comments in Heckel (2009), pp. 309–311, esp. 314–316, 343–345, 347–349.

⁵ See BVerfGE 35, 366, 376; BVerwG NVwZ 1994, 578, 579; OVG Münster NVwZ 1992, 77, 78f.; OVG Lüneburg NVwZ 1992, 79, 80.

be brought into a “practical concordance” in view of the respective individual case (Hesse, 1995, pp. 72–73). This also applies to the school system. When balancing clashing rights, it has to be kept in mind that, on the one hand, religion may be practised in the public realm, but, on the other hand, restrictions are allowable, or even necessary, with increasing proximity to governmental activity.⁶

In relation to the “old establishment” of the Christian and Jewish religions, there are long-standing and stable forms and structures of cooperation between the government and the religious communities. Altogether, there has been little particular potential for conflict for a long time: Questions of religious symbolism in school buildings—the cross or crucifix⁷—are, admittedly, subject to controversial discussion, but the practice has developed viable solutions. Similar solutions have been found for the exemption from certain subjects of school instruction, particularly from sexual education and biology instruction, due to religious reasons (see Epping, Hillgruber, & Germann (2013), Art. 4 Rn. 51.3 with further references). Here, jurisprudence has developed guidelines in accordance with which it is the educational mandate of the school to prepare school pupils objectively and without ideological indoctrination to live together in a country with plural views and lifestyles. The debates on the curriculum reform in Baden-Württemberg since 2013⁸, however, show that, in the case of structural reorientation, religious viewpoints introduce themselves emphatically into the debate, which is a matter of course in a constitutional order based on the freedom of religion.

The following remarks take Islam as a paradigm for the legal treatment of religion in schools. For one thing, we can clearly see here how the norms of the secular legal system are implemented. Muslims in Germany form the second largest population group after Christians and, for a considerable number of them, religious rituals and visible signs of their religious beliefs are significant. Against this background, since the 1990s, parliaments, governments, administrative authorities and courts have been dealing comparatively often with legal questions pertinent to this.

In addition, the treatment of Islam can function as a litmus test for the practicability and honesty of the existing basic procedures under rule of law: while fundamentalist Christian views are largely regarded with bemusement but not perceived as a threat, Islam (and far more rarely: the Muslims) have become a fear factor for large parts of the German population (see Rohe (2006) esp. pp. 30–32). This has led to statements and opinions that contradict the constitutional rule of law. The highly ideological and often blatantly anti-religious voices that

⁶ Helpful for understanding here is the tripartite division of public space developed by Ferrari (2012), pp. 139, 149–152. He distinguishes between the general, open, “common” space, the free and plural “political” space, and the neutral “institutional” space.

⁷ See in connection with the decision of the BVerfG E 91, 1 Epping et al. (2013), Art. 4 para. 41.3. et seq.; 51.6 with further references.

⁸ See the press release of the Protestant National Churches and the Roman-Catholic Church in Baden-Württemberg of 10 January 2014 (<http://www.zeit.de/gesellschaft/schule/2014-01/baden-wuerttemberg-schulen-homosexualitaet-streit-kirchen>) (retrieved on 12 April 2016).

demand the banishment of Islam and all religions to the purely private sphere are less significant here.⁹ Far more significant is the opinion of the majority which, according to representative surveys, would not shrink from noticeably restricting the religious rights of Muslims in Germany (Decker (2010) p. 134).¹⁰ Against such a background, the objective and impartial application of the existing rule of law becomes all the more important. This context forms the background against which the so-called state treaties have to be viewed, which have been in effect between the states of Hamburg¹¹ resp. Bremen¹² and various Muslim organisations since 2013. Their content largely follows the course of legal practice up to the present. However, their significance must be highly appreciated because they provide comparatively precise, fully consensus-based guidelines for the administrative practice, particularly in the social circumstances of considerable uncertainty.

Due to restrictions of space, the following cannot deal with all legally relevant questions. Thus, for one thing, the sector of private religious schools (cf. Epping et al. (2013) Art. 7 para. 73 et seq. with further references) will remain undiscussed. For another, we will not go into the doubtlessly important establishment of Islamic religious instruction. This involves particularly complex legal questions that have already been treated in specialised publications (cf. Dietrich (2006); Deutsche Islam Konferenz & Bundesamt für Migration und Flüchtlinge (2011)). May it be mentioned here that, in addition to broadly designed pioneer attempts to establish Sunni Muslim religious instruction in Baden-Württemberg, Bavaria, Lower Saxony, Northrhine-Westphalia and Schleswig-Holstein, Hessen is offering now regular religious instruction for the first time with DITIB and the Ahmadiyya Muslim Jamaat. The Alevite Association of Germany, AABF, has already been acknowledged as a cooperation partner for Alevite religious instruction in several German states.

Differences in legal practice, however, can result from the mere differences in figures: members of minority groups may tend to encounter greater problems in advancing their interests compared to the majority. That is not necessarily unjust: limitations can result, for instance, from requirements of a minimum number of pupils, etc. In the end, this is the impact of the basic principle of proportionality, in accordance with which—limited—resources have to be allocated efficiently, while at the same time the minority may not be deprived of a fair share. From such a perspective, the majority and the minority are, to a certain extent, “unequal”, which

⁹ See for example the comments untroubled by little knowledge of the facts made by Alice Schwarzer, who has documented her distance to governance by rule of law in multiple ways, or those of Necla Kelek; on this, see the intelligent polemical treatise of Patrick (2011), pp. 223–235, 131–133.

¹⁰ According to them, in 2010, 58.4 % of the population was of the opinion that the religious rights of Muslims should be noticeably curtailed.

¹¹ See esp. Art. 3 on holidays and 6 on religious instruction, as well as the preparatory report by Klinkhammer and de Wall (2012).

¹² Because of the unique constitutional situation of Bremen (see Art. 141 GG), religious instruction will be omitted here.

may mean that different treatment is not only permissible but even essential (see Aristoteles (1967) p. 159). Details can only be clarified on a case-by-case basis.

2 Individual Legal Questions

2.1 Teachers

Teachers in Germany represent the government when practising their profession. What is more, in the school sector, students cannot escape confrontation with teachers in the system of compulsory school attendance. For this reason, reticence is required in regard to visible commitments to religions or world views (moderation requirement). On the other hand, governmental representatives do not lose their personal rights. The less the likelihood of a “confusion” in the sense of identification between the state and the behavior of the teacher, the greater the freedom of individuality (see von Campenhausen & de Wall (2006) pp. 72–74, with further references; Coumont (2008) pp. 440, 443–445, with further references). In the 1980s, the courts were dealing with cases in which the teachers subscribing to the Sannyasin religion were wearing red clothing and so-called “Malas” with an image of their Guru (see the documentation in Epping et al. (2013) Art. 4, para. 56.7). More recently, the headscarves worn by Muslim female teachers have been the subject of partially bitter debates, court decisions and lawmaking initiatives. In half the states of Germany, wearing headscarves outside of religious instruction is prohibited for female teachers who are no longer in training. The first landmark decision of the Federal Constitutional Court up to this point was made in 2003¹³ and showed lawmakers two possible paths: they could either see religious pluralism as a potential benefit and allow for a broad spectrum of possible actions; or they could rather detect a potential for conflicts and impose restrictive limitations. In both cases, all religions have to be treated equally, which can hardly be guaranteed in the process of legislation in some states. As a plethora of publications for and against wearing headscarves have been released since then,¹⁴ this subject will not be dealt with in greater detail here for reasons of space (see Coumont (2008) pp. 440–522, with further references; Oestreich (2004); Berghahn & Rostock (2009) with further references). Suffice it to say that, against the expectations of the Federal Constitutional Court, there has been no substantive debate on the complexity of wearing headscarves in the states which have decided to prohibit them.¹⁵ The experience in

¹³ BVerfGE 108, 282 et seq. For thorough detail, see, for example, Coumont (2008), pp. 440, 441–443.

¹⁴ According to the opinion of the author, the restriction of the freedom of representatives of the state (state employees) also needs a convincing factual reason, which in the case of headscarves appears doubtful; see also Epping et al. (2013), Art. 4 para. 56.8.

¹⁵ On this, see the author’s statement from the hearing in the state parliament (Landtag) of Northrhine-Westphalia of 6 May 2004 (https://www.landtag.nrw.de/portal/WWW/GB_I/I.1/Ausschuesse13/A05/1218.pdf) (retrieved 12 April 2016).

Bavaria and other states shows that motivated Muslim female teachers, even such with a critical attitude towards religion, are lost to the school system and partially opt for jobs abroad, while Muslim male teachers who wear beards for religious reasons are not subject to similar legal debate. On the other hand, the state of Rhineland-Palatinate has allowed teachers to wear headscarves, which has not caused any problems in schools except in one case, where people from outside intervened. The school direction, however, managed to settle this conflict as well.

In the light of such experiences, a new landmark decision made in January 2015 declared in an abstract way laws which indiscriminately ban wearing headscarves unconstitutional. Now, only in cases of serious tensions which would endanger peace in school can a teacher be displaced to another school¹⁶, but still wearing a headscarf cannot serve as an objection to the appointment as a state officer or, accordingly, it would be considered discriminatory regarding employment in the private educational sector.

2.2 *Students/Parents*

2.2.1 Introduction

In many regions of Germany, the presence of a large number of Muslim students, both male and female, has become the norm.¹⁷ For instance, in Bavarian schools more than 100,000 Muslims are being taught.¹⁸ To a great extent, their needs and interests are no different from those of others: a reduction in, or even just focus on, their religious affiliation would be wrong. Where there are significant differences, these are generally connected with the immigration background of the majority of Muslims in Germany, who often, but by no means consistently, come from backgrounds with a weak educational tradition. This ranges from Muslims with a Turkish immigration background where only 27.5 % have a high educational level while up to 50 % have a low educational level or no school diploma whatsoever, all the way to those of Iranian origin, of whom 81.4 % have a high educational level and only 12 % have a low level of education or no school diploma at all.¹⁹

¹⁶ BVerfG decision of January 27, 2015, available at https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2015/01/rs20150127_1bvr047110.html;jsessionid=EB6C369CF3F91FA6037BFEF487487638.2_cid370 (accessed 21.09.15).

¹⁷ According to the latest, comparatively well-documented findings, between 3.8 and 4.3 million Muslims live in Germany; see Bundesamt für Migration und Flüchtlinge (2009), pp. 11, 59–61.

¹⁸ See the report “Allahs Musterschüler”, Süddeutsche Zeitung 25.11.2015, available at <http://www.sueddeutsche.de/bayern/religion-an-bayerischen-schulen-allahs-musterschueler-1.2751924> (retrieved 12 April 2016).

¹⁹ See the information in Bundesamt für Migration und Flüchtlinge (2009), p. 215 with Fig. 55.

The focus here is not the question of language acquisition or access to adequate education, both of which are eminently more important than the question of religion: however the latter is, at least for a considerable portion of students,²⁰ a matter of concern. This is particularly true of those who belong to denominations of Islam which have always been strong and require, similarly as orthodox Judaism does, obedience to the commandments of their faith. In addition, there is the impact of religious and cultural traditions, such as the attitude toward gender roles, which derive from a mixture of oriental and patriarchal living conditions and traditional religious views. A few key issues that have been the subject of public debate for some time are the exemption from school instruction as well as the treatment of holidays and clothing. German law, as will be shown, has some balanced and well thought-out solutions to offer.

2.2.2 Participation in Instruction

Basic Principles

The mission of the school to educate and foster students applies equally to all school subjects. There are usually special rules for religious and sexual education. The state mission to educate and foster students basically ranks at the same level as the parental right of education and the constitutional right of respect for religion.²¹ The state may also pursue its own educational goals, whereby it is obligated to ensure neutrality and tolerance for the educational ideas of the parents.²² The mission of the state, of course, also includes the goal of educating responsible citizens of the state who are capable of taking part in democratic processes in a pluralistic society in a manner that is equal and responsible and who are socially competent in dealing with those who think differently than themselves.²³ This would not be compatible with cutting off or isolating students from moral, ethical and religious positions common to society in general. Thus, the state can act to prevent the development of religious or ideological “parallel societies” and, instead of that, promote a culture of living tolerance.²⁴ The students and parents cannot claim a form of instruction disregarding faiths or views which are foreign to them.²⁵ For this reason, exemption from instruction remains the exception; for a serious religious objection, the

²⁰ See, e.g., the information in the surveys of Brettfeld & Wetzels of young Muslim students in Bundesministerium des Innern (2007), pp. 242–244 (87 % of those questioned declared themselves as believers, far more than half of them chose the value “very strong believer” and “strong believer” as opposed to 19 % of the “natives” with affiliations to a religious community). See also the information in Blume (2008), pp. 44–46.

²¹ BVerfGE 52, 223, 236; BVerwG NVwZ 1994, 578, 579 with further references.

²² BVerfG NVwZ 2008, 72, 73 with further references.

²³ BVerfG NVwZ 2008, 72, 73 with further references.

²⁴ BVerfG NVwZ 2008, 72, 74 with further references.

²⁵ NVwZ2008, 72, 74 with further references.

individual bringing forward religious reasons is obligated to explain his or her position.²⁶ Only significant objections, also those of religious nature, can justify such an exception.²⁷

Sport and Swimming Instruction

Comparatively few Muslim students²⁸ apply for exemption from instruction. Most of them are Muslim female students who want to be exempted from participation in coeducational swimming or other sports instruction. The older landmark decision of the Federal Administrative Court of 1993²⁹ was fairly generous in defining the requirements for exemption from instruction from puberty onwards. From the age of puberty on, parents or students were allowed to claim exemption from coeducational swimming instruction. This was based on an interpretation of Islam that forbids appearing to the opposite sex in the bathing suits commonly used in Germany. Since then, a number of very patriarchal and traditional-minded Muslim associations have offered forms for exemption applications.

More recent decisions of the administrative courts up to, and including, the new landmark decision of the Federal Administrative Court of 2013³⁰ have become increasingly restrictive.³¹ A comparison of the relevant decisions with regard to Christians and Muslims shows little consistency up to the 1990s: Muslims tended to press their interests more successfully than Christians. Since then, there has been increasing convergence towards a comparatively more restrictive policy on exemption with Muslims as well. The mission of the state to educate and foster students appears to carry more weight. This development is, in my opinion, to be seen as a

²⁶ See BVerfG NVwZ 1994, 578, 579f. with further references; OVG Münster NVwZ 1992, 77, 78.

²⁷ On developments, see the detailed account in Anger (2003), pp. 205 with further references.

²⁸ According to the latest findings, only a fraction in the lower one percentile fails to take part in coeducational swimming instruction due to religious reasons (0.1 % of male students, 1.9 % of female students); see Bundesamt für Migration und Flüchtlinge (2009), p. 184 with table 27. For coeducational sport instruction the numbers decrease even further to 0.1 % for both groups (i.e., 183 with table 26).

²⁹ BVerwGE 94, 82 et seq.

³⁰ BVerwG NVwZ 2014, 81. On the implications for the school day, see Rohe (2013), pp. 338–340.

³¹ See VG Hamburg NVwZ-RR 2006, 121 (The Central Council for Muslims in Germany (ZMD) approved of this decision.) See “Zentralrat begrüßt Hamburger Urteil,” (The Central Council approves the Hamburg decision), *Islamische Zeitung* 02/2004, p. 15); VG Düsseldorf NWVB1. 2006, 68, and BeckRS 2008, 36099; VG Augsburg BeckRS 2010, 54920); OVG Münster BeckRS 2009, 35827: A secondary school is allowed to make acceptance of a student (of 11 years of age) dependent on participation in coeducational swimming instruction in view of religiously adequate clothing options. The parents had objected that, according to their religious beliefs, children had to be protected from sexual temptation from the age of 7 onward. The state mission of education can by no means yield to obsessions of this kind.

facet of more successful integration. Muslim students are now mostly Germans and moreover “belong” to Germany, regardless of the nature of their citizenship. It is not a coincidence that, along with this development, instruction “in the mother tongue” was eliminated, which had been designed to prevent children from losing touch with their “real” ethnic culture.

Now, as far as it is possible for female students to take part in instruction in a bathing suit that covers the entire body except for face, hands and feet (“Burkinis”), there is no call for exemption. The material of such “Burkinis” is such, that even when it is wet it does not reveal the contours of the body. With this step, the religious and often cultural goal of remaining largely concealed from others was sufficiently met. This is also the opinion of the Central Council of Muslims in Germany (ZMD), one of the umbrella organisations.³²

Further arguments presented played only a minor role: The possibility of undesirable body contact with fellow students can be minimised through attentive teachers and self-control. The sight of fellow students in bathing suits and trunks have to be accepted as part of German life style. Schools are a reflection of the daily living environment in which one need not approve of everything but must rather learn to deal with it. This, in the view of the court, is also applicable in reverse for Muslim male students.³³ On the other hand, the importance of swimming instruction for all students has grown as fewer and fewer children are able to learn swimming from their parents or in an organisation. The Federal Administrative Court, when all is said and done, regards the mission of the state as more important than the conflicting religious interests of the students.

However, it cannot be overlooked that the Muslim milieus which are oriented towards norms derived from religious practice, are being subjected to massive propaganda, which originates above all from the Wahhabi Sunni branch of Islam practised in Saudi Arabia. Among other things, there is an almost compulsive obsession with separation of the sexes coupled with extreme requirements that girls and women cover themselves completely, including their faces. The association that provided the form by which the female student applied for exemption from instruction appears to follow this view. Characteristically, after defeat of the lawsuit, the girl’s father stated that he had now done everything in his power for Allah. From this, it is clear that the new legal assessment can reduce social pressure: one can, but does not have to, identify oneself as “particularly pious” in order to apply for exemption.

In states such as Baden-Wuerttemberg and Bavaria, where students are generally instructed separately from the fifth year on, the present situation remains unchanged. This practice clearly shows that certain assumptions, for instance in relation to gender relationships, need not be specifically religious. In certain age groups, coeducational physical training is typically subject to many factors that

³² See “Zustimmung für ‘Burkini’-Urteil (Approval for Burkini Decision), FAZ of 13 September 2013, p. 4.

³³ See VG Köln BeckRS 2012, 60246.

cause disturbances and distraction, so that coeducational sport instruction can only partially yield concrete educational goals.

Sex Education

In the field of sexual education, occasional conflicts arise in the spectrum of both Christians and Muslims. Jurisprudence has repeatedly had occasion for judgments in regard to Christian complainants (see Anger (2003) pp. 230–232, with further references; Epping et al. (2013) Art. 4 para. 51.3, with further references). The guidelines developed herein are, in my opinion, convincing and applicable to adherents of other religions. An objective and neutral sex education that is adequately adapted to the age level is of considerable importance, particularly in the form of coeducational instruction (just see Anger (2003) pp. 236–237). There are no objections to sex education from the side of Muslims insofar as neutral information is offered about reproduction and sexuality. However, adequate sexual education cannot circumvent everyday life topics, when—as for instance, in the case of premarital or extramarital sex, contraception, or same-sex relationships—topics meet with partially massive religiously motivated rejection. Factual information even in these areas is essential for students, both male and female. This takes precedence over differing religious convictions.³⁴

Religious Holidays

In addition to secular occasions, only Christian holidays are legally recognised. However the Jewish holidays are accompanied by lesser but comparable legal protection: Passover, the Feast of Weeks, the Feast of Tabernacles, Rosh Hoshana, and Yom Kippur (see Art. 6 Bavarian Holiday Law). In addition, Jewish students can absent themselves from Saturday classes or school events, insofar as attendance of religious services requires it, pursuant to item no. 2 of the Declaration of the Bavarian State Ministry of Education and Culture of 1978.³⁵ In addition to further exemptions, this appears to do justice to all recognisable interests of religious practice in the area of school education.

According to item no. 4 of the same Declaration, Muslim³⁶ students are exempt from participating in instruction or other school events on the first two days of the

³⁴ On these principles, see BVerfGE 47, 46, 69 et seq.

³⁵ KMBI I, p. 434; revised through the Notice of 03 November 1993, KWMBI I p. 630; printed in Amberg/Falckenberg/Stahl, Das Schulrecht in Bayern (School Law in Bavaria), loose leaf under 62.25.

³⁶ The notice chose the obsolete and in content erroneous term “Mohammedan” students, which features the (naturally unconscious) insinuation that Mohammed is theologically parallel to Jesus Christ, a gross misconstrual of the position of Mohammed, who in strictly monotheistic Islam is (only) a prophet.

Feast of Breaking the Fast at the end of the month of Ramadan, and on the Feast of Sacrifice. These two holidays are the most important in the Islamic calendar and of visible significance for religious and cultural practice. This is sufficient recognition of the constitutional rights of the respective students and parents (see also Coumont (2008) pp. 332–334).³⁷ It would be helpful if the Muslims in Germany could agree as to which day marks the end of the Fast; both internationally and domestically, there are differing views in this regard which, among other things, depend on mere calculations of the visibility of, or the genuine sight of, the moon.

Unlike the case of Jewish students with their Sabbath obligation, there is no provision for exemption from instruction, say, for the midday prayer on Friday, on which Muslims obligated to prayer are to assemble in the Mosque³⁸ (see Monnot (1995) p. 930). This may possibly represent a violation of the constitutional right of equal treatment. Such an objection cannot be invalidated with the incorrect suggestion that (other than for Jewish students on Saturdays) the entire day of Friday would have to be free (as according to Coumont (2008) p. 331). Participation in the noon prayer would only affect individual hours at school. In my opinion, there is a significant difference in that Friday, other than Saturday, is a regular school day and, hence, exemption would have a more severe impact on the educational mission of the school than exemption on Saturdays (see also Langenfeld (2001) p. 423). However, individual instances, in which older students might be granted an exemption if they were to pray in a nearby mosque and then to participate in instruction immediately afterwards, are conceivable provided that only a single hour of instruction would be missed.

Individual demands that have been brought forward to have the non-Christian high feasts of Islam declared legal holidays are subjectively completely understandable. However, I do not believe that they can be enforced legally, at least not under the aspect of necessary equal treatment of the religions in a religiously neutral country. The existing legal holidays have, indeed, extensive Christian roots, but are now largely to be seen in a secular function as shared time of recreation and rest from work life. Thus, they benefit not only Christians who want to participate in religious services, but also all residents equally. Additionally, the institution of legal holidays has considerable economic consequences, particularly for firms which have to continue to pay their employees or to pay wage allowances while their production suffers. For reasons of proportionality and justifiable unequal

³⁷ According to Coumont (l.c., 334) the exemption for one day each should suffice, in order to maintain orderly instruction continuity. This may be doubtful in view of the number of Christian holidays, including Easter and Pentecost Monday. In addition, an exemption for two days each can regularly be compensated for through compensatory homework. The realistic alternative of a pro-forma school visit during the festival period makes room for doubt in the meaningfulness of the limitation to only a single day. The Bavarian ruling, in my opinion, suffices completely to satisfy the constitutional requirements.

³⁸ According to tradition this is an obligation for men, and is optional for women. In my opinion, however, this should not lead to stricter requirements for female students who want to take part in the Friday prayer services.

treatment of unequals, it is not objectionable if only those holidays are legally privileged which derive from the faith tradition of the overwhelming majority of the population.³⁹

2.2.3 Ritual Prayer

According to the majority of Muslims, religiously mature Muslims are, in principle, obligated to perform the five daily ritual prayers, for which there are certain windows of time (see Koran, Sura 14, 31; 4, 103, as well as—instead of many—Mc Auliffe (2004) pp. 226–225, with further references; Ramadan (2004) p. 89). This is valid in spite of the fact that most Muslims in Germany, for various reasons, manage it differently. In many cases, they probably either find the religious rituals less important or are prevented by external reasons from doing so. Likewise, the group performance of midday and evening prayer, or of evening and night prayer, is generally allowable for reasons of external necessity.⁴⁰ For religiously mature school students who want to maintain the strict rules of prayer, particular conflicts can arise in connection with the all-day school schedule.

The general rule is that the practice of religion in state institutions such as schools is permissible. The Federal Administrative Court basically confirmed this⁴¹ in 2012 for ritual prayer during school recess or in free hours following a very convincing decision of the Administrative Court of Berlin.⁴²

There are several possible constellations in this regard. If a student insists on performing ritual prayer during instruction there are far superior arguments against it. For one thing, the state mission to educate and foster the child would be endangered because of frequent absence from instruction (prayer in the classroom is not an option at all). For another thing, other students would be unreasonably affected through the inevitable disturbance. And anyway, the appeal for politically demonstrative prayer in school and the pressure exerted on fellow students is unacceptable from the outset.⁴³

³⁹ This is comparable to Stollmann (2005), p. 1394, 1396 with further references.

⁴⁰ See, for example, the comments on the website of the Central Council of Muslims in Germany (ZMD) listed under “Besondere Formen und Gebete, 11. Erleichterungen für den Reisenden” (retrieved on 18 March 2014 under <http://www.islam.de/63.php>); Borek (1999), p. 210.

⁴¹ BVerwG NVwZ 2012, 162. See the praise of the decision in Epping et al. (2013), Art. 4 para. 51.4.

⁴² VG Berlin Beck RS 2009 39311. The VG (Administrative Court) determined the right of the student to perform his Islamic prayer once daily on the school premises outside of instruction times. The author was an expert witness involved in the civil law proceedings.

⁴³ Compare the report “Mit Gebetsteppich im Sportunterricht – Mülheimer von der Schule verwiesen,” (With prayer rug in sport instruction—Mülheimer [student] expelled), WAZ of 04 March 2014 (<http://www.derwesten.de/staedte/muelheim/mit-gebetsteppich-im-sportunterricht-muelheimer-von-der-schule-verwiesen-id9077053.html>) (retrieved on 18 March 2014). The available prayer room was not used by the student.

However, the same situation can have a different outcome if the student, as in the Berlin case, is willing to perform his or her prayers during recess or during the free hours. Leaving the school building—as far as this is permissible—is not a practicable solution due to the fact that there is, in all likelihood, no suitable space near the school. For this reason, the school has to consider the wish of the student in conjunction with considerations of space and organisation in the school. No more is needed than a clean space in which a prayer rug can be placed. Should such a space be available and should there be nothing to hinder its temporary use for the objective needs of the school organisation, there is, to my mind, no legal reason why any such use should be prohibited. In my opinion, the wish of the student should not be denied simply because of the widespread attitude outside of the world of Islam that religious duties are less strict. The religious provisions for “travelling” do not apply to a permanent stay in a particular place.⁴⁴ Here, as well, the fundamental principle is to take the self-defined full picture of religious practice as a starting point and then to balance it against possible conflicts with constitutional values.

Should such a desire for prayer develop from the single case known to date into a mass phenomenon—and there is no indication of that at present—, certainly schools, in view of their other needs and limited financial resources, would not be obliged to provide additional premises. And vice versa, the weight of religious needs would be reduced because, even according to strict religious interpretation, prayer need not be performed in the presence of insurmountable barriers (such as a duly justifiable prohibition on the part of the school). According to a non-representative survey undertaken by the author, Muslims trained in their religion, such as Imams or teachers, regularly advise performing prayers outside of the school or school times. They argue that the necessity of a solid school education without avoidable conflicts takes precedence over precise timing of religious rites. In individual cases, pragmatic solutions should be devised, particularly in view of the fact that the desire for precision-timed performance of prayer may be short-lived.

2.2.4 Fasting

Religiously mature students may as well feel bound by the requirement to fast during the month of Ramadan.⁴⁵ From dawn to sundown, no food or drink may be consumed. When Ramadan, which is calculated by the moon calendar, occurs in the summer, the window of time for consumption of food is reduced to only a few hours. Often the faithful rise very early in order to eat or drink something before sunup. In the evening, the breaking of the fast occurs—often opulently—which also has a strong social component (hospitality for guests). In areas of the world where

⁴⁴ See ZMD (Footnote 55).

⁴⁵ Koran, Sura 2, 184f.

Islam is predominant, public life often adapts to these customs. In Germany, however, there is a particularly efficient work rhythm. Nevertheless, the number of those who participate in the fast seems to be increasing.⁴⁶ Many school administrators can be heard to report that the abilities of students to concentrate and perform are considerably impaired (see Kleff (2009) p. 2).

Certainly, in classes with a high proportion of Muslim students who take part in the fast, there will be considerations to avoid scheduling tests and examinations in the period near the end of Ramadan, when experience shows that performance impairment is the greatest. Likewise, in sport instruction, no unreasonable demands should be made on students who are physically weakened. But is there a legal claim to regard the fast beyond such individual cases?

Release from school during the festival days after the Breaking of the Fast is unthinkable; the loss of an entire month would not be compatible with the state educational mission. As far as I can see, there is no legal claim for dispensation from examinations or reduction of the workload, either. On the one hand, the material to be learned is so immense and the coordination of examinations is so complex that special circumstances for Muslims could not be reasonably be expected to be managed. On the other hand, this religious claim should not be attached much weight to. Although it cannot be expected that religiously mature students oriented towards religious practice in Germany are exempt from the relevant obligations, setting the dispensation for “travelling” would be wrong, both from the aspect of content as well as from the aspect of integration policy. It is urgently advisable to avoid fostering an attitude whereby Muslims in Germany are viewed as a kind of structural “state of emergency.”⁴⁷

The Islamic teaching on norms is also familiar with the basic principle of proportionality.⁴⁸ In most decisions in life, the advantages and disadvantages are to be weighed. The purpose of fasting in Islamic self-perception is inner purification and a deepening of closeness to God. But it should not bring lasting disadvantages. Not without reason are, for instance, exceptions to the obligations of fasting made for those who are pregnant or ill. Since education is highly valued in Islam and is, in addition, indispensable for professional advancement in Germany, individuals would, as a rule, decide in favor of the conditions for advancement. Thus, they would not be directly affected by the obligation to fast; “missed” days can be made

⁴⁶ On the growing orthodoxy of religious practice among Muslims, see the differentiated overview of the status of research in the Bundesministerium des Innern (the federal ministry of internal affairs) 2007, pp. 15–17 with further references (specific to fasting among school students 248–249), the information in the study commissioned by the German Islam Conference (DIK) (Deutsche Islam Konferenz & Bundesamt für Migration und Flüchtlinge, 2009, pp. 134–135) and the exemplary information in Alacacioglu (1999), p. 67 (5 out of 30 youths who participated in the research prayed five times a day); specifically on fasting, see Bundesamt für Migration und Flüchtlinge (2009), pp. 155–157.

⁴⁷ On Muslim basic attitudes, see Rohe (2011), pp. 383–385; clearly rejected, for instance, by the former director of the Islamic Faith Community in Austria: Balić (2001), pp. 69–70, 210.

⁴⁸ “Necessity” (darura) can permit what is forbidden and forbid what is permitted; on this normative principle, see Rohe (2011), pp. 66–67, 192, 194 and frequent.

up later. While there may be isolated differing opinions, the state need not evaluate whether or not they are “valid.” In its deliberations, it can note that a broad majority of the faithful supports the view that facilitates compatibility with external necessities. Thus, isolated extreme views are assigned weaker weight in the sense that, in general, the individual has to bear the consequences of his or her own judgment and that the larger public cannot suffer because of it.⁴⁹

In regard to children not yet religiously mature it can be stated that some of them already take part to an extent in fasting as part of their training for later practice particularly in Salafist and extremely traditionalist circles, or out of pride to already “belong.” Here, attention is needed if the children visibly suffer from this. First in consultations with the parents,⁵⁰ and, if necessary, employing other suitable measures, a solution for the good of the child has to be found. Respective consultation with Muslim organisations is also to be welcomed.

2.2.5 Clothing

The headscarves worn by many female school students have pragmatic meaning (see at length on this Anger (2003) pp. 168–170, esp. pp. 150–52 with further references). Unlike female teachers of religion in various German states, female students are free to wear headscarves in every conceivable colour, form and tying styles (see only Coumont (2008) pp. 499–501 with further references). Isolated incidences in the German states of Hesse (2000)⁵¹ and Northrhine-Westfalia (2008),⁵² in which school administrations prohibited the wearing of headscarves, were subject to correction by the responsible supervisory authorities. Indeed, the voluntary wearing of headscarves for religious reasons is protected by the freedom of religion. It provides no barrier to verbal or nonverbal communication, or to the identification of the student concerned. Lately, voices have been raised that would demand prohibition of headscarves at least in regard to younger pupils.⁵³ The

⁴⁹ See the comparable case of a woman who, because of her insistence on a facial veil, was impossible to place in the job market, in respect to the failure of social welfare: VG Mainz 26 February 2003 (Az. 1 L 98/03.MZ), unpublished, report under becklink 88243.

⁵⁰ Here religious and cultural sensitivity as well as openness are just as needed as firmness in the matter, particularly in light of the state mission in Germany for promotion of the well-being of the child in cooperation with the parents. In not a few migrant families the co-responsibility of the state does not correspond to experiences in the country of origin and must first be raised to consciousness.

⁵¹ See Anger (2003), p. 168 with further references.

⁵² See the report “Wie Rektoren das Kopftuchverbot ausweiten wollen” (“How school directors want to expand the prohibition of headscarves”), in Spiegel-online of 16 October 2008 (<http://www.spiegel.de/schulspiegel/wissen/muslimische-schuelerinnen-wie-rektoren-das-kopftuchverbot-ausweiten-wollen-a-584023.html>) (retrieved on 18 March 2014). According to the designated report, the director of the school called his action a “blackout” in conversation with the supervisory authorities.

⁵³ The first initiative of this type occurred in the 90s on the part of the rightest radical party “The Republicans” in the state parliament (Landtag) of Baden-Württemberg; On this, see Anger (2003),

main argument is “optical sexualisation” through a clothing piece that should protect the wearer from male advancements, an argument often proffered for headscarves which, however, in the end can be interpreted as a sign of a repressive physical regime (see on this the lucid comments in Tezcan (2009) p. 70, esp. pp. 78–79).

At the same time, other motives are brought forward, among others the simple advice to accept God’s commandment without further reflection.⁵⁴ Thus, in my opinion, it is still to be empirically proven that wearing a headscarf results in severe disadvantages for the wearer because the mere possibility of a negative reaction of the environment is not a sufficient argument for a ban. Otherwise freedom of religion for all or certain religions would be dependent on views of the majority that are not always rationally understandable—and minorities would be especially at risk. As long as there is no sufficiently proven knowledge of considerable “endogenous” disadvantages, freedom of religion will continue to prevail.

Not permissible, on the contrary, are pieces of clothing which make communication impossible or at least strongly restrict communication options. Unlike headscarves, this is true of facial veils which only leave a small slit for the eyes (so-called niqabs), and also of the burka, which only allows the wearer to gaze through a textile mesh (already noted by Mahrenholz (1998) p. 287; Ganz (2009) pp. 155–156). In Germany, only one such case from Lower Saxony is known, in which the wearing of a niqab was to be forbidden (see Oebbecke (2000) pp. 308–309 with further references).⁵⁵ This type of clothing also finds isolated supporters who argue from the standpoint of religion: the niqab is associated with an obsessive gender-based Islam of Saudi Wahhabite origin which is being propagated around the world with considerable means. Such extreme views can fall within the scope of freedom of religion, but they are opposed by the far more weighty arguments in favour of the state mission of education.

3 Conclusion

The legal framework for exercising the freedom of religion in schools has proven sound in general. New challenges, particularly in regard to Islam, are to be met by merely applying the existing rule of law. Developments are burdened by non-legal factors which are due, in part, to the immigration background of many Muslim men and women and, again in part, to diffuse fears in large sectors of the population. It

p. 168 with further references. In the meantime, the debate has shifted to a broad political spectrum, whereby in part actual problematical aspects of headscarf wearing, especially for younger female students, have been brought forward.

⁵⁴ On the different motives for wearing headscarves, see Rohe (2004); on recent findings, Bundesamt für Migration und Flüchtlinge (2009), pp. 193–195.

⁵⁵ Due to the departure of the student from the country, the case was resolved without a final decision.

is, however, both possible and necessary to bring the religious needs of Muslim students to practice their religion into a gentle balance with the state mission of education. The legal framework is largely clear and applies to members of all religions equally. However, care must be taken that the actual problems of religious minorities, for instance holidays that unlike Christian ones do not by default form part of the school schedule, be kept to a minimum. The school mission of education has to be viewed just as seriously as the religious rights of those concerned. However resolutely the educational goals are enforced, pragmatic solutions can mostly be found for the benefit of students. Approaches reminiscent of a “culture war”, as any such have been seen in isolated illegal measures to limit the freedom of religion, have been prevented by the school authorities but serve as a warning example. In the end, the public school must remain a place where all students can feel accepted in the legal framework equally applicable to them all.

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Prof. Dr Mathias Rohe is Professor of Civil Law, Private International Law and Comparative Law and Director of the Erlangen Centre for Islam & Law in Europe at the Friedrich-Alexander-University Erlangen-Nürnberg, Germany.

Engagement for Religious Freedom at the United Nations: The Contribution of the Bahá'ís

Gundula Negele

Abstract What do the Bahá'ís contribute at the United Nations for the religious freedom of all human beings? By means of statements and reports from the Bahá'í International Community (BIC) at the United Nations (UN) this short article will show that on the one hand the Bahá'ís invoke the right to freedom of conscience and religion, which is firmly established in Art. 18 of the Universal Declaration of Human Rights (UDHR), and that on the other hand they emphasize not only the duty of the states, but also the obligation of the individual in general to exercise these rights and to guarantee that others may enjoy them. For the individual and his (A number of quotations date from an earlier period and use the generic pronouns to refer to both men and women. To preserve unity of style the generic pronouns are used in the text as well.) dignity it is important, among other things, that in principle he has the possibility and the obligation to search independently for truth. In the following it is explained (1) where the Bahá'ís are located at the United Nations and what the BIC's mandate is. Since the perspective of the Bahá'ís concerning religious freedom is embedded in a general concept, (2) their understanding of the dignity of the human being is outlined as well as the basic implications deriving from this and the consequences thereof, namely human rights and human obligations. This leads then (3) to concrete arguments particularly for religious freedom as a prerequisite for the development of human dignity and education. It will be clear that this means a life-long process of education on the road to peace, freedom and justice. These remarks end with a summary and conclusion (4).

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G. Negele (✉)

Bahá'í International Community, Augsburg, Germany

Fellow at Augsburg University, Faculty of Philosophy and Social Sciences, Chair of Adult and Continuing Education (Lehrstuhl für Pädagogik mit Schwerpunkt Erwachsenenbildung und Weiterbildung), University of Augsburg, Augsburg, Germany

e-mail: gundula.negele@gmail.com

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1 Bahá'ís at the UN: The BIC's Mandate

The Bahá'ís are followers of a religion that was founded in Persia in 1844. Today, there are more than five million members throughout the world and they interact with the BIC UN Office (Bahá'í International Community United Nations Office), also known as BIC, as a religious NGO (Non-Governmental Organization) in the international, secular context of the UN. The Office presents contributions from the Bahá'í World Community, *inter alia*, through statements in the discourse at the UN, in order to work for justice, freedom and peace. The vocabulary used in the BIC documents has religious, political, legal and philosophical connotations. The statements delivered by BIC are regarded as statements from the worldwide Bahá'í community. The national Bahá'í communities strive to implement the principles expressed in the statements. The current principal representative of the BIC is Ms. Bani Dugal.¹

Religious engagement in international relations was already evident at the time of the League of Nations, which was established in 1919 (cf. Lehmann, 2009).² According to Lehmann there are currently about 200 accredited religious NGOs at the UN that (1) are based on religious belief systems (e.g. Lutheran World Federation) or (2) are structurally connected to religious organizations (e.g. Caritas International). Between 1945 and 1950 there were at first ten religious communities that were granted the general or special NGO status. Until 1989 about one new religious NGO (RNGO) was added each year; among them was the religious community of the Bahá'ís, which was granted the status in 1970 (cf. BIC Documents #95-0228; #00-0606). The BIC has a special status at the United Nations (cf. also Berger, 2011). The Bahá'ís world-wide are represented by only one RNGO, the BIC i.e. the BIC UN Office,³ which, in turn, works together with other religious NGOs at the United Nations.

It is necessary to explain the Bahá'í understanding of politics. Regarding the word “politics”, which may have diverse meanings, the Bahá'ís differentiate “between partisan political activity and the discourse and action intended to bring about constructive social change” (The Universal House of Justice, 2008, § 3). Bahá'ís engage in social discourse and contribute to policy decisions but they do not participate in partisan politics. They are actively committed to justice and thus also to just governments that strive for the welfare of all human beings (cf. Dugal, 2010). The Bahá'ís repudiate any form of politics that strives for power and engages in dispute, nor do they engage in any partisan political activity. However, they engage in a form of politics that is concerned with love, justice, consensus, universal understanding, integration, peace, mercy, compassion, service to

¹ Cf. a more detailed commentary on this topic: Negele (2014), especially chapter 2.

² The constitution of the League of Nations was accepted and signed in this year (1919). The League was not founded officially until 1920.

³ Cf. also Berger (2003), p. 24. In her essay Berger analyzes the RNGOs at the UN and demonstrates the extent to which RNGOS help to shape global politics.

humanity as goals and as a path for achieving these goals (cf. e.g. ‘Abdu’l-Bahá, 1982a, p. 227: 16, 28, and Shoghi Effendi, 1991, pp. 64–65).⁴

2 The Bahá’í Concept: The Dignity of the Human Being: Basic Conclusions—Consequences: Human Rights and Human Obligations

Since the United Nations was founded, and even before that, the Bahá’ís have been trying to work for the right of human beings to freedom of religion. While they are obviously engaged in fighting for the rights of their fellow-believers in Iran, they are also committed to fundamental principles that concern all human beings (cf. also Bielefeldt, 2011).

Their concept is based on the following: The human being has inherent dignity, which also implies a mandate to develop this dignity. From this are derived certain basic conclusions, and these, in turn, lead to concrete human rights and human obligations which the Bahá’ís would like to have established in positive law.

On the one hand, the dignity of the individual is a characteristic of the human condition. Every human being has inherent dignity. It is a potential quality and is of intrinsic value. Potential quality means in this context: it is something that is an innate part of every human being and that can be developed. It is already present and real, but may still be hidden. This characteristic includes other spiritual qualities, virtues and powers, as stated by BIC (cf. e.g. BIC Document #47-0201). Every individual has human dignity regardless of gender, ethnicity, creed or nation. Children, the sick, the comatose, the dement and people with intellectual disabilities—all have it. It exists independently of the individual’s actions. On the other hand, all individuals have the obligation to develop their innate qualities and thus their dignity. So dignity is a mandate for development. Serving the common weal develops the individual’s potential qualities, and as a consequence, his dignity (cf. e.g. BIC Documents #85-0226; #85-0319.2; #85-0520.1; #85-1009; #93-1203).⁵

In several statements the BIC explains that the individual possesses dignity with the associated mandate to fulfill his potential because of his very humanness—and because of his special nature, which is God-given. Among the different forms of existence that were created by God, man has been endowed with a certain station. In his predisposition the human being is a reflection of the divine attributes and thus

⁴ Cf. also Gollmer (1995), pp. 360–361, and Lincoln (1970/71), on the topic of the political culture of the Bahá’ís. “Be anxiously concerned with the needs of the age ye live in, and center your deliberations on its exigencies and requirements.” (Bahá’u’lláh, 1990, p. 213; cf. also BIC Document #95-0303).

⁵ Here the BIC quotes ‘Abdu’l-Bahá (1990 [1875]); cf. Negele (2014), e.g. pp. 87–102 for more on this topic.

the image of God; he is an emanation of the divine will (cf. e.g. BIC Documents #95-0503; #85-0520.1; #95-0826.1; #02-0826). The reason for the creation is love (BIC Document #95-0503). Furthermore, it is evident in these statements that many people recognize and understand human dignity after they have had the negative experience of suffering, for instance in war. The injuries of others can be felt as if they were one's own and reinforce one's own sense of being hurt—just by being conscious of the principle of the oneness of humanity (cf. e.g. 'Abdu'l-Bahá, 1970, pp. 1046 ff.).⁶

Two basic norms that include further diverse norms are to be noted: On the basis of his inherent dignity every human being has the right to develop his dignity and manifest it outwardly and he has the duty to act in accordance with his inherent dignity.

Following from the above, the individual develops his dignity specifically and fulfills his mandate accordingly by developing his sense of dignity and his moral behavior through obedience to the divine laws; in this way he recognizes and respects the dignity of his own self and that of other human beings as well. This takes concrete form in the development of spiritual qualities. Love and justice are two principal qualities that belong together but are dialectically opposed. When people serve each other, these qualities come into play and thus human dignity is developed. In the whole process decisions are made by conscience, reason and free will. Related to this is also the principle of the independent search for truth, which is especially evident in the quality of justice. One consequence of this is, for example, the right to freedom of religion and freedom of conscience as well as the obligation to implement it and to grant it.⁷

The fact that the individual should develop his dignity does not mean to deny the dignity of such human beings who have not developed it sufficiently; it simply means that it has not yet been developed. People who are capable of developing their dignity to a greater degree are ultimately obliged to do so.

The BIC shows that there is an inseparable link between human dignity and human rights and the human responsibilities it describes as well (cf. e.g. BIC Documents #47-0201; #93-1203). Human dignity, which was bestowed by God, is something that a human being cannot lose. Nevertheless, it should be protected, promoted, granted or be restored—these are the verbs that the BIC uses in its statements. Here the individual, the 'other' and the community are considered, as are the agents such as states, groups, families and individuals.

Regarding the right to freedom of religion and freedom of belief the BIC emphasizes two responsibilities:

- (a) the responsibility of the international community and national governments towards marginalized and peacefully organized religious communities;

⁶ Cf. Negele (2014), e.g. pp. 102–111 for more on this topic.

⁷ Cf. Negele (2014), pp. 124–199 and 200 ff. for more on this topic.

- (b) the responsibility and obligation of religious leaders to promote and protect the right to freedom of religion or belief (cf. BIC Documents [#05-0401](#); [#05-1001](#)).

3 Freedom of Religion: A Prerequisite for the Development of the Dignity of the Individual and for the Process of Education

The UN Human Rights Commission was founded as a special commission of the UN Economic and Social Council under Article 68 of the UN Charter in 1947 and it began in late January 1947 to establish an international code of human rights. Before and after this, different delegations—including the BIC—submitted proposals (cf. Fassbender, 2009, pp. 7 ff.). There was much controversial discussion in the process of understanding what human rights consist of.

Before the first meeting of the UN Human Rights Commission the International Bahá'í Community or International Bahá'í World Community, which was represented at that time by the National Spiritual Assembly of the Bahá'ís of the United States of America, had presented a Bahá'í Declaration of Human Obligations and Rights (cf. BIC Document [#47-0201](#)).⁸ Among other things the BIC explained here its understanding of the term “human right”.

[. . .] an expression of man's divine endowment-given social status by a moral and sovereign body. A right attains social status only after it has become a moral value asserted and maintained as a necessary quality of human relationships by the members of the community (BIC Document [#47-0201](#)).

Furthermore, the BIC stated in this document that the human being has a universal instinct to worship including an “infinite number of more or less temporary devotional practices, moral systems and social forms” (cf. BIC Document [#47-0201](#)).

Already in this statement the right to freedom of religion or conscience, which is also described as the right to be the adherent of a world religion or a world faith, is clearly expressed. This includes, first, the freedom to practice and promulgate the special systems of different religions out of loyalty to humanity and devotion to the cause of world unity until the individual has enough spiritual knowledge to come to his own mature and independent decision about the nature of faith. Second, it involves the freedom of the individual to change his religion or system of belief. It should be emphasized here that already in 1947 the BIC spoke of a pure and progressive revelation of God as a gift of God for humankind, a gift presented by his Prophets and Messengers from age to age.

⁸ The title is: “A Bahá'í Declaration of Human Obligations and Rights” (BIC Document [#47-0201](#)).

In later years the BIC repeatedly invoked the right to freedom of conscience and religion as expressed in Article 18 of the Universal Declaration of Human Rights (UDHR):

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Freedom of thought (*forum internum*) is protected, as is the freedom to express such thoughts, alone or collectively, to individual people and to society, as well as the freedom to act accordingly (*forum externum*). The possibilities for expression and action that are then described are to be seen as examples. Moreover, it is not only this positive freedom that is protected; the negative freedom is also protected. Thus the individual need not have or express a particular religion or belief and he can refrain from activities that would represent a faith or belief (cf. Fassbender, 2009, pp. 136 f.; Enayati, 2002, pp. 70–76; Morsink, 1999, pp. 259–263). The *forum internum* is not subject to any restrictions, but the *forum externum* is subject to restrictions according to Articles 29 and 30 UDHR (cf. Enayati, 2002, p. 70). Article 18 UDHR also explicitly grants that the individual may change his religion or belief (cf. Roosevelt, 2009 [1949], pp. 42 f.; Morsink, 1999, pp. 261 f.; Fassbender, 2009, p. 137).

The BIC explains that ensuring justice, especially the right to freedom of religion and conscience, is of fundamental importance for safeguarding the dignity of the human being. It is described as a fundamental right for all other rights, because without this guarantee it becomes difficult, if not impossible, to exercise the other rights (cf. BIC Document #08-0206, BIC Document #07-0626). The human right to freedom of religion and freedom of conscience is related to the promotion of stable and just societies in which individuals and communities are free to shape their present and future. Consequently, from the perspective of BIC, this human right promotes social integration (cf. BIC Document #09-0204). The BIC places the right to freedom of religion and freedom of conscience in the overall context of a global order that is capable of ensuring the dignity of the individual (cf. BIC Document #08-0206). This freedom should not be regarded as a luxury that only deserves attention after the basic needs for food and shelter have been met (cf. BIC Document #09-0204).

Within this right to freedom of religion and conscience the BIC stresses:

- freedom of conscience
- free choice of religion
- the possibility to change one's religion
- the possibility to practice one's religion and inform other people of one's beliefs (cf. BIC Documents #08-0206, #05-1001).

As often mentioned before, the statements of the BIC make clear that it is important for the individual and for his dignity that he has the possibility to search independently for truth. In this context an important role is played by the spiritual

principle of the unity of science and religion as aspects of one reality (cf. BIC Document #80-0714) and as two systems of knowledge (cf. BIC Document #98-0218) in order that the skills and knowledge of science are applied appropriately. According to Bahá'í understanding the material plane is thus connected to the spiritual plane, whereby emphasis is placed on the spiritual qualities, such as moderation and humility, that are to guide the material plane. The BIC is of the opinion that both science and religion teach the Bahá'ís that there is only one humankind on this planet and that every single human being is a part of humankind (cf. BIC Document #85-0520.1).

Using an explanation by 'Abdu'l-Bahá, the BIC emphasizes the human being's reason and intelligence—qualities, which have been endowed by God—as important for this principle. The individual needs these qualities in order to determine the truth of matters, theories and high hypotheses. Religious beliefs and opinions that are contrary to the standards of science are superstition and mere imagination or are examples of ignorance rather than knowledge (cf. 'Abdu'l-Bahá, 1982b, p. 181, cited in BIC Document #02-0826).

Thus the right to change one's religion or belief (*forum internum*) is an inalienable right, which is to be protected unrestrictedly and which at no time is subject to government regulations, even in a time of national emergency (cf. BIC Documents #05-0401; #05-1001).⁹ The BIC explains that the search for truth and meaning is closely connected with human conscience, which is something holy; it is connected with the desire to see the world with one's own eyes and to understand it with one's own ability to perceive and comprehend. Thus, this search is inextricably linked to all aspects of human development (cf. BIC Documents #05-0401; #05-1001).

The BIC links the individual's right to inform and to teach his religion or belief to other people (*forum externum*) to a necessary condition: The individual should have the possibility to express new ideas and to share or receive information. Consequently, the aim of solely preserving tradition, religion or ideology must not prevent the fulfillment of that condition, nor should it stand in the way of the right to freedom of religion and belief in any way. In this context, the BIC invokes the preservation of the identity of a human being and connects this right to spread his beliefs with the right to choose a different faith. The BIC believes that the preservation of the identity of a human being also includes the possibility to convert to another faith, if the person concerned wishes to do so (cf. BIC Document #05-1001).

The BIC emphasizes the foregoing, since some governments are already making improper use of the reasons stated in the Universal Declaration of Human Rights that may limit a right, such as the “just requirements of morality, public order and the general welfare in a democratic society” (Art. 29 II UDHR), in order to restrict

⁹“The right to change one's religion or belief is accorded the status of a non-derogable right—a right that is protected unconditionally and is, at no time, subject to government regulation.” (BIC Document #05-0401; BIC Document #05-1001); “A non-derogable right is not subject to governmental regulation, even in times of a national emergency.” (BIC Document #05-0401, footnote 12; BIC Document #05-1001, footnote 7).

the right to freedom of religion and to suppress minorities (cf. e.g. BIC Document #05-1001). According to the BIC, restrictions imposed for the preservation of morality, above all in non-democratic and theocratic states, must not be used in such a way that a moral principle which is based on religion disregards a person's religious convictions (cf. BIC Documents #05-0401; #05-1001).

The right of an individual to propagate his own beliefs also includes the possibility to support other people in their search for truth. Such action is considered as a service to one's fellow human beings if it benefits the spiritual and material welfare of the person and then contributes to the development of the inherent dignity of the human being.

In the view of the BIC the right to freedom of religion and freedom of conscience implies ultimately a ban on the exercise of religious violence, discrimination and hostility, even when carried out in the name of religion. On this aspect, the BIC calls for penalties, referring to the statements in the International Covenant on Civil and Political Rights of 1966 and the Convention of 1960 adopted by the UNESCO against discrimination in education (cf. BIC Document #07-0626).

The BIC explicitly links the prohibition of discrimination and violence to the equality between women and men and emphasizes the necessity of protecting women. The equality of men and women is described by the BIC as a moral principle that should be established as an international right leading to the protection of the dignity and conscience of every human being (cf. BIC Documents #05-0401; #05-1001).

Furthermore, the BIC attaches great value to the context of education and its great importance for the human right to freedom of religion, freedom of belief and freedom of conscience. The BIC strives to promote a sustainable solution in order to build a culture of tolerance and non-discrimination. In this preventive strategy it is not just concerned with teaching reading and writing skills to both children and adults. In learning such skills children and adults should also learn about other beliefs. The BIC explains finally that ignorance and fanaticism can be prevented by a culture of education, including:

- reading the writings of their own and of other religions or belief systems,
- the freedom to question,
- the freedom to discuss, and
- the participation in the generation and application of knowledge (cf. BIC Documents #05-0401; #05-1001).

The state cannot and should not prevent criticism and honest debate on issues of religious faith, but on the contrary should encourage criticism and debate (cf. BIC Document #07-0626).

The BIC explains that people should already acquire knowledge about religion in their childhood, until they can decide themselves to follow or not to follow a particular religion. This aspect of the education of children connects the right to religious freedom with the right to education. In the context of teaching children religion in an open way and also teaching them about religion—which is essentially

linked to the right to freedom of religion—this aspect demonstrates the universal attitude of the Bahá'ís in general.

It should be mentioned that the BIC says that universal educational principles could provide a unified single framework in order to foster understanding for the diversity of human experience. The BIC carefully suggests that the UDHR could offer such principles. The principle of the oneness of humankind serves as the basis for such a framework. This is also in accordance with the plea for the universality of human rights. Thus education should also be universal. Universal human rights require universal educational principles. The principle of the oneness of humankind in its diversity should be taught already to children (cf. BIC Document #00-0320, UN Doc. #E/CN.4/2000/NGO/13).

For instance, Bahá'ís operate more than 600 schools and seven radio stations, which run education, health and agricultural programs. From the perspective of the Bahá'ís they are the expression of a learning process concerning approaches as to how scientific and technological aspects can be harmonized with their intellectual and moral aspects (cf. National Spiritual Assembly of the Bahá'ís of the United States, 2012). In addition, there is a worldwide study program from the Ruhi Institute with a concept for children's classes, junior youth groups and study circles for adults (cf. The Ruhi Foundation, 2013).

For the BIC and the Bahá'ís it is of central importance that religion is closely connected with tolerance and that education is necessary for this, not only to build up tolerance between the religions, but also to advance the autonomy of the individual in his search for truth, in his thinking, decisions and actions. Only through knowledge can the human being acquire understanding, assess the consequences of his actions through his reason and conscience, accept this responsibility and then realize his inherent potential and act according to his inherent dignity.

The religious representatives have the duty to advocate the sanctity of human conscience and also the freedom of every human being to search for truth without restrictions. They should also urge their followers to practice peaceful coexistence with those who think and believe differently. (cf. BIC Documents #05-0401; #05-1001).

In the statements it can be seen that the BIC provides a platform that includes all religions. By pointing out the similarities, it shows that a stronger understanding can be achieved between religious groups and at the United Nations as well.

For instance, in a statement from 1995, the BIC cites holy scriptures from different religions, scriptures in which the relationship between God and man i.e. the human being and also between human beings towards each other are made clear. In this way it demonstrates that regarding the necessary quality of love they essentially share the same beliefs (cf. BIC Document #95-0110):

[T]he injunction to love one's fellow men echoes throughout all the Holy Writings. The Old Testament enjoins: "thou shalt love thy neighbor as thyself" [Leviticus 19:18]. The Bhagavad-Gita [Bhagavad Gita 12:13] instructs: "A man should not hate any living creature. Let him be friendly and compassionate to all." These words sound not so different from "love your enemies, bless them who did curse you" as uttered by Jesus [Matthew 5:44]. Compassion, loving-kindness, sympathetic joy, and equanimity are said by

Buddhist scriptures to be divine conditions of the mind. “Do you love your creator? Love your fellow-beings first,” reads a well-known Islamic tradition. And Bahá’u’lláh, the Prophet-Founder of the Bahá’í Faith writes: “Ye were created to show love to one another and not perversity and rancor. Take pride not in love for yourselves but in love for all mankind” [Bahá’u’lláh, 1988, p. 138]. So prominent is the teaching of universal love among all religions that it could be viewed as a goal common to them all. (BIC Document #95-0110 [italics were removed by the author]).

In addition to this, the BIC gives the UN recommendations for the practical implementation of the right to freedom of religion (cf. BIC Documents #05-0401; #05-1001).

4 Summary and Conclusion

These remarks show that the BIC takes a clear position in its statements on the right to freedom of religion, to freedom of belief and freedom to hold a world-view; this is a position that touches upon many different perspectives and questions. Different human rights issues, such as the right to freedom of belief and conscience, the equality of men and women and the topic of education, are connected with each other. The independent search for truth and the individual’s autonomy and freedom of decision are emphasized. At the same time a focus is placed on religion and the transmission of religious beliefs in order to create unity and justice as well as to develop the inherent dignity of the human dignity. It is clearly stated that in addition to the right to religious freedom there is the associated obligation to reject violence, hostility and discrimination.

The individual should be able to develop his God-given potential. Closely related to this is the right to freedom of education and the obligation to seek and provide education. The BIC positions the right to freedom of religion and conscience in the general context of a global order, in which it is possible to ensure the dignity of the individual. It advocates the recognition of spiritual principles by means of an educational process through which the individual can develop a sense of justice and, accordingly, moral behavior.

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Dr. Gundula Negele is an official spokesperson of the Bahá'í community in Germany.

Religious Freedom and the Ahmadiyya Muslim Community (Jamaat): A Case Study of a Victimized Community

Yahya Hassan Bajwa

Abstract Pakistan is a country with two faces. On the one hand, it is a country of catastrophes: inhabited by rich land lords and industrialists, who are sharing the wealth of the country among themselves; ruled by corrupt politicians, bribable judges and lawyers, and by leaders who mostly misuse religion for personal power; influenced by militant religious leaders, who were previously trained by the Western powers primarily to fight the Soviets in Afghanistan; marked by the presence of the army, which constitutes a state within the state of Pakistan and that from time to time intervenes “to restore order in the chaos”.

On the other hand, the majority of the people in Pakistan are very likeable. The simplicity and hospitality of the lower social class of gentle and devout believers gives Pakistan another face. They are deeply rooted in Sufism and reject every form of fundamentalism.

Pakistan was created in 1947 “in the name of Islam”, and the country is now harassing and killing people who do not belong to the Islamic mainstream or have a different faith. It has a legal system that allows to arrest, to press charges or even to kill people with divergent Islamic ideologies. The Ahmadiyya sect—which sees itself as an Islamic group—was declared to be a non-Islamic religious sect through a parliamentary decision in Pakistan in 1974. At first, this pronouncement had no serious and harmful anti-Ahmadiyya implication. But in 1986, the introduction of the Blasphemy Law included the death sentence for an insult to the name of the prophet Muhammad (pbuh=peace be upon him). During the military dictatorship of Zia Ul Haq (1979–1988), charges were pressed against the Ahmadis and the judges often unilaterally added the blasphemy charge with the argument that the existence of an Ahmadi believer was by itself an act of blasphemy.

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Y.H. Bajwa (✉)
TransCommunication, Baden, Switzerland
e-mail: info@transcommunication.info

This article attempts to answer the questions: What influence do the anti-Ahmadiyya laws have on the Pakistani society, and is there a way out of this “dead end”?

1 Who Are the Ahmadi Muslims? A Short Historical Review of the Theological Differences Between the Mainstream Muslims and the Ahmadis

If a foreigner comes to Pakistan, learns a few Urdu words and uses the Islamic greeting “Assalam O alaikum” (peace be with you), the stranger is likely to have won the heart of a typical Pakistani. But if such a greeting is used by an Ahmadi, that Ahmadi must reckon with arrest or fine. In a worst case scenario, he could be accused of blasphemy for unworthily mentioning the prophet of God (pbuh), and this could result in the death penalty.

What sort of reasoning leads to such hatred? All Muslims recognize and believe in the five pillars of Islam just as the Ahmadis do:

- Worship and reverence to, and absolute recognition of Allah;
- prayer: the five prayer sessions per day;
- fasting in the month of Ramadan;
- distribution of wealth and property;
- pilgrimage to Mecca.

And this also goes for the five articles of belief:

- Belief in Allah;
- belief in all the books of Allah;
- belief in the angels of God;
- belief in the prophets;
- belief in life after death.

The difference starts with the person of the promised Messiah or, as the case may be, the Imam Mahdi. Whereas most Muslims are still expecting the Imam Mahdi, who was expected by many in the nineteenth century, the Ahmadis claim that he has already come in the person of Mirza Ghulam Ahmad, their founder, in the present-day Punjab region of India.

The founder Hazrat Mirza Ghulam Ahmad was born on 13th February 1835 in Qadian in the Indian Subcontinent. He spent his youth period thinking of the Creator and deepening of his spirit or with the study of theology. [...] He had spiritual experiences in the form of dreams, trances and visions until he, at the age of forty, heard the voice of God, according to his own account.

With the time this voice, which he heard over and over again, became clearer and more distinct until he realized that it was God himself who had awakened him as the promised Messiah and the expected Mahdi. He was given the mandate of a prophet by God to arise and draw mankind nearer to God. He directed his writings to the Muslims, Christians, Hindus and other religious groups. He drew their attention to their mistakes. He called on

the Muslims to recognize him as the Promised Messiah and Mahdi and to return to the original teachings of Islam. He told the Christians that the prophecy about the return of Jesus had been fulfilled in his person and that no one else would be descending from heaven until the last day. He said to the Hindus that he was spiritually the re-incarnated Krishna (Ahmad, 1989, pp. 1–2).

Many Muslims believe that Jesus Christ ascended into heaven and will descend unto earth again. It was Christ's duty to break the cross and to kill the pigs in the forest. It is believed that he will return to the earth as a Muslim and will kill anyone who hardens his heart against him. The Ahmadis reject this concept of "a bloody Messiah." In the first place they don't believe that Jesus Christ died on the cross, but rather that he was taken off the cross alive and was moved to Kashmir in India, where he also preached the gospel to the "lost sheep of Israel". Secondly, it is no more the same Jesus who will return to earth, rather another person who will fulfill the same duty as Jesus. The Ahmadis gladly refer to the passage in the New Testament in which the Jews asked Jesus, "How could you refer to yourself as the Messiah, whereas it is written that Elias will come before the Messiah?" In his answer, Jesus referred to John the Baptist who came in the spirit and power of Elias (see the Holy Bible, Matthew 17:10–13). In an analogous manner, "breaking the crosses" does not mean that the Messiah would go from house to house literally breaking crosses, but rather that he had come to correct the erroneous belief that he died on the cross. Also the imagination that the Messiah would go about killing pigs in the forests, is interpreted in another way: He was talking about the bad character traits that every human has. These character traits would be destroyed to make the human being a better creature.

Another important difference lies in the interpretation of the expression: "Jihad" (often interpreted as the Holy War). This war is not fought with weapons but on spiritual and intellectual levels. This particular interpretation was strongly criticized. Hazrat Mirza Ghulam Ahmad was accused of collaborating with the British occupation army. His reply was that a Jihad with weapons is only legitimate if Muslims are oppressed because of religion or when they are in danger of being killed. In his opinion, the war against the British was political and not religious and no one should misuse religion for political purposes.

The majority of Muslims believe that no other prophet could come after Prophet Mohammed (pbuh), that he was "the seal of the prophets" (Khatam-an-Nabiyyen). The Ahmadi Muslims reject this interpretation with the argument that God still speaks to mankind to this day. They refer to several Hadith sayings (handed down messages from Mohammed):

Muhammad (pbuh) said after the death of his son, "Would he have remained alive, he would have been a true prophet."

Muhammad (pbuh) said about Abu Bakr (the first caliph after the death of Muhammad (pbuh)): "Abu Bakr is the most revered person of this congregation except for one who must have been a prophet."

Aisha (may Allah have mercy on her soul), the wife of the prophet, said, “You can say he was Khatam-an-Nabiyyen; but don’t say that no prophet will come after him.” (Ahmadiyya Muslim Jamaat, 1987, p. 5).

The Ahmadi Muslims recognize that Prophet Mohammed (pbuh) is “the seal of the prophets”, that is, the last recognized law-bringing prophet. However, they reject the idea that after him no other prophet could come. Hence, this is the main fundamental difference between the mainstream Muslims and the Ahmadi Muslims that the Ahmadis believe that God is still speaking to his people through revelations and consequently the religion of Islam is not dogmatically fixed.

2 The Situation of Persecution in Pakistan: The Legal Situation of the Ahmadis

When the British left India as an independent state in 1947, the Indian subcontinent was divided into two parts: into India and Pakistan. Pakistan was to be the Muslim country, but it included other religious groups and all should have the same constitutional rights. The founder of the new state promised that all could be Pakistani citizens, whether they were Muslims, Hindus or Christians. This basic principle is also found in the then constitution of the country.

Article 8 (1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void. (2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void. (AMJ, 1987, p. 2)

In the Pakistani constitution, the religious rights of the citizens are enumerated in Article 20.

Subject to law, public order and morality, -

(a) Every citizen shall have the right to profess, practise and propagate his religion; and

(b) Every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions. (Gill & Backhausen, 1993, p. 132).

According to this article, the government has no legal right to obstruct any religious activities. In 1974, there were repeated occurrences of Anti-Ahmadiyya disturbances, but no Ahmadi Muslim ever thought of leaving the country then. The situation changed in September 1974, when a resolution and additional article was introduced. The article states:

(3) A person who does not believe in the absolute and unqualified finality of the Prophet-hood of Muhammad (Peace be upon him), the last of the Prophets, or claims to be a Prophet, in any sense of the word or of any description whatsoever, after Muhammad (Peace be upon him), or recognizes such a claimant as a Prophet or religious reformer, is not a Muslim for the purposes of the Constitution or law.

In article 106 where the non-Muslim minority are detailed, the words and persons of the Qadiani group or the Lahori group (who call themselves Ahmadis)¹ have been added to “persons belonging to the Christian, Hindu, Sikh, Buddhist and Parsi communities and the scheduled castes”.

In June 1974, there was an outbreak of disturbances and organized violence against the Ahmadi Muslims during which the houses, shops, and warehouses belonging to Ahmadi Muslims were destroyed in over 100 cities, and villages were plundered and/or burnt. Over 8000 Ahmadis were displaced from their homes. The London “*Times*” of June 7, 1974 wrote:

A prominent Ahmadi, Sir Mohammed Zafrullah Khan, ex-foreign minister of Pakistan and until recently the president of the International Court of Justice said that the provincial and relevant local authorities had not fulfilled their duties. The police was totally unconcerned towards the persecution. He further said that wherever and whenever the Ahmadis defended themselves they were arrested.

The political background of this development was the Pakistan’s dependence on Saudi Arabia. The domestic maintenance budget of the country could not be realized without the financial gifts of the Saudis. To compensate this, Prime Minister Z.A. Bhutto, father of Benazir Bhutto, suggested that King Faisal should be appointed to become the Caliph of the Muslim world. The problem that arose now was that the Ahmadi Muslims were the only Muslim sect that had already re-instated the Caliphate through their founder. The Ahmadis did not want to give up their Caliphate. They saw it as a divine matter and not a worldly affair. Under the pressure of the Saudis and the Mullahs (Islamic clerics) the government tried to declare the Ahmadis a non-Islamic sect. Since it was impossible to find a clear definition of who was a Muslim without excluding any other minority Muslim groups, they decided to give rule the Ahmadis out by defining who is not a Muslim. In the past 1400 years the Islamic creed was enough to determine a Muslim: “There is no other God except Allah, Mohammed is His prophet”. In Pakistan, now one must prove that one does not recognize any prophet nor reformer apart from Mohammed and that one rejects and curses the founder of the Ahmadiyya sect. This is a prerequisite for having the religious belief “Islam” written in one’s passport.

The situation of the Ahmadi Muslims deteriorated with time, but it used to be within tolerable limits. It was under General Zia Ul Haq, who himself was the son of a Mullah and served in the military, that the situation became dramatically worse. In 1984, Zia passed a military decree that caused serious damage to the Pakistani society and to the Ahmadiyya Muslim community:

Supplementing Pakistan’s penal law the new text states that the Ahmadis are prohibited to use certain notions that are traditionally used for the Prophet Mohammad (pbuh) and his Companions. They are not allowed to call their house of prayer ‘mosk’ and to use the Islamic call for prayer (‘azan’). The decree goes on:

¹ See Act. XLIX of the 1974 constitution (second amendment) Act.

Any person of the Quadiani group or the Lahori group (who call themselves ‘Ahmadis’ or by any other name) who, directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever that outrages the religious feelings of Muslims, shall be punished with imprisonment [...] for a term which may extend to three years and shall also be liable to fine . . . (Gill & Backhausen, 1993, p. 134).

Under this military decree, which is still valid today, the Ahmadis are in effect forbidden to practice their religion. Consequently, an Ahmadi is not only considered not to be a Muslim, but he is now no longer permitted even to appear like a Muslim. Actually, there is no difference between the Ahmadi-Muslims and Muslims of a different schools of thought concerning the basic practice of such daily activities as greeting one another with “Assalam o alaikum,” praying, or even the call to prayer, reading the Quran—but now all these activities are considered as a crime when done by Ahmadis. Hazrat Mirza Tahir Ahmed (the fourth caliph), head of the Ahmadis at that time, said about the situation:

When the Ahmadis run away, they are fleeing from a government that only grants protection to the desires of their enemies. . . . [. . .] And so in 1984, when, for the first time, the Ahmadis started to leave Pakistan, it was not because of economic pressure. It was simply because of a religious persecution that took place under the watchful eyes of the government. When a law supports persecution, there is no longer any security for the common man no matter in which part of the world he is. (Gill & Backhausen, 1993, pp. 100–101)

Because of this law, the Ahmadis were arrested for organizing their daily prayers or the call to prayer. Everything the Ahmadis said or did was equated to an “insult to the feelings of the Muslims”. But after some time, arrest did no longer seem enough punishment. The next level of sanctions, prepared in advance by the Government, was introduced by adding paragraph 295 C to the Criminal Code:

Use of derogatory remarks, etc., in respect of the Holy Prophet:

Whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine. (Gill & Backhausen, 1993, p. 135).

Every activity or behavior of an Ahmadi is practically evaluated as an insult and blasphemy to the Holy Prophet (pbuh). These laws disregarded the human rights which had been embedded in the Pakistani constitution. But that did not matter to Zia Ul Haq who said: “Ahmadis offend me because they consider themselves Muslims [. . .] Ordinance XX may violate human rights but I don’t care.” (quoted according to Karen Parker, Interview 7, 1986).

3 The Present Situation of the Ahmadi Muslims

Ibn Abdur Rehman, director of the Human Rights Commission of Pakistan, was of this opinion concerning the question of the blasphemy law: “This law has made society more intolerant. This law has nowadays become an instrument for revenge

against personal opponents. Quite specifically, this law is used against the religious minorities” (Interview 1, 2012).

On 28th May 2010, two Ahmadi mosques were attacked and the Taliban killed almost 100 Ahmadi Muslims. The attackers will be probably set free because nobody is ready to testify against them. In the above cited interview, I. A. Rehman said that the problem is not only that the witnesses refuse to come forward to testify, but worse still is the political abuse of the police authority. This case and other similar cases are not even investigated any more. The police sympathize with the offenders, the attackers and criminals. No one sympathizes with the Ahmadis! He also does not believe that the judges will decide in favor of the Ahmadis. There are no fair trials, the police are afraid to touch or investigate such cases. Again and again, accused persons, whom the law court sets free, are shot dead on the road by their accusers. This is the prevailing situation today. All the different governments have been afraid of this topic so that a change in the blasphemy law is hardly expectable.

Shameem Ahmad Khalid, who works for the Human Rights issue for the Ahmadiyya Center in Pakistan, had this to say concerning the blasphemy law: “I have the notion that the majority of the reasons for accusation have nothing to do with religion but with rivalry. They are more about land ownership and other worldly issues. It is known to the average Pakistani that there are anti-Ahmadiyya laws and that these laws can be applied. The Mullahs and also the Urdu newspapers are constantly giving directives on how these laws can be applied in everyday life. Therefore, many people use these laws to their own advantage.” (Interview 6, 2012).

In December 2012 I had a long talk with Shahnawaz in Zurich, a young man who was in the mosque along with his brother and father during the terrorist attack on this Ahmadiyya mosque on 28th May 2010, in which at least 100 worshippers were killed and 92 others injured. Women had long stopped attending the Friday’s prayers for security reasons. He said, he couldn’t recognize what was happening until he suddenly saw fire flakes of a gunshot and noticed the vibration from the detonations of a hand grenade. He said, he would never forget this experience and each singular scene still haunts him. At the time of this attack, his mother was sitting at home and was bombarded with telephone calls, each caller asking her to switch on the television to see what was happening at the mosque. She almost collapsed—after all, her husband and two sons were in the mosque during the terrorist attack. It was only after she had contacted them through a mobile telephone that it was communicated to her that they had all survived the attack. Up till now she is still traumatized and reacts with panic whenever her husband and sons leave the house (Interview 4, 2013).

After that attack, two Taliban were handed over to the police. What happened to them thereafter? The eye witness, Nabeel Ahmad had this to say: “Both of them should actually have been brought to court, but what I heard was that the government could not press charges against them because every witness had been intimidated and threatened with assassination, so that no one agreed to come forward before the court to testify against them. In theory, the state is obliged to press

charges against terrorist attackers. The murderers were probably consequently set free. It is very depressing to know that there is no law that can guarantee the prosecution of the murderers and no law court that is willing to investigate this case” (Interview 2, 2012).

On 16th September 2013, the Express Tribune Newspaper covered an anti-Ahmadiyya conference in Lahore, which was sowing the seed of hatred against the Ahmadis. Speaker after speaker commanded the audience to wage a war against the Ahmadis. People should boycott them in every way, they should not keep Ahmadis as friends, should not buy their products, as the Prophet (pbuh) had already forbidden this kind of relationships [!]. The sad thing about such activities is that although it was clear that violent sentiments were incited against the Ahmadis, the state was doing absolutely nothing about it; instead, the state often supports such activities with its instruments of governance. Ahmadis have no opportunity to defend themselves in public—for example, they are accused of serving in the Israeli Army. After such hateful lies, the Ahmadis are usually attacked. Here are some excerpts from Newspaper reports:

The audience of one such hatred talk were mainly from the Koran schools and they swore that they were going to start a Jihad [holy war] against the Ahmadis, either in writing, speeches or even by physical attacks. Maulana Ghulam Hussain Kiani commanded the Ahmadis to leave the city of Lahore because they were like the plague. [...] The legal practitioner Badiuz Zaman said in his speech to the people: No one should befriend them; sharing any article with them was a sin. Worst still was keeping friendship with them. He demanded that they should undertake anything possible against them. The secretary of the podium, Maulvi Muhammad Asghar, asked his listeners: ‘How can you people eat in peace while Ahmadis are living peacefully in your city? 1200 Ahmadis are fighting in the Israeli army at this very moment. They are torturing innocent Palestinian Muslims. Muslims should not even shake hands with an Ahmadi.’ ([Tanveer](#), The Express Tribune, 16/09/2013).

The organization ‘Human Rights Asia’ reports in its article dated February 3rd 2013, “Ahmadiyya sect again target of forbidden [terrorist] organizations”:

5,000 people convened on 29th January, 2013 in front of the square [in Rawalpindi, Twin city of the capital city Islamabad] on which the Ahmadiyya congregation have their mosque, library and a hospital. Most of the people came from Koran schools. The whole action happened around the center of the Pakistani Government headquarters. The speakers were the leaders of the Jamaat-ud-Dawa, Lashkar-e-Taiba and Sipa-e-Sahaba, those religious organizations that were regarded by the state as terrorists. These organizations have, however, good contacts with the organization Jamaat-e-Islami [Islamic Party]], which is a religious group and a political party. Jamaat-e-Islami was the main organizer of this gathering. This group also has a close union with ISI (Pakistan secret service) and the army.

[...] The army has rarely investigated the attacks [against the Ahmadis] or legally brought the attackers to justice after terrorist attacks on religious minority groups. Although the government has banned about 25 religious militant organizations, they are still agitating with the help of their local governments. ([Human Rights Asia](#), 03/02/13)

The problem is therefore clear: The Pakistani Government directly supports the persecution of Ahmadis and ensures that the crimes are covered up and that the perpetrators do not have to reckon with any punishment. I. A. Rehman from the HRCP has already called attention to the fact that the police are on the side of

the criminals. Another example is taken from a report by “[The Express Tribune](#)”, dated 22/09/2013 in Lahore:

On Saturday the police destroyed the Minarets of the prayer house of the Ahmadis after a group of demonstrators had threatened that they would destroy it themselves. The police contacted the sect on Friday after a local cleric had complained that the prayer house of the Ahmadis resembled a mosque and had minarets and that their walls had Koranic verses inscribed on them. [...] Press speaker of the Ahmadiyya sect, Saleemuddin, said that this action had a direct connection with the anti-Ahmadiyya conference that was held on 7th September, 2013 in Sialkot. The police has the responsibility to protect also the Ahmadis. But instead of doing that, they are discriminating against them in order to appease the extremists.

On 15th October 2013, in the whole of Pakistan, the Muslims celebrated Eid ul Adha, where an animal is sacrificed. The Ahmadiyya also celebrated this feast. In Lahore, the police prevented the Ahmadis from sacrificing animals according to the Islamic religious requirements. The police claimed the Ahmadis were stopped because they were not Muslims. On that same day on the Facebook Site of the Express Tribune, comments by several people were published. Here are some of these comments that speak for themselves:

N. P. wrote: It is time to demand that the Ahmadiyyas should stop breathing. How can they breathe, when they are no true Muslims? In Pakistan, only true Muslims have the right to breathe” (this contribution was supported with “I like it”).

A.S wrote: “Good job Lahore police”

But there were also other opinions:

A.C: “Why should they be stopped, let them do what they like. Why are people feel disturbed?”

Or R.R.: “Sick minds, sick people, sick state, sick laws, sick police.”

B.H. wrote: “Pakistan has become worse than Israel”. ([The Express Tribune](#) – Facebook, 2013).

4 Suggested Possible Solutions

The maximal demand would be the annulment of the anti-Ahmadiyya laws and the Blasphemy Decree. The minimal demand would be that the law should be used in a restrictive way and the misuse of such accusations should be punishable. The only people who could change the laws are those who control the country. It is worthy to note that the Ahmadis, Christians and other minority groups only serve as a scapegoat for the government. The political leaders use their issue to distract the public from their main problems. Paul Bhatti, former Minister for Religious Harmony in Pakistan, said to me in an interview in April 2012, that the Blasphemy Law has to be abolished by the people (Interview 3, 2012). However, the majority of the Pakistani population has nothing to do with fundamentalism and cannot change anything, because for them hunger, poverty and fear of terrorist attacks has more priority than the question of human rights.

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- Interview 2, with Nabeel Ahmad, an Ahmadi from Lahore who was present during the 2010 attack on the Mosque, April 2012, Lahore.
- Interview 3, with Paul Bhatti, former Minister for Religious Harmony, April 2012, Islamabad.
- Interview 4, with Sajida K*, July 2013, mother of Shahnawaz, in Baden, Switzerland.
- Interview 5, with Shahnawaz K.*, mathematics student at the Technical High School (ETHZ) in Zurich, Switzerland.
- Interview 6, with Shameem Ahmad Khalid who works for the Human Rights Department of the Ahmadiyya Muslim Jamaat, April 2012, Rabwah, the Ahmadiyya Centre in Pakistan.
- Interview 7, with Karen Parker, special representative of the Human Rights Advocates, Inc., 5th May 1986, San Francisco, California.

*These interviewees wish to remain anonymous. Full names are known to the author.

Dr. Yahya Hassan Bajwa is a school teacher and university lecturer in Switzerland, politician with the Greens, and founder of TransCommunication, office for communication and research.

The Development of Human Rights in Muslim Societies

Saeid Edalatnejad

Abstract Muslim states and scholars have had a dual encounter with human rights. On the one hand, it is claimed that Islam is a pioneer religion in offering universal ethics and valuable teachings on the dignity of man, on human rights and, particularly, on the equality of human beings before the law. Thus, the content of the Universal Declaration of Human Rights and other relevant conventions in principal are accepted. On the other hand, creating the new idea of “Islamic human rights” in which the current principles of human rights are governed by the Sharī’a, Muslims spurned the equality in the cases of women and non-Muslims as if they regarded the inequality as a part of their faith. Some Muslims regard the paradigm of human rights as a new means by which Western culture dominates Muslim contexts in a post-colonial modern world.

In this contribution I will offer a solution that stems from Muslim jurists’ literature and language concerning the contradictions between Islam and human rights. This solution has some precedents in jurisprudence in other cases. However, the realization of the solution needs some prerequisite knowledge to lead the jurists as well as Muslim states to accept all doctrines of the human rights concerning the rights of religious minorities. The solution could be applied to other legal subjects which are in conflict with human rights.

1 Introduction

Regardless of the fact that the idea of human rights was brought about in a particular historical situation to reply to a real need, some Muslim scholars claim that Islam is a pioneer religion in representing those ethics that are embodied in the Declaration of Human Rights and international covenants. The adherents of this view have gathered and republished some references including the verses of the Qur’an and

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S. Edalatnejad (✉)
Encyclopaedia Islamica Foundation, Tehran, Iran
e-mail: saeid.edalatnejad@gmail.com

traditions attributed to the Prophet Muhammad and his Companions, or, in the Shiite tradition, to the Imams, in order to justify their claim. Most literature provided by conservative Muslim scholars on the subject is full of those selected verses and traditions as argumentations.¹ Based on this understanding of the subject, those scholars and their adherents do not need to get into details to see whether there exists consistency or inconsistency between Islam and human rights. It is not deniable that religions, including Islam, have some attractive teachings on the dignity of man. However, according to Dalacoura (2007, p. 57), that ahistorical claim fails to distinguish between “having a right” and “what is right”, between “human rights” and “human dignity”. Furthermore, there is confusion between rights and duties. The explanation of those confusions is beyond the scope of this paper.

On the other hand, some Muslim scholars and states who have had a historical view of the subject accepted the idea of human rights in principle, provided they would not conflict with the rules of *Shari'a*. They know well that some articles of the Declaration of Human Rights and international covenants on the equality of women and non-Muslims do conflict with their understanding of the Islamic *Fiqh* or *Shari'a*. Thus, considering the experiences that were gained when codifying Islamic constitutions in the last decades of the nineteenth century and in the first decades of the twentieth century, some states created the new idea of “Islamic human rights” in which it is explicitly or implicitly asserted that the articles of the Declaration are governed by the rules of *Shari'a*. It is alleged that the rules of *Shari'a* come from a divine source and the Declaration of Human Rights is made by the hand of human beings. By creating an Islamic declaration, those Muslim states want to show themselves as supporters of human rights on the one hand, and on the other hand keep the superiority of *Shari'a* in the eyes of Muslims. Some attempts have been made to compare the Cairo Declaration on Human Rights in Islam 1990 and the Arab Charter on Human Rights 2004 with the Universal Declaration in the area of women and non-Muslims. In those comparisons it is clearly shown that the equality between man and woman as well as Muslims and non-Muslims is governed by the rules of *Shari'a* (Bielefeldt, 1995, pp. 605–606; Rohe, 2013, pp. 29–36). The conflict between *Shari'a* and human rights on the subject of the legal status of religious minorities in all Islamic law schools of thoughts generally speaking is clear. The clarification turns to the claim that the Muslim jurists' position is based on the *Qur'an* and traditions attributed to the Prophet and his Companions or the imams in the Shiite school. This claim needs brief explanation.

¹ It is not necessary to refer to many Arabic and Persian works that have been written on human rights with this view, but, for example, see one of the last ones in: 'Ammāra (2010), p. 205.

2 Religious Minorities in Traditional Islam

It is claimed that legal Islamic views on non-Muslims are based on the *Qur'an* and the *Sunna*. When one considers all the verses of the *Qur'an* regarding non-Muslims, it is difficult to categorize them and give a definitive view. Emphasizing some verses that imply good treatment of non-Muslims, some Islamic thinkers ignore verses that contradict this position. There is some evidence to suggest that the good treatment of non-Muslims in general, and the People of the Book (Christians and Jews) in particular, in the *Qur'an* is conditional. Sometimes it calls them “the people of the faith”, praises them and invites them to participate in dialogue (2: 62; 3: 113–114, 199; 5: 5, 44, 69, 82). Sometimes, they are considered infidels (9:31; 19: 88,94; 4: 171; 5: 64, 73–75; 7: 138–140, 194) or even polytheists (98: 1, 6) and in accordance with current jurists’ interpretation of the verse 9: 29, Muslims are instructed to fight them in order to convert them, until they pay the special tax (*jizya*, Q, 9: 29, 5)—if we accept that the “book” in the verse means the Bible. Another suggested meaning for the “book” is “covenant”. Accordingly, the *jizya* is not an obligation for Jews and Christians but for those tribes who had a covenant with the Prophet to remain non-Muslim and to have a peaceful relationship with him.² Some verses (3: 19–20, 85) advocate an exclusivist attitude, regarding other religions as illegal and ways of darkness, stating that only Islam is the Straight Path. At the same time, one verse (5: 48) tells us in a pluralistic attitude that finding a solution for the conflict with the followers of different religions should be postponed to the Hereafter and they should follow their own way of life in this world. Sometimes the *Qur'an* (22: 40; 5: 44) praises the Jewish rabbis and Christian priests, and synagogues and churches are seen on a par with mosques, as places in which God is remembered and worshipped. At other times, most of the rabbis and priests are regarded as those who illegally took people’s property and then the *Qur'an* (9: 34) warns them of divine punishment. Thus, it is possible with reference to the appropriate verses of the *Qur'an* to find self-affirmation for whatever position one entertains regarding the “people of the book”. The literal sense of the *Qur'anic* verses does not allow a clear decision.

However, in the Sunnite and Shiite *fiqh* the legal status of non-Muslims clearly is inferior (Edalatnejad, 2009, Chapter 1). According to some *ḥadīth* and to some of *fiqhī* opinions of jurists, the adherents of other religions—save monotheistic religions, viz. Zoroastrians, Jews and Christians—are regarded as “infidels”. They are regarded as “infidels” irrespective of whether they belong to the great historical religions or to new religious movements, or whether they converted from Islam to other religions (Bukhārī, 1401/1981, vol. 8: pp. 50, 140, 162; Tūsī, 1387/1967, vol. 2: pp. 36, 57; vol. 7: pp. 281, 284). These non-monotheistic adherents do not have any status, legally speaking, whatsoever in *dār al-Islām* except death or accepting Islam. Apostasy also carries harsh consequences in the *fiqh*. However, the adherents

² For this suggestion, see: *Encyclopaedia of the Quran*, ed. by Jane Dammen McAuliffe, s. v. ‘Poll Tax’, by Paul L. Heck; also see: Simonsen (1988), esp. 47–61.

of those monotheistic religions called “the people of the book” or *dhimmi* (protected minorities) are entitled to keep their religion, but they should accept some stipulations such as paying the special tax (*jizya*), being excluded from military service and conforming to some regulations defined by the ruler. Those stipulations according in *fiqh* go back to the historical “Pact of Umar” that was made because the Syrian Christians at that time suffered from some kinds of discrimination. Among those stipulations is the provision that missionary work to convert Muslims is forbidden and punishable by criminal sanctions, fines, and even imprisonment. Furthermore, in Sunnite and Shiite *fiqh*, restrictions concerning mixed marriages were enforced to preserve the ongoing Islamic dominance. Whereas a Muslim man is permitted to marry a woman from the people of the book, Jewish or Christian males could not marry Muslim women. Viewing the husband as the head of the family, this provision ensured that children of mixed parentage were raised as Muslims. Marriages between Muslims and polytheists were generally prohibited. This inferiority for non-Muslim has been retained in Muslim countries in theory and practice.

3 Solutions: Critical Historical and Hermeneutical Approaches

Some attempts have been made to solve the contradictions between Islam and Human Rights in the areas of women and non-Muslims. Taking them into consideration, one can divide the Muslim reformers into two categories: those who favor a critical historical approach to the problem and those who prefer a hermeneutical one. The former insist on dividing Islamic teachings in *Sunna* as well as in the *Qur'an* itself into two periods of time: those formed during the time in which the Prophet was living in Mecca, and those formed when he lived in Medina. The main representative of these reformers is Abdullah Ahmed An-Na'im, following his teacher Mahmoud Muhammad Tāhā (executed in 1984 in Khartoum). He holds that these two stages of revelation imply a kind of theological ranking. Whereas the teachings that belong to the Mecca period contain the eternal message of Islam, the Medina parts of the *Qur'an* mostly refer to the particular needs of the first Muslim community and cannot be directly applied to modern circumstances. An-Na'im suggests that an Islamic reformation can be achieved by reading the *Qur'anic* normative rules of the Medina period in light of the theological principles that form the first and most important message of Islam. He argues “since Sharī'a's view of human rights was justified by the historical context, it ceases to be so justified in the present drastically different context [...] unacceptable discrimination on grounds of gender and religion is untenable today” (An-Na'im, 1996, pp. 170, 175–176, 180–181; see also: Bielefeldt, 1995, pp. 606–610).

The second group of reformers—those who advocate a hermeneutical approach with regard Islamic traditions that discriminate against non-Muslims—differentiate

between the essential *Qur'anic* principles and those historical rulings that were first introduced and implemented in particular circumstances. While the essential principles remain valid, whether they were formed in Mecca or in Medina, the modes of their implementation may change, in accordance with new experiences and possibilities. Likewise, particular historical rulings, whether they were formed in Medina or in Mecca, should be reinterpreted in the light of those essential principles. Many reformers of Muslim countries such as Muhammad Talbi in Tunisia, Nasr Hāmid Abū Zayd in Egypt, Muhammad Mujtahid Shabistārī and 'Abd al-Karīm Soroush in Iran and others with different justifications belong to this category. They believe that punishments and discriminations demanded by the Qur'an cannot be justified in modern circumstances and they should be reinterpreted. Even though the opinions of this group have convinced some audiences in theological, philosophical, and political discussions, they could not bring about alteration in the jurists' legal opinions or in the laws and regulations codified by the legislatures in different Muslim countries. A detailed evaluation of these solutions is beyond the scope of this paper.

4 Suggestion: A Pragmatic Rational Solution

There is no doubt that a lot of Islamic rulings concerning non-Muslims including the imposition of the *jizya*, the *kharāj*, special limiting regulations and forcible conversion practically in many Muslim countries have been forgotten. Under the situation of the modern world the law-makers in Muslim contexts did not completely follow up on those rulings and *ignored* some of them. Of course, a few discriminatory aspects of personal and political status have remained. Given the gate of *ijtihād*, based on the arguments stemming from the Scriptures in the Sunnite and Shiite School, is closed; given those theoretical solutions presented by liberal Muslim reformers have not being effective, and again given that those alterations in the field of human rights in Muslim contexts were a result of their *dealing with modernity*, not a result of *theoretical discussions*, I would like to present my suggestion which has a pragmatic sociological colour. The suggestion for the development of human rights in Muslim countries is that some premises should be provided in a way those Muslim jurists and law-makers become convinced to *forget/ignore*, not to deny, those old rulings on non-Muslims whether they were formed in the Mecca period or in Medina and whether they are regarded as essential or accidental. This suggestion needs further explanation.

According to sociologists of knowledge, it is a fundamental tendency that, among a range of factors, the socio-historical context might exert an influence on generating the knowledge and theories of thinkers. This rule may be applied to the formation of the *fiqh*-oriented opinions of jurists as well. The jurists in the process of inferring their opinions have had sources, methods, and contexts that belonged to pre-modern times, which explains why those opinions have remained stagnant over a long period of time. Their sources as well as their methods have so far remained

unchanged, unlike the context, which has changed profoundly in the last century. The social situation that came into existence as a result of modernization naturally negated or changed the old issues and consequently the old rulings and then the jurists' judgments. Modernization, quite unexpectedly, brought about new attitudes, experiences and relations among the people including the legislators. Therefore, some legal concepts and terms such as apostasy, *dhimma*, slavery, *rajm* (stoning), *jizya* (poll tax), *kharāj* (tax on the earth) and so on, which were created in a particular context, are in question; it can be asked if they are suitable for all contexts. A Muslim jurist who wants to apply these concepts and terms to another context should examine the meaning to see whether it is relevant to and appropriate for the new context or not. A distinct aspect of those terms is that they were applied within the context of the *duties*, not the *rights* of religious minorities and thus they do not have any justification or evidence that could be used or generalized in modern times. Regardless of this, some jurists imagine that in our time, wherever religious minorities live in Muslim societies, they could call them *dhimmi* and expect them to follow the same regulations that belonged to the early centuries of the advent of Islam.

Furthermore, the terms usually used by jurists as criteria such as "rational" and "justice", in terms of semantics, change in different contexts. These terms do not have a fixed meaning and unchanging instances of use in all periods. To recognize instances of the concepts "equitable" and "rational", one must refer to their meanings in the common sense of people in a particular context. Therefore, it is probable that one ruling would sound fair and justified to people in a particular time but in another time, the same ruling might not seem so. It is the common sense of people as a source that is entitled to recognize the instances of rationality and justice. This source of recognizing is very much like that which is sometimes called "the conduct of rationalists or reasonable people" (*sīrih 'uqalā*) in Islamic jurisprudence.³ The source is introduced by jurists for recognizing the ambiguous cases of "right" (*ḥasan*) and "wrong" (*qabīḥ*) acts and sayings. But it is clear that rationalists' conducts and judgments are not fixed in every place and time. The paradigm of modernization has led to an influence in people's tastes in recognizing "right" and "wrong". In this paradigm, rationalists believe that everyone should have the right of freedom of thought, conscience and religion, and they dislike different kinds of unfair discrimination or preferences based on race, colour, sex, or religion. Jurists, especially Shiite ones, have accepted in discussion the authority of the conduct of rationalists in recognizing "right" and "wrong" things. Given those decisions and judgments of the representatives the United Nations have gained the consensus or, at least, the vote of the vast majority, it can be seen to equal a rationalists' decision, and consequently the jurists are supposed to accept the elimination of those unfair forms of discrimination based on religion. In this

³ The conduct of rationalists is a major reason also for accepting single-source accounts of *ḥadīth* (*khabar wāḥid*) and indications (*amārāt*) in Shiite jurisprudence. See concerning the term 'the conduct of rationalists', Anṣārī (1419/1998), vol. 1: pp. 346–347, vol. 2: pp. 318–319.

view, the elimination of discrimination is not Western thought that imposes itself upon Islamic rulings; rather, it is a set of decisions made by the rationalists (*'uqalā*) that could have authority for Muslim jurists, too.

A question arises here: Is the application of this suggestion possible? The reply would be positive. The best evidence for the possibility is its realization. Jurists' positions verify that *forgetting* or *ignoring* some stagnant rulings has had precedents in the history of *fiqh*. From the sociological viewpoint, if they want to change their "orientation" and to *forget* any precept they certainly could find the method. When jurists came to *ignore*, not to *deny*, some rulings they used different justifications; such as regarding some unpleasant rulings as contrary to the main aims of *Shari'a* or to the public interest. An examination of different categories of instances in which the jurists have *forgotten* their rulings verifies my suggestion.

The first category appeared under the influence of modernization. For example, in both Iranian revolutions, 1906 and 1979, by the aim of national unity against the dictatorial manner of the régime, many of the rulings regarding religious minorities, such as the conditions prescribed for *ahl al-dhimma* in jurisprudential works, were *forgotten*. In addition, the jurists and the government in 1979 came to recognize, legally and politically but not theologically, the identity of non-Shiite Iranians, including Sunni Muslims, religious minorities and even non-Muslims in the 1979 Constitution. This acceptance might be regarded as a kind of pluralism gained through the *process of modernization*, not through *theological and/or legal debates*. If one refers to theological works one will find that many Muslim theologians and jurists do not recognize each other let alone the non-Muslims. However, the enactors of the Constitution, theoretically speaking, respected the followers of other religions in Article 14 of the 1979 Constitution and relied on the explicit verses of the *Qur'an*, such as verse 2: 83, which are indicative of treating others well. The enactors including those jurists who were members of Parliament did not pay attention to, or in a better word: they *forgot/ignored*, some interpretations and rulings indicating those verses were abrogated by the verse (Q, 9: 29).⁴

A further example, if some cities of Iran, Iraq and Jordan had not expanded, there would still have been walls around them and religious minorities would have to live outside the cities or in special quarters as they existed in the early years of this century in Baghdad in Iraq, Yazd and Kirmān in the southeast of Iran. It was not legal or theological discussions that destroyed the walls; it was the new geographical situation under the development of modernization that created new socio-legal relations, and in consequence, the walls disappeared.

Another example is the fact that the religion that someone chooses does not depend on her/his own will but depends on where and when s/he is born. Such an insight cannot be easily gained through *discussion* but through *modernization*,

⁴ The verse 9: 29 of the Qur'an is "Fight against such of those who have been given the Scripture as believe not in Allah nor the Last Day, and forbid not that which Allah hath forbidden by His Messenger, and follow not the Religion of Truth, until they pay the tribute [*jizya*] readily, being brought low". Some radical Muslim groups claim that this verse is abrogating those verses that suggest dealing with others in good conduct.

socio-cultural communications and *global information*. This also goes for politico-geographical changes, especially those emerging after the formation of international organizations, under which the division of societies into *dār al-ḥarb* and *dār al-Islām* has been *forgotten* and has lost its meaning. Still another example is that a set of rulings concerning slaves has become *forgotten* in modern times because of the universal acceptance of the abolition of slavery. This way of *forgetting*—I call it ‘new strategy’ or ‘new orientation’—would be a model for *ignoring/forgetting* some legal opinions that would bring about difficulties in the relations between Muslims and non-Muslims. It will be clear that the application of the model is of vital importance when we remember that from the beginning of the twentieth century many Muslims have been living in non-Muslim liberal countries, in which religion is not the source of law, who have a comparatively better legal status than religious minorities in Muslim countries.

The second category in addition to that of *forgetting* is that in which jurists by using pure jurisprudential rules try to *ignore* some rulings. One rule of this category is in the case of the conflict of the arguments (*ta’arūḍ adilla*). It means that a jurist prefers an option that has more interest for Muslims than the other ones or accepts that the option has more evidence that can justify his ruling. This is a kind of rule-utilitarianism approach vis-à-vis act-utilitarianism, or a kind of rationality which one can find in jurisprudence.⁵ According to rule-utilitarianism, the better rule is that which has those consequences that promote happiness, as John Stuart Mill put it, or that promotes more benefits for Muslim societies, as the jurists would like to say. It is true that the evidence and arguments that imply the imposition of regulations on religious minorities have a significant position in jurisprudence, but when a jurist sees abuses of these regulations in a society, e.g. committed by oppressing governors or radical religious groups that bring dishonor to Islam, it would be lawful to *forget* or *ignore* those regulations. Evaluating the co-existence of Iranian Muslims and non-Muslims, I examined about two hundred documents of the Foreign Ministry Archives that reported some acts organized by radical Muslim groups against religious minorities from 1848 to 1911. The result was that one could easily find the interests of local governors behind many of those riots against religious minorities. To achieve their interests, those governors made use of radical Muslim groups and low-ranking clerics on the pretext of defending Islam. One can rarely find a ruling by a high-ranking jurist legitimizing forcible conversion or the imposition of unfair discriminations on religious minorities. High-ranking jurists such as Sheikh Murtaḍā al-Anṣārī (d. 1281/1864) and Akhūnd Muhammad Kāzīm al-khurāsānī (d. 1329/1911) practically *ignored* those rulings mentioned in juristic works and advised Muslims to exercise fair conduct with and avoid attacking religious minorities.

⁵ Here, I mean by the term ‘utilitarianism’, what is narrated according to John Stuart Mill in *Utilitarianism* (1861). His version is plausible if not a very defensible ethical theory. See Mill (1969).

The other kind of jurisprudential rules in this category leads to *forgetting/ignoring* some legal opinions that have been used in the cases when a ruling brings about greatly difficult (*'usr*) and distressing (*ḥaraj*) conditions for Muslims. In such cases it is argued that Islam is a religion of moderation and tolerance, as reflected in the rule that has been applied to various matters in the history of *fiqh*. Those rules, that is, avoiding great difficulty (*'usr*) and distress (*ḥaraj*), then are regarded as higher rules or *Jus Cogens*. Many examples for this category exist in jurisprudential works which, due to the limited scope of paper, I cannot enumerate here.

The last not least category is that of instances of *ignoring* that appeared in theological debates. There is a theological viewpoint among the Shiite jurists in the past and in the present by which they have limited the applicability of *hadd* punishments to the period of the presence of the Twelfth Imam and rejected it for the period of the absence or the Occultation that started from 940 onwards (see, for example, Khānsārī (1405/1983), vol. 5, pp. 411–412). They believe that the decision about the implementation of those punishments should be left to the Imam. Thus, they have forgotten those corporal punishments which are utterly cruel. One analysis regarding this way of dealing with Islamic traditions is that those Muslim jurists know well enough that the performance of those punishments would prevent the expansion of Islam and would be detrimental to the humane character of the Islamic tradition. Since they could not change or reinterpret those rulings, they limited the applicability to the presence of the Imam. Moreover, the *hadd*-punishments had only a minor practical importance in the history of Islamic societies.

The major obstacle to the application of the suggestion of this paper might be the assumption that by *forgetting* those rulings, the Islamic identity would be changed, assuming that those rulings against non-Muslims are part of the Islamic faith. It is true that by applying the suggestion some rulings in the field of social affairs vis-à-vis the acts of devotion would be forgotten; however, one is entitled to ask whether the Muslim identity indeed depends on rulings that contain unjustified discrimination. Would it not be possible to construct new elements derived from Islamic teachings to support the Muslim identity? Why should not Muslims rely on those *Qur'an* verses (5: 48–49; 2: 256; 109: 6) and *ḥadīth* traditions that imply a kind of pluralism, higher tolerance and more respect for the rights of non-Muslims in different legal matters?⁶ For example, why would a jurist not rely on the content of the *ḥadīth* attributed to the Sixth Imam advocating the complete freedom of non-Muslims in the context of inheritance?⁷ Would it not be possible to generalize the indication of the *ḥadīth*, known as an obligatory rule (*qā'ida ilzām*) in the Shiite

⁶ I don't agree with the strategy that hides or denies those exclusivist aspects of Islam and highlights pluralistic ones, but my suggestion is *ignoring* the first category. Cf. Sachedina (2001), 'Aṭīyya Muḥammad (2003). Those authors conceal the exclusivist aspects of Islam in their works.

⁷ There is a rule in the book of inheritance (*kitāb al-farā'id*) attributed to the Sixth Imam which indicates that it is lawful for every religionist to obey what is legal in his faith, Al-Ḥurr al-ʿĀmilī (1372/1992), vol. 26: p. 158, no. 4.

jurisprudence,⁸ to the entire field of personal status? The rule states that every non-Shiite Muslim, including non-Muslims, is entitled to apply her/his own legal rules in the law of family. Why shouldn't jurists choose such traditions whose contents are more compatible with our time and seem to be based on justifications that are more rational? Muslims by and large have mostly shown tolerance towards religious minorities, following the command of the *Qur'an*: "There shall be no compulsion in religion" (2: 256). Historic evidence shows that some Christian minorities and dissidents preferred living under Islamic rule to being persecuted by their fellow Christians in the Byzantine and Habsburg empires (Bielefeldt, 1995, p. 597).

Another obstacle to implementing the human rights laws in Muslim countries is that the concept of human rights is often misunderstood among conservative Muslim scholars. The Western society for those scholars is tantamount to what politicians think and do, as if there was no distinction between political society and civil society, and thus Muslim scholars do not see those conflicts which existed between intellectual reformers and politicians in the history of implementing the values of human rights in the West. For political reasons, conservative Muslim scholars would like to interpret "human rights" as a new means by which Western culture attempts to dominate Muslim contexts in a post-colonial setting. Based on this view, they are not eager to educate the young generation in human rights, without qualifying and modifying them as "Islamic". The adherents of human rights, as Bielefeldt (1995, pp. 593–594) states, should emphasize that "the idea of human rights is not essentially and exclusively connected with Western culture and philosophy and hence only applicable to Western societies. Human rights do not stem from, and are not dependent on a particular Western philosophy or ideology." According to this view, the universality of human rights does not mean the global imposition of a particular set of Western or Christian values, but instead aims at the universal recognition of pluralism and different religions, cultures, political convictions, and ways of life insofar as such differences express the unfathomable potential of human existence and the dignity of the person. In other words, human rights are not, and should not be presented as, an international "civil religion", but they are legal political principles provided to improve the life of human beings (Bielefeldt, 1995, p. 616). It should be asserted that the idea of human rights is not a way of life that is intended to eventually replace Islamic faith and practice. It will probably take much time to change such prejudices and impressions in Muslim societies.

⁸ As regards to this rule in Shiite jurisprudence, see Bujnūrdī (1419/1998), vol. 3: pp. 179–209.

5 Conclusion

Some attempts have been made to solve the contradiction between Islam and human rights in the area of the discrimination of women and non-Muslims. This paper has argued that theoretical solutions have not been effective; instead it has offered a pragmatic solution as an approach stemming from Muslim jurists' literature, language and practice. This approach has some precedents in jurisprudence in other cases. The suggestion for the development of human rights in Muslim countries is that some premises should be provided in a way that the jurists and the law-makers *forget/ignore*, not deny, those old rulings on non-Muslims that contradict human rights—whether they were formed in the Mecca period or in the Medina period and whether they are regarded as essential or accidental. To improve the conditions of human rights and to arrive at the conditions of civil society, the author, with regard to his experience in the International Center for Dialogue among Civilizations, suggests holding serious negotiations with Ayatollahs, judges and the directors of the Judiciary who belong to the conservative group. By participating in this dialogue, those groups will try to justify their legal opinions and to learn from others. This process will hopefully lead to an improvement in the legal status of the entire community including non-Muslims.

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Dr. Saeid Edalatnejad is Associate Professor at the Encyclopedia Islamica Foundation.

Human Rights in the Context of Buddhism

Andreas Nehring

Abstract In this contribution I am going to use a concrete example from South East Asia to discuss the importance of the debates about human rights in a Buddhist country that has seen the suppression of religious freedom, democracy and the individual rights of its citizens by a military junta for several decades. How relevant is the debate about human rights in this context? Which form can human rights education take and which approaches from Buddhist tradition are useful? I am trying to collect a number of Buddhist arguments and to put them into relation to a discourse with contemporary western philosophical debates about human rights.

Human rights—thus began Christoph Menke and Arnd Pollmann their *Introduction to the Philosophy of Human Rights* which appeared a few years ago—“today have become an absolutely fundamental and worldwide political idea” (Menke & Pollmann, 2007, p. 9). How far this “absolutely fundamental” goes and in particular, whether it can truly be seen as worldwide will be examined here using the concrete example of Southeast Asia. The subject of discussion is the meaning of debates on human rights in a Buddhist country, in which freedom of religion, democracy and individual rights of citizens were suppressed over a number of years by a military dictatorship. What is the relevance here of a debate on human rights? What can political education on questions of human rights look like, and what approaches are offered by Buddhist traditions? I will attempt to gather some Buddhist arguments and relate them to present day western philosophic debates on human rights as discussed by Menke and Pollman.

In 1998 Ashin Pannasiri was ordained. At that time he was 18 years old when in Burma, or better yet Myanmar, he became a member of the Sangha, the respected and for thousands of years the socially highest regarded community of Buddhist monks. Ten years later he was held prisoner by a cadre of a special unit of Burmese

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A. Nehring (✉)

Friedrich-Alexander-University Erlangen-Nürnberg, Erlangen, Germany

e-mail: nehring.andreas@t-online.de

police, was kicked, beaten and tortured. Like thousands of other monks he had taken part in a protest demonstration in Yangon in 2007 against the military regime. But he is also a speaker for the *All-Burmese Monks Alliance* and therewith at the center of Buddhist resistance against the military government. The protest in September 2007 was not the first demonstration. Since British colonial times and also after the independence of the country in 1948 revolts against unjust forms of government had taken place again and again. But the protest of 2007 is worth mentioning because it was organized and directed by monks who mobilized the crowds on the streets of Yangon.

In 2008 *Human Rights Watch* took a poll of Buddhist monks in Myanmar. The reason was the bloody suppression of this nonviolent protest, in which not only countless civilians, but also numerous monks were murdered, tortured, beaten, imprisoned and persecuted. Ashin Pannasiri reported that at one point he was unable to bear the torture any further and tried to hit his head on the table in the interrogation room so often that he became unconscious. A police officer guarding him asked him to stop: "Please stop doing that, reverend monk, we are acting on the command of a higher authority." Ashin Pannasiri was later transferred to a distant work camp. Locked in chains on both feet, he was forced to break stones every day from morning to evening. Then he was interrogated again continuously from early in the morning to late at night, with neither food nor drink. Finally he succeeded in fleeing and hid in a jungle near the Indian border (Human Rights Watch, 2009, p. 58ff).

Human Rights Watch posed a series of questions after the suppressed protests: What had happened to the monks, where had they been abducted to, which of them were tortured in prison, and how had the Sangha, the monks' community, to suffer under the military dictatorship? However, further questions would be: What motivated the monks to rise up against the military regime and how is their commitment to human rights anchored in the Buddhist tradition?

The *Saffron-Revolution*, as the protest of the monks against the military dictatorship of General Than Shwe was also called, was certainly one of the most significant events of the last years that led to a process of democratization in Myanmar after spring of 2011. Perhaps this was in addition to Cyclone Nargis, which destroyed the entire Irrawaddy Delta in May of 2008—more than 150,000 people were killed and many millions lost all that they had—and showed that the military government was unable to react adequately to this catastrophe.

Political conflicts in the twentieth century, which must be largely viewed as late consequences of growing national movements for independence from western colonial powers, but also internal social, cultural and economic upheavals in Asian countries, have raised the questions of human rights in cultures shaped by Buddhism in a striking manner. The Chinese invasion of Tibet, the Cultural Revolution with the destruction of hundreds of temples, pagodas and monasteries and the murder of thousands of monks; the Red Khmer's genocide of its own populace in Cambodia, a traditionally Buddhist country; and the nearly complete massacre of the Sangha and the intellectual elite of the country within only a few years between 1975 and 1978; the deep ethnic conflicts between the Sinhalese and

the Tamils in Sri Lanka; but also precisely the experiences of the military dictatorship in Myanmar have confronted Buddhists with questions of human rights.

Is a deeper consideration of human rights anchored in Buddhism by its own right, or is it the result of more recent developments, intercultural encounters and the experiences described in Buddhist countries during the past century? I will attempt to discuss this question, but an unequivocal answer will not come easily. For it involves not only consideration of the question of whether there are analogies or even overlapping between human rights and the anthropological or ethical principles of the tradition of Buddhist teachings. It also includes the fundamental question of how human rights are to be interpreted interculturally.

At any rate, it is evident that human rights have been cited and commented on by Buddhists in recent times and that Buddhists have made decisive statements on human rights. The foremost of them is the Dalai Lama, who held the keynote address for the one hundredth anniversary celebration of the World Parliament of Religions in Chicago in 1993 and who co-authored the “Declaration towards a Global Ethics”. This declaration was signed by members of numerous religions and among the Buddhist participants were leading representatives from the countries of Theravada Buddhism, as well as from Eastern Asia.

In 2008, the Dalai Lama declared on the occasion of the 60th anniversary of the adoption of the Declaration on Human Rights: “These human rights are inclusive, interdependent and universal.” Analogous to the demands of the monks in Myanmar for more political openness, the Dalai Lama called for more democracy as a similar universal value:

Today, the values of democracy, open society, respect for human rights, and equality are becoming recognized all over the world as universal values. To my mind there is an intimate connection between democratic values and the fundamental values of human goodness. Where there is democracy there is a greater possibility for the citizens of the country to express their basic human qualities, and where these basic human qualities prevail, there is also a greater scope for strengthening democracy (Gyatso, 2008).

Finally, he demanded an international reinforcement of human rights in view of violations of human rights in Tibet and China: “Internationally, our rich diversity of cultures and religions should help to strengthen fundamental human rights in all communities” (Ibid.).

One development within the many directions of Buddhism helped to shift the focus to the social and political dimensions of coexistence: the so-called “Engaged Buddhism” is a movement that cannot be identified as any one direction or cultural entity. It is to be found in numerous countries and contexts, from India, Thailand, Sri Lanka, to Japan and all the way to the United States and Europe (on this, see Queen & King, 1996; Moon, 2004). Particularly in this movement, however, we find again and again criticism of traditional Buddhism as being politically indifferent. Moreover, the traditional concept of the Dharmaraja, the ruler, who is to defend the Dhamma, is said to have obstructed the development of democratic structures in the Buddhist countries of Southeast Asia and to have promoted the political quietism of the monks in the Sangha through a strict separation of political and spiritual action. Today, Buddhists comment on social and political questions and in

interchange with and reception of approaches shaped by Liberation Theology, the statements of numerous Buddhist thinkers and activists view human rights as genuinely in harmony with Buddhist teachings.

In this process several approaches have emerged in the meantime that I would like to describe in overview, without going into detail (see also Keow, 1995; Meinert & Zöllner, 2010). The Nobel prizewinner from Burma, Aung San Suu Kyi, answered the question of how human rights and human dignity were anchored in Buddhism by referring to the special status of human beings in the cosmic order of redemption and in respect to the possibility of enlightenment and liberation being open only to human beings. People are responsible for their Karma and are the result of their earlier actions. Thus good or poor spiritual development is traceable only to one's self. Not status, but rather personal responsibility forms the link of Buddhist teaching, the Dharma, to human rights, according to Aung San Suu Kyi. However, she sees no contradiction between the responsibility for self and responsibility for other living beings and for the world. Both are seen in close relationship: to develop one's self means to help others to develop themselves, and vice versa (Aung San Suu Kyi, 1991).

A similar vision is to be found in Babasaheb Ambedkar, the leader of the Dalits in the Indian Movement for Independence, who out of protest against discrimination against the casteless within Hinduism converted to Buddhism in 1956, thereby triggering a mass conversion that has led to an enormous revival of Buddhism in India up to the present day. Babasaheb Ambedkar sees human rights as being anchored in the Buddhist Dhamma. His motto for the Dalit Movement in India: Freedom, equality and brotherhood, which he does not derive from the French Revolution, as he stresses, but rather from the teachings of the Enlightened One (Ambedkar, 1989). Consequently, Ambedkar acted to apply his struggle in behalf of the freedom of the individual derived from Buddhist motivation to the political arena by anchoring freedom and equality together with the abolition of caste divisions in the Indian Constitution adopted in 1949.

Within Buddhist debates this is not uncontroversial, as it is constantly emphasized that Buddhist tradition does not admit any privileged position to a human being and that against the background of the teaching of Karma and rebirth human beings must be viewed in close interconnection and interdependence with all other living beings. Many Buddhists thus argue that human rights—as western, anthropocentric values—have no equivalent in Buddhist tradition. All forms of existence are subject to the cycle of Karma and reincarnation, and if reincarnation can include non-human forms, then in addition to human rights, the rights of animals and ecological rights in general have to be discussed and anchored in the same manner.

However the fact that human beings are not accorded a privileged position within the Karma-Samsara cycle is still not the same thing as discrimination against human beings, since reincarnation as a human being is regarded as particularly valuable and since there is consensus that enlightenment and entering Nirvana can only be attained in human form. Animals, but also ghosts and demons have too little leeway to develop themselves morally or spiritually, and even gods, because of the elevated status they enjoy, can hardly develop any further.

In the Pali Canon and in particular in the Sutras the status of human beings is thus emphasized in a special way, as only they retain the possibility of complete liberation. Linked to this is a further aspect that suggests a connection between Buddhist teachings and human rights: the freedom of the individual for action and self-determination. The words of the Buddha, which he spoke to his followers shortly before entering Parinirvana, are thus always cited as a genuine characteristic of Buddhist practice. The Digha Nikaya reads: “Therefore be islands unto yourselves, refugees unto yourselves, seeking no external refuge.”

A further reason for viewing human rights as anchored in Buddhist tradition is offered by various Buddhist thinkers in the teaching of dependent origination (Sanskrit: *pratityasamutpada*, Pali: *paticcasamupada*). Particularly Kenneth Inada has advanced the hypothesis that human rights are anchored in the fundamental anthropological teaching of dependent origination, which he views as the central teaching and core of the Dhamma in Buddhism. Referring to the words of the Buddha from the *Majjhimā-Nikāya*, “Whoever perceives dependent origination perceives the Dhamma, and whoever perceives the Dhamma perceives dependent origination”, Inada argues: “There is an intimate and vital relationship of the Buddhist norm of *Dhamma* with that of human rights” (Inada, 1982, p. 70). Inada interprets dependent origination as follows: In every life process the origination of an event that can be experienced is a totally relational process, as no event originates in a vacuum and can also not be understood as the result of external effects. Every event is unique, as it is dependent on and linked to all the other elements which are present. Every event is perfect in so far as it is a part of this process to which it is related. In the ideal of the Bodhisattva Inada sees this mutual interdependence realized in a special way, as the Bodhisattva personifies the mutual interdependence of all beings. Thus the Bodhisattva embodies the principle of harmony, of freedom and of the equality of all living beings. Human rights in this sense are an expression of the related relationship of everything to everything. “These rights are actually extensions of human qualities such as security, liberty and life.”

Damien Keown criticized Inada’s approach sharply, as the teaching of dependent origination is first and foremost a purely ontological determination of the process of origination and the constitution of existence, but has in itself no reference to ethical behavior:

However, the fact that human beings live in relationship with one another is not a moral argument about *how they ought to behave*. By itself it offers no reason why a person should not routinely abuse the rights of others. Inada’s suggestion that human rights can be grounded in the doctrine of dependent-origination turns out to be little more than a recommendation that people should be nice to one another on the ground that we are ‘all in this together’ (Keown, 1995, p. 9).

By contrast, Keown suggests deducing the human rights from Buddhist *ethics*, in particular from the Five Precepts and the ethical instructions contained in the Noble Eightfold Path. While most approaches would derive the human rights from the first two of the Four Noble Truths, Keown advocates a deeper reflection of the fourth noble truth that is the only one to really unfold an ethical and spiritual development

and thus could be viewed as a moral guide that could be related to human rights. However, this means that Keown does not see human rights as a form of natural right or law, but rather as a moral norm that requires interpretation in the respective concrete situation and from the different cultural and religious perspectives.

How, then, can human rights be advocated in the Buddhist perspective? The differences in the presented approaches make it clear that there is no single unified perspective on human rights in Buddhist discourse. It is true that L.P.N. Pererea, a Sri Lankan professor for Pali and Buddhist studies, wrote a Buddhist commentary on the Declaration of Human Rights in 1991, in which he pointed out a corresponding passage in the Pali Canon for every Article of the Declaration. However, Keown, criticizes that Pererea's analogies between human rights and the teachings of the Pali Canon are not really plausible.

Yet, one aspect is particularly noteworthy, because here a convergence can be shown between Perera's approach and recent philosophical approaches to the justification for human rights. Perera interprets Article 1 of the human rights "*All human beings are born free and equal in dignity and rights*" as in complete agreement with Buddhist thought: "Buddhism credits the human personality with a dignity and moral responsibility", and further: "Article 1 is in complete accord with Buddhist thought, and may be said to be nothing new to Buddhism in conception" (Perera, 1991, p. 28). On the contrary, the goal of Buddhism, perfect liberation and enlightenment, is almost declared the practical realization of an as yet to be defined globally valid human dignity: "Buddhahood itself is within the reach of all human beings, [...] and if all could attain Buddhahood what greater equality in dignity and rights can there be?"

In addition, Perera credits Buddhism with having developed a political definition of human dignity, not articulated until a 1000 years later in the West: "Buddhism posits, as Jean Jacques Rousseau did much later, that the essence of human dignity lies in the assumption of man's responsibility for his own governance." To be sure, in Keown's opinion this hypothesis of a political justification of human dignity has no basis in the Pali Canon, because in some Pali texts the development of a politically organized society is viewed nearly as a sign of degeneration of the Dhamma and therewith the decline of Buddhist teaching. However, from the perspective of recent philosophical approaches, as indicated, Perera's linking of human dignity with political action can be interpreted in an intriguing way as a commentary on the *Saffron Revolution* in Myanmar in 2008. I will discuss this briefly in conclusion.

A look at current discussion on human rights shows clearly that, as Arnd Pollman comments, there is widespread global consensus on the normative validity of the *idea* of human rights (Pollmann, 2008, p. 10). Even though human rights are not actually respected and implemented everywhere and even though voices are heard again and again in criticism of the supposed Eurocentric slant of human rights, they are not fundamentally questioned in politics, jurisprudence and philosophy. The dispute over human rights is far more a concern over the content meaning of the concept of human rights, which is becoming more and more diffuse, complex and ambiguous (Bielefeldt, 2005, pp. 5ff.). Pollmann and also Christoph Menke

view the justification of human rights by reference to natural law just as problematic as the sole derivation of the development of the human rights concept from the idea of freedom from the French Revolution and Kant's philosophy. As is well known, Kant in the classification of jurisprudence in his *Metaphysics of Morals* argued that there is only one single inherent right, namely freedom, a right to which every human being is entitled on the basis of his or her humanity (Kant, 1977, p. 345). Against this and other reductionist definitions of human rights, Pollman and Menke advocate a multi-level model that integrates various aspects.

A further controversy of the current discussion on human rights concerns their scope, that is their range of application. The universal validity of human rights is not being questioned here. It is rather the content of the claim to universality that is disputed. Here Menke and Pollman identify two positions: maximalist and minimalist. Maximalists assume that the concept of "human being" transcends cultural boundaries. It is a description of general human needs and characteristics which can be violated. The meaning of experiences of injustice is important for this position in the sense that it can be generalized and applied to other cultures, even when the character of the experience is shaped by its context. Minimalists, such as John Rawls, postulate that only when human rights are restricted to a core of fundamental legal statements—such as the right to life, freedom of religion and conscience, the prohibition of torture and of slavery—can they meet the requirements of cultural pluralism (Menke & Pollmann, 2007, pp. 125ff.).

What is ignored in such minimalist definitions is the question of how to mediate between a moral and a political justification of human rights. A moral concept of human rights can be justified on the basis that "every human being has a justified claim to public order, because he or she has prior moral rights which have to be respected by another human being" (Menke & Pollmann, 2007, p. 42). The political justification, by contrast, assumes that the justified claims to public order are explicable by the fact that "every human being is a member of the political community that produces this order" (Ibid.).

Pollman defines human rights as "*morally based claims to fundamental rights which must be realized politically*" (Pollmann, 2008, p. 12). The concept of human rights is therewith at one and the same time moral, judicial and political. Human rights are moral rights because a human being has a fundamental claim to membership in a civil society in which human rights must be respected by all out of moral commitment. They are judicial because concrete legal claims have to be positively anchored in the form of basic rights. They are political because from hypothetical rights they become concrete basic rights through a public decision-making process. The protests of the *Saffron Revolution* in Myanmar take precisely this approach: the monks demand that a constitution and a political system be founded and put into practice which upholds moral rights, based on the Buddhist traditions of respect for the Precepts and a societal order drawn from a cohesive and balanced relationship with the Sangha and society. This is exactly the same as the traditional system of government, where the preservation of the Dhamma and the Sasana were guaranteed by a Dharmaraja, respectively a Cakravartin, that is: a just ruler.

For the reception of Buddhist argumentation and in particular Perera's argumentation, the question of the relationship between human rights and human dignity is central. There are two diametrically opposed views on this relationship. In one view, no connection between the two concepts is postulated, because human rights can be explained without reference to human dignity. In the other view, the two concepts are derived from each other.

Menke and Pollman represent the opinion that the concept of human dignity is a condition for the meaning of human rights, for without the prior assumption of it human rights cannot be understood. Only when one proceeds from the assumption of human dignity can the meaning of human rights be perceived. Pollman argues as follows: Human rights imply a form of life that is of a qualitatively higher level than merely "naked" survival. Thus, his model views the normative guiding principle for human rights not merely as human life, but rather one that is *humane*. His understanding of dignity is, when "nothing and no one is so detrimental to a human being's way of life that he or she loses his or her self-respect as a human being of equal value" (Pollmann, 2008, p. 18; see also Pollmann, 2004, pp. 262–279). Accordingly, the practices of governmental disrespect, humiliation and discrimination observed by Human Rights Watch above all in Myanmar in 2008 can be viewed as a threat to human dignity on the grounds that they denied the monks involved the social freedom they needed to maintain their self respect, as well as to embody this in their social interaction. Thus dignity—with Pollman—can be understood as "embodied self respect." And human rights are there to guarantee all human beings the appropriate freedoms and protection. If one understands human dignity in this manner, then in its constitutive facilitation it also, according to Pollman, extends to the classic defenses against the state: protection from torture, abolition of slavery and prohibition of discrimination.

Those are some of the basic factors in the current discussion of human rights. What appears particularly relevant for the analysis of the events in Myanmar is Pollman's reference to the role of the political in determining the content of human rights. Pollman suggests, as mentioned above, a multi-level model in order to define the content meaning of human rights more specifically. In this model, the idea of mere survival constitutes the "lowest" foundation or level. This means the elementary rights, such as the right to life and physical integrity, to health or nutrition. The ideas of a humane and self-determined life in freedom, however, are objectives on higher levels in the model of Menke and Pollman.

Through such normative levels, which take regard of and express rising demands, the model becomes more open for cultural interpretations. Pollmann points out that the higher one rises in the progressive levels of the model, the more one has to depend on an interpretation of the corresponding rights that is sensitive to the context. The multi-level model makes it clear that specifying the determination of content and extent of human rights presupposes a culturally open political process of negotiation.

Herewith Pollman indicates that the precise content of human rights always has to be negotiated anew. And this is happening in Myanmar at present, particularly through the attempts born of Buddhist motivation to found a democratic

constitution in the country through Aung San Suu Kyi and numerous religio-political movements led by the monks and the Sangha.

That human rights are “morally based claims to basic rights that have to be politically realized” thus means that they must be specified politically before they can be realized politically. In order to implement the “abstract” human rights in positive law, they must first be contextualized in the concrete social and political situation.

This thought is particularly important for the debates that have been conducted by the Buddhist monks after the *Saffron Revolution* in Myanmar. In this discussion content and extent of concrete human rights must be reinterpreted and renegotiated again. And this will not be possible without extensive dialogue between the political powers and the monks’ organizations, and this with reference to the Buddhist culture that has shaped Myanmar for centuries. Whether the human rights are already anchored in the Pali Canon, as some argue, or whether these are, as Western European rights, ultimately alien to the traditional teachings of Buddhism and first of all have to be adopted by modern forms of Buddhism is, in my opinion, less significant. Far more important is the observation that Buddhist monks in present day social and political processes are demanding changes, reforms and laws in harmony with the fundamental questions of human rights and human dignity.

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Prof. Dr. Andreas Nehring is Professor of Religious Studies and Mission Studies at the Friedrich-Alexander-University Erlangen-Nürnberg, Germany.

Part III
Human Rights Education
and Religious Education:
Pedagogical Perspectives

The Relation Between the Human Right to Education and Human Rights Education

Wilna A.J. Meijer

Abstract The 1948 Human Rights Declaration and the 1989 Children’s Rights Convention often formulate rights conceived of at an earlier stage. The right to education with its essential egalitarian assumptions, e.g., is part and parcel of modern educational theory, which appeared on the European scene as early as the seventeenth century. For educationalists, the wording of the twentieth century declarations and conventions occasionally raises doubts. The very article 28 on the right to education itself is a case in point: it breathes the atmosphere of a ‘Third World’/‘North-South-divide’/‘Global Issues’ discourse, rather than educational discourse. More generally, a lot of the current reflection on the theme of ‘education and human rights’ seems to originate from and feed on such global-political discourse. From the perspective of educational thought, it is crucial to strike the balance between the rights of parents and the rights of children. This duly complicates human rights discourse. The paper focuses on the rights of future adults as compared to the rights of the adults of the present. A characteristic tension surfaces whenever education is implicated in the ideals and future projects of the present adult generation, because, educationally speaking, the future should be left open, being the responsibility of the future adults themselves.

1 Liberal and/or General Education: From Elitism to Egalitarianism

The formulation of human rights in the 1948 Universal Declaration of Human rights (UDHR) and of children’s rights in the 1989 Convention of the Rights of the Child (CRC) cannot count as discovery or invention of the involved rights. The UN documents rather articulate rights that were already “in circulation”, although they had, in actual practice, often been violated. Hence the need felt to explicate

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W.A.J. Meijer (✉)
University of Groningen, Groningen, The Netherlands
e-mail: w.a.j.meijer@rug.nl

and formulate the involved rights and so to establish and maintain them. The right to education—articles 26 of the UDHR and 28 and 29 of the CRC—with its essentially egalitarian assumptions, is a case in point. It has been part and parcel of modern educational theory from the moment it started to appear on the European scene, which was as early as the seventeenth century. The universal and egalitarian character of general education (Dutch: *algemene vorming*, German: *allgemeine Bildung*) is already reflected in the subtitle of Comenius' work *Didactica Magna*, of 1638: *Omnes omnia omnino excoli*—"teaching everything completely to everyone"—, to take a very well-known and indeed paradigmatic example (cf. Hofmann, 1973; Mollenhauer, 1983; Tenorth, 1986). The educational discipline dating back to this modern age (in Dutch: *algemene pedagogiek*, in German: *Allgemeine Pädagogik*, in English: *general education*) provides the framework for the argument of this contribution.

"To everyone, everything, completely". This formulation gives, up until today, a nicely apt shorthand for the three attributes referred to by the adjective "general" in "general education". The three are, for example, yet reflected in Sheldon Rothblatt's characterization of this concept in his article "General education on the American campus" in the 1988 Yearbook of the NSSE (i.e., the (US) National Society for the Study of Education). Albeit somewhat mitigated and attenuated, the triplet "omnes, omnia, omnino" of the title of Comenius is reflected in Rothblatt's "commonality, breadth, and coherence". Rothblatt formulates the inherent tension between the two aspects of breadth and coherence succinctly:

The attributes of a general education curriculum are usually said to be breadth, coherence, and a common compulsory core. Breadth and coherence are at one level antithetical. The narrower the view, the more coherent the perspective; the broader, the less coherent. The object, therefore, is to bring the two attributes together, as in Matthew Arnold's dictum that the purpose of culture is to see life clearly and to see it whole. Coherence restrains the centrifugal tendencies of breadth, while breadth controls the centripetal propensities of coherence (Rothblatt, 1988, p. 10).

As a historian of education, Rothblatt draws a distinction between "general education" and "liberal education". The latter is identified as the original concept, dating back to ancient Greeks. Ever since has its history been running parallel to the history of western civilization, Rothblatt says. The constant in the idea of liberal education is a concern for the whole, rounded person, for the integrated personality at home in the world and with himself, with a disposition to take broad and tolerant views. In contrast, "general education" is identified by Rothblatt as a rather recent, twentieth century concept, tied to the phenomenon of mass higher education. There is, however, a congeniality between the two concepts, viz.: "It is from liberal education that general education takes breadth and coherence as its objects" (Rothblatt, 1988, p. 23). But then, there is also this essential difference between the two: "Liberal education was historically expensive education for the privileged" (Rothblatt, 1988, p. 26). This is the "cautionary tale" that Rothblatt ends his article with. The caution concerns the essential third attribute of the concept general education: that it is meant to be education for all, regardless of differences in gender, class, wealth, or whatever other differentiating aspect of birth or lineage.

It is, in one word, universal, or, in another word, egalitarian. In this connection a second tension arises as inextricably tied to the concept of general education.

Two other historians of education, Franz Hofmann (1973) and Heinz-Elmar Tenorth (1986), offer interesting further thoughts on this aspect (cf. Meijer, 2012). Whereas Rothblatt identified the inherent tension between the attributes of breadth and coherence, they elaborate on the second characteristic tension that arose in the modern era, which is, by the way, well before the twentieth century to which Rothblatt attributed it. In the beginning of the modern era the liberal educational idea and ideal lost its elitist character, at this point in history it became democratic and egalitarian. However, the ideal was not fully realised in actual fact in the institutions and practices of general education. Hofmann looks at the seventeenth century educational ideas of Comenius and Ratke and points at their egalitarian nature, in his words “the democratism and universalism of their opinions”, in other words: “general education was primarily defined as equipping all people with everything needed to develop their humanity to the full, irrespective of social descent, wealth or gender” (Hofmann, 1973, p. 28). Tenorth’s reference to the eighteenth century educational classic Pestalozzi is also illustrative in this connection:

‘Bildung’ [formation/education] becomes the guiding concept of a social movement in which the citizens’ freedom and autonomy, their understanding of individuality and personality is being formulated and at the same time the importance of educational institutions for society [...] is expressed [...] In this early phase of its constitution, the notion of ‘Bildung’, at least in philosophical discourse, does not yet imply any restrictions referring to social class or level. The ‘general formation of the internal potentials of human nature to pure humanness’ rather is ‘the general objective of education even of the most primitive people’, Pestalozzi writes in his book ‘Abendstunde eines Einsiedlers’ [Evening Hour of a Hermit] of 1780 (in the introduction of Tenorth, 1986, p. 10).

This ideal of equality was not fully realized in actual educational practice. Certainly, there was an increase in elementary education from the start of the modern age (interestingly, more so in the Protestant North-West of Europe, than in the Roman-Catholic Southern parts; Houston, 1988, p. 33; cf. Meijer, 1995), but that the further education needed to give the aspect of breadth a real chance to develop, was not likewise commonly shared. And soon, in the “late bourgeois” era of industrialization and subsequent capitalist class societies, new forms of inequality and injustice were to develop, as Hofmann emphasizes. The corresponding particular distribution of educational opportunity was as a rule as follows. On the one hand, there is education for all that is only elementary. It was concerned, in the early modern days, with the basics of elementary literacy and religious instruction—actually, literacy was also religiously functional (at least for Protestants, who were supposed to read the Bible for themselves). Basic numeracy appeared a bit later on the scene, as functional in the emerging context of modern trade. Anyway, the element of breadth of a liberal-general education is lacking here. On the other hand, there was continuing education at secondary and higher levels that was general in that it offered breadth and depth of knowledge and understanding, thus being truly liberal, i.e., liberating by widening horizons and supplying cognitive perspective

(to use Richard Peters' language for a change; cf., e.g., Peters, 1974, pp. 30ff.). However, such continuing education was (and often still is) not general in the sense of being education for all.

So it seems that the realization of a truly general-and-liberal education got stuck in one of the following two ways. There is, on the one hand, general education as education for all, but this is elementary only. And there is, on the other hand, liberal education characterized by breadth and depth, aiming at liberally educated, many-sided persons, which is, however, not commonly shared, but limited to an elite of some kind.

And yet, as an ideal, as a "yet to be fulfilled promise of civil society", as Tenorth put it (1986, p. 1), the egalitarian liberal educational ideal, i.e., the idea and ideal of an education that is both general-egalitarian and general-liberal, has not lost its appeal until today.

2 The Human Right to Education and Human Rights Education: A Question

Both the Universal Declaration of Human Rights (UDHR) and the Covenant of the Rights of the Child (CRC) breathe egalitarianism in letter and spirit. The first words of Article 2 of the UDHR represent the same egalitarian atmosphere as the idea and ideal of general education discussed in the previous section:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The gist of the right to education in the context of human rights and children's rights formulations is to promote such egalitarianism in and through education, to promote it ever further, yes, indeed, worldwide. The discourse used reminds of a "Third World"/"North-South-divide"/"Global Issues" political discourse, rather than educational discourse. This is, e.g., clearly the case in the third paragraph of article 28 on the right to education in the CRC:

States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

A lot of the current reflection among religious educationalists on the theme of "religious education and human rights" originates from and feeds on the global-political discourse of the language of UN (and EU) declarations (cf. e.g. Gearon, 2010; cf. also Meijer, 2011). Religious education, often supposed to be at risk of disappearing in an era of secularization, recently experienced a survival or resurrection in the form of inter-religious education. This new form of religious education is advocated by pointing out its capacity to foster attitudes of tolerance and

mutual respect, greatly needed in local and global contexts of diversity and (real or potential) conflict, in the new generation. Whoever could be unsympathetic to such values today or have the courage to amend them? Yet, as an educationalist, I do have a question here. How well does an educational justification of religious education go together with this political justification of religious education as citizenship education and/or human rights education? It is often assumed that they go quite well together, but from the educational perspective, I experience a tension.

I will elaborate on this, first, by taking a closer look at the right to education as formulated in the 1948 UDHR and the 1989 UN CRC in the next section. Then, in the fourth and final section of this paper, I will focus on a possible tension between that fundamental, universal right and human rights education.

3 An Educationalist Looks at UN Formulations of the Right to Education

The characteristic tension between the general-egalitarian and the general-liberal—two attributes of one and the same modern concept of general education—that never stopped to bother educational thinkers in the West and made them think the concept of “allgemeine Bildung” (general education) over and over again, can also be traced in the formulations of the right to education in the UDHR and the CRC. On comparing the 1948 formulations to those of 1989, an increase in nuance and detail can be noticed, which might stand for an increase in awareness of this educational tension. Let us take a closer look. Article 26, paragraph 1, of the UDHR reads as follows:

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

This paragraph reflects the tension between the general-egalitarian and the general-liberal; it can even be read as an acceptance or endorsement of the implied inequality. Elementary education is free and compulsory for all, higher education is accessible to all on the basis of merit. The addition, “on the basis of merit”, actually implies that it is *not* education for all. Higher education is for an elite, albeit an elite of a relevant, educational-cultural kind, rather than of social-economic class or nobility of birth. It is as if the tension between the general-egalitarian and the general-liberal was no longer felt when this article was formulated. By contrast, the formulation of the right to education in the first paragraph of article 28 of the CRC shows that it *is* still felt and that the ideal of combining the two senses of “general” in general education is still alive and waiting for better realization in actual practice.

To begin with, it is remarkable that the word “merit” has been substituted by the word “capacity” in the CRC. Further, it is now formulated explicitly that general

accessibility has to be brought about, using every effort: “Make higher education accessible to all on the basis of capacity by every appropriate means”. Indeed, the entire formulation in the CRC shows this awareness: that accessibility of higher education cannot simply be a matter of being open to students on the basis of individual merit demonstrated in individual educational careers so far. Economic and social inequality causes educational inequality, right from the very beginning of the individual careers. Educational equality in general-and-liberal education is not simply a matter of offering equal access (equal opportunity; Dutch: *gelijke kansen*, German: *Chancengleichheit*). Rather, equality has to be brought about in and through education itself. Point e of paragraph 1 of the CRC article 28 demonstrates precisely such educational awareness: “take measures to encourage regular attendance at schools and the reduction of drop-out rates”.

I conclude that the CRC article on the right to education shows more educational awareness than the corresponding 26th article in the UDHR.¹ The meticulous subdivision into five subparagraphs of the one UDHR paragraph already points in that direction. Perhaps it can be said to demonstrate an educational awareness of the “yet to be fulfilled promise of civil society” that Tenorth pointed out. The right to education is not simply proclaimed, but it is presented as a right *to be achieved progressively*. In closing this section, I cite the entire paragraph 1 of article 28 of the CRC:

States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

¹ Which was probably to be expected from a document on *children's* rights, the more so after the decade, since 1968, of ‘critical educational theory’ (*kritische Pädagogik*) with its neo-Marxist inspiration, which had been drawing critical attention to the ongoing, more or less hidden, educational reproduction of social-economic inequality. Cf. Meijer (1996).

4 Human Rights Education vs. the Human Right to Education

The preamble of the UDHR formulates the relation between human rights and education that has been taken up in circles of religious educationalists so successfully. Human rights have to be taught, have to be given pride of place in education, in order to “secure their universal recognition and observance”.

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

This cause and quite explicit agenda reappears in article 26 of the UDHR on the right to education, in its second paragraph. We have seen how the first paragraph on the right to education in the UDHR was reformulated and expanded in article 28 of the CRC. Likewise, the two additional paragraphs of this UDHR article reappear updated and somewhat expanded in article 29, paragraph 1, of the CRC. First, I will cite the relevant articles, then I will take a closer, comparative look.

UDHR article 26, paragraphs 2 and 3

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

CRC article 29, paragraph 1

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child’s personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living; the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

The right to education as laid down in UDHR article 26.1 and CRC article 28 were discussed in the previous section. The first half-sentence of the, just cited, UDHR article 26.2 and CRC article 29.1a still regard the right to education. They can be read as proclaiming the universal right to a liberal-general education (“the

full development of the human personality”/“development of the child’s personality, talents and abilities to their fullest potential”). But, then, in one and the same sentence in the UDHR and between paragraphs a and b in the CRC, the attention is drawn away from the right to education towards the cause of “strengthening” or “developing” respect for human rights, as if the two go together as the two sides of one and the same coin. In both the UDHR and the CRC this same sudden change of perspective from the human right to education to human rights education appears. The articles start out with the right to a liberal, broad education, but then shift to the values and attitudes that children should learn to accept, embrace and develop.²

I conclude that both the UDHR and the CRC are divisive here, they “limp on two thoughts”, as a Dutch expression goes (*op twee gedachten hinken*). They want to serve two causes at once: the universal right to a liberal-general education and the promotion of universal recognition and observance of the UN values and principles by means of education. Education is an instrument in the latter case, whereas a truly liberal education is rather non-instrumental.

It was said above, with Peters, that an education offering breadth and depth of knowledge and understanding is truly liberal, i.e., liberating by widening horizons and supplying cognitive perspective. As relevant was Rothblatt’s characterization of a liberal education as a concern for the whole, rounded person, for the integrated personality at home in the world and with himself, with a disposition to take broad and tolerant views. Liberal education is about learning to take broad and tolerant views, but that is not identical to learning to tolerate, respect and be friends to all ethnic, national and religious groups. It is about the acquisition of knowledge and understanding, and about the attitudes of reflexivity and broadmindedness inherent in that. But it cannot be foreseen what the educated persons will, in their future situation, deliberately decide to tolerate, respect, pursue, cherish, and what to disapprove of, what to reject and fight. The adults of the present cannot fix and secure that in advance, and they shouldn’t want to do that. Educationally speaking, the future should be left open because it is the responsibility of the future adults

²Besides human rights education, CRC 29.1e also seems to imply a form of environmental education, which is an addition as compared to article 26 of the UDHR. Human rights education and environmental education imply the same potentially problematical tension. I discuss it here for human rights education. Elsewhere, I have discussed it for the case of environmental education (Meijer, 2001). Yet another tension inheres in both the UDHR and the CRC articles at issue here, a very educationally relevant one at that, viz., the relation between the rights of parents and the rights of children. Article 26.3 of the UDHR (cited above) is on the parent’s right to choose the kind of education for their children. (It is rather strange, to my opinion, to find it, in a somewhat different form, included in CRC article 29.1c among the things that *children* have to learn to respect.) There exists a lively educational debate on the relation between children’s rights and parental rights. Meira Levinson—to take just one, thought-provoking example that is quite relevant in the present context because she advocates a liberal education aiming at personal autonomy—draws attention to the quite realistic possibility of ‘parental tyranny’: ‘From children’s perspective [...] parents have the potential to be at least as tyrannical as the state – and thus to pervert the course of their education and inhibit their development of autonomy’ (Levinson, 1999, p. 69; cf. Meijer, 2013, pp. 42/43).

themselves. Hannah Arendt developed a strong image for this in her idea of *natality*.

With every birth, with every new-born child, something new comes into our old, pre-existing world. Educational responsibility distinguishes itself from other forms of responsibility by its essential two-sidedness, both for the newcomers and for the old world. Education is a conservative business, because it is a matter of tradition, of passing on our culture, our world, our knowledge and understanding (the best we can offer), to the next generation. But the vitality of what is transmitted is well served by the new that the new generation may bring to it. Therefore it is educationally essential to concentrate on the present where the old and the new meet, and to strike the balance between the old and the new in the present.

Education is the point at which we decide whether we love the world enough to assume responsibility for it and by the same token to save it from that ruin which, except for renewal, except for the coming of the new and young, would be inevitable. And education, too, is where we decide we love our children enough not to expel them from our world and leave them to their own devices, nor to strike from their hands their chances of undertaking something new, something unforeseen by us (Arendt, 2006, p. 193).³

A general liberal education is about broadening everyone's horizon, about developing everyone's cognitive perspective. This is the best preparation for the unpredictable situations and choices that the future adults will be confronted with. The liberating generality of education is tied to the openness of the future.

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³ Arendt has been quite an inspiration to philosophers of education recently, especially the so-called postmodernists among them. Biesta, for example, uses the same passage of Arendt cited here as a motto in his book of 2006 (as such it occurs even twice, viz., on pages xi and 147). In a recent book (Meijer, 2013), I have argued that the educational insights of Arendt are classical-modern, rather than postmodern, and that they are directly comparable to what we may find in, e.g., Theodor Litt's famous classic of 1927, *Führen oder Wachsenlassen (Leading or Letting Grow)*. Both are essentially about the educational tension ('Antinomie') between child and culture and the educational art to keep the right balance between the two. When understood in terms of time (human time, historical time: past/present/future), this balance is the passing on of tradition (from the past, in the present) while keeping the future open (no 'anticipation of the future'/'Vorwegnahme der Zukunft', as Litt puts it: 1967, pp. 19ff).

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Prof. Dr. Wilna Meijer is Associate Professor of Philosophy of Education at the University of Groningen, The Netherlands.

Human Rights Education from the Perspective of the Pragmatist Didactics of Politics

Armin Scherb

Abstract The pragmatist concept of education for democratic citizenship and human rights involves a process of reflective judgment formation in which people make their own practice the subject of consideration. This self-reflection allows for a describable normative concept in which it becomes clear that democratic values and human rights are to be initially implemented as practical tasks. This does not mean forgoing the content dimension (knowledge of human rights), because in the reflection process on practice we can successfully identify these values in their correspondence with core human rights (liberty, equality, recognition of the person).

Human rights education is realized in two dimensions: first, the education *about* human rights and, second, the education *for* human rights. With such affinity in mind, the narrative below focuses on the educational aspect, that is, the aspect of education *for* human rights. The educational pragmatism of John Dewey is one example of a model for a *normative* concept of human rights education.¹ His educational philosophical creed can be summed up in the topos “*democracy as a form of life*”. Dewey’s foundational concept of democracy is to be implemented in a material way, that is, always referring to fundamental and human rights. If democracy is understood as a *form of life*, and not primarily as a *form of government*, then education for democratic citizenship is the same as human rights education and vice versa. It was in Dewey’s educational pragmatism that the didactics of politics increasingly found a philosophical basis for turning to the subject and for an educational concept based on self-awareness and self-directed autonomy. Central to this concept is primarily the question of the significance of *experienced democracy* for the development of human-rights-oriented attitudes and behaviors.

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¹ Cf. in this context the contributions of Pape and Scherb, in: POLIS 3/2005, p. 12 ff. and p. 17 ff.

A. Scherb (✉)

Friedrich-Alexander-University Erlangen-Nürnberg, Nürnberg, Germany

e-mail: anscherb@fau.de

1 Human Rights Education as a Concept of Reflected Experience

The connection of “Democracy and Education”—in the title of John Dewey’s major educational philosophical opus—is rooted in the reflected experience of democratic practice. For the concept of human rights education, two questions must be answered in this context: *First*, the (partial) question arises, whether Dewey’s educational pragmatism can respond appropriately to the individualizations and semantic differentiations of our times and if it can perhaps even productively utilize this temporary phenomenon. *Second*, the (partial) question arises, which normative orientation Dewey can provide considering these individualizations and differentiations.

1.1 *The Privileged Status of the Individualistic Aspects of Human Rights in Postmodernism*

The endurance test of Dewey’s approach for postmodernism is due to the fact that the term “postmodernism” is a widely accepted diagnosis of time which is linked with a radical dissolution of overarching structures of meaning and value. While the “modern era” has repeatedly attempted to combine the ambiguous, the incompatible, the contradictory under one banner, and thus gave birth to grand theories such as liberalism, socialism, communism and fascism, the diagnosis for postmodernism has been “the end of ideologies” (Lyotard). However, the modern era had already come up with an antidote to ideologies in the form of “ideological criticism.” Ideological criticism is a child of the Enlightenment. It relies on the rationality and reason of the individual. The novel aspect of the postmodern paradigm, compared to the ideological criticism of the modern era, is that distrust and skepticism are now directed even at reason and rationality as such (cf. Joas, 1996, p. 359). In this sense, postmodernism is described as a time which virtually “made meaninglessness its mission”² and leaves it solely up to the individual to bring meaning to existence. Thus, the relativity of all existential claims in the postmodern thought process has experienced a new radicalization that also imposes a powerful mandate of legitimation on educational concepts.

As a prerequisite to clarify the individualistic implications the following first explains the personal experience and the individual interest as constitutive elements of Dewey’s educational theory.

Dewey adheres to the idea that “the educational process encompasses processes of cognition to the extent that they leave (...) something meaningful behind.” (Dewey, 1916, p. 164). However, the appeal to the meaningfulness of education

² Cf. Solzbacher (1994), p. 171 ff. in reference to Lyotard.

must include subjective interest as a constitutive factor. For Dewey, meaningfulness is inextricably linked to significance for the learner, which alone allows for the learning processes to generate educational effects. A successful education, then, is only possible in the context of authentic, original experiences. Dewey's concept of experience is, indeed, tied to a domain which didactic discussion attempts to capture within the principle of active learning. According to Dewey "experience" on the one hand means awareness, acceptance, "being instructed." He speaks of a "passive suffering." On the other hand, the experience becomes "an attempt to experiment with the world." (Dewey, 1916, p. 163 ff.). Here, the active influence and the suffering form a context, which, spiraling, develops into an ever better view of the world. In this regard, the experience is an active influence on something, so as to allow one to sustain the effect as well. Experience, then, is conscious action, not a mere activity. "*One learns by experience,*" so a popular saying goes. It reflects on the metal link of our own way of life with processes in which we are involved. Normatively expressed, this leads to the requirement that processes ought to be initiated, which allow for the cognitive reconstruction of one's own experience. This is also where the individualistic implications of a pragmatism justified in human rights education are to be found. These individualistic implications are therefore not questioned. It can thus be stated that pragmatism can thoroughly account for the individualization of lifestyles in the context of postmodernism. However, there remains the concern that Dewey's philosophy of education will fall prey to this individualization insofar as it cannot provide a normative justification of precisely those principles on which the learning process is based. This brings to the fore a second problem, namely the question of whether Dewey's educational pragmatism would succumb to the arbitrariness of the postmodern world.

1.2 Is John Dewey's Educational Pragmatism Able to Safeguard Human Rights Education Normatively?

Dewey sees acquisition of knowledge and education as a simultaneous process of problem solving, which he describes as a series of five steps: Step 1: One encounters a difficulty; Step 2: It will be located precisely; Step 3: Approaches to a possible solution are sought; Step 4: Logical development of the consequences of the approach; Step 5: Further observation and experimental procedure lead to adoption or rejection.³

The following three essential characteristics of each learning process are evident: *First*, learning processes arise from the life-world of the learners and take their point of departure in practical experience. Practical experience is understood as the

³This description of the learning process is referred to as "*pragmatic*" because the focus is the consideration of the parties regarding the question what needs to be done, what is to do (Greek: *πραγμα*) (see Dewey, 1910/1951, p. 72).

concrete problem situations with which the learners have to contend. *Second*, from this follows the dominance of an action theory of truth, for which the creativity in the actions of the learners represents the source of their ability to overcome problems. *Third*, in the confrontation with social reality, normative statements are subjected to a constant procedure of testing and probation, through which the community of learners creates the organizational conditions for the formulation of claims of validity (cf. Scherb, 2014, p. 91 f.).

Each of these characteristics requires the equal participation of the learners in their search for solutions. The learning process thus implies the democratic society of individuals who mutually recognize each other as free and equal members and who cooperatively set out to search for problem solutions. *Characteristic 3* specifically mentions this implication. Dewey's concept of experience as well, suggests that the social context ought always to be kept in mind. Experience, according to Dewey, simultaneously implies "suffering" of effects achieved by one's own act of an experimental opening up to the world. As a result, pragmatism has a strong affinity to a theory of the pluralistic democracy, which offers the most favorable conditions for the actual community of truth-seekers and their experimental method of research. The applicability to a concept of human rights education comes to rest in the fact that these conditions are implemented by minimum standards spelled out in all fundamental and human rights catalogues. At this point, the second partial question must be clarified as follows: *Can the pedagogy of John Dewey likewise justify the conditions under which it exists normatively?*

The accusations of relativism directed at Dewey's pragmatism are based on the fear of an excessive emphasis on the individualistic implications. A pragmatic concept therefore hardly comes under suspicion of severely restricting the individualistic tendencies of postmodernism and thus the liberal aspects of human rights education. The assessment of the question whether Dewey's pragmatism can respond appropriately—that is in a normative frame of reference—to the postulate "life must go on," thus depends on its capacity to reject the relativistic interpretation of individualism in the learning process.

Considering in particular step 4 of the learning process, which envisions the consequences and effects of possible solutions, a "consequentialist" perspective with its implications for an ethic of responsibility is suggested. This perspective appears mandatory only because step 4 of Dewey's learning process ("*Logical development of the consequences of the approach*") includes a focus on success, which out of necessity presupposes a regard for others and for the social environment. With Dewey, at least the *free and equal* dialogue-based community is grounded normatively.

However, apparently, Dewey himself, in his "*Ethics*", harbored doubts about the normativity of his approach to education. There, he attempts to formulate standards for the assessment of "proper" law, in order to counter a possible deficit of normativity. He draws on conceptual constructions such as "*the very nature of the relation that binds people together*" or "*common good*" or "*the very idea of*

community” or “*truly common welfare*.”⁴ However, these postulates of ethical minima are up in the air, because the empiricist propensity of pragmatism would actually disallow the possibility of introducing standards independent of the currently held intentions of the learners, by introducing a utilitarian justification. In the probation process of the trial and error method an empirical schema of justification appears to allow merely for ‘accidental’ consent as a justification of ethical minima. However, it shows an immediate readiness once more to abandon these if in just muddling through, other minima take their place by accident or due to situational circumstances. *Democracy, human dignity and human rights* would thus simply be turned into a mere hypothesis that could, if necessary, be discarded again by subsequent learning. Empirical acceptance thus remains the sole criterion for legitimation. Dewey was aware of this problem himself. The susceptibility of Dewey’s educational philosophy, that it fails to form a material understanding of education, he thus shields by making an inconsistent teleological claim. Contrary to his pragmatic method, in which *democracy and human rights* would at best be legitimized by the empirical test of a hypothesis, he understands an education consistent with democracy and human rights to be a moral code that makes a strict distinction between the right and the wrong society. In the summary of the chapter “The Democratic Conception in Education,” Dewey writes:

An undesirable society, in other words, is one which internally and externally sets up barriers to free intercourse and communication of experience. A society which makes provision for participation in its good of all its members on equal terms and which secures flexible readjustment of its institutions through interaction of the different forms of associated life is in so far democratic. Such a society must have a type of education which gives individuals a personal interest in social relationships and control, and the habits of mind which secure social changes without introducing disorder. (Dewey, 1916, p. 115.)

Here, Dewey gives the impression that his recourse to fundamental and human rights-consistent requirements of a pluralistic society draws heavily on sketchy notions of supra-positive law that are poorly integrated into the overall concept of his pragmatic philosophy of education.⁵ The value-driven decision for democracy, human dignity and recognition of the person comes before the democratic educational process. “*Democracy as a form of life*” is a performative concept, which justifies these values only as long as the process actually unfolds as a process in conformity with human rights. The project method as the educational showpiece of Dewey’s educational philosophy is able to reproduce this value judgment in practice. It is by no means in a position to generate by philosophical means a mindframe oriented towards democracy and human rights. A guarantee for the democracy and human rights-consistent educational process thus finds only a tenuous expression in Dewey’s thought. It lives by the mere fact that democracy and human rights are simply being practiced and that the positive experience of the

⁴ Dewey and Tufts (1908/1932), pp. 237 f., 343 f., 383, 386.

⁵ This leads to the assessment that the American pragmatism does not represent a danger to the democratic constitutional state only because it is “saturated through natural law.” See Detjen (1988), p. 401.

practice—cognitively reconstructed—may lead to a stable value system in the learners. An experience-oriented concept of human rights education à la Dewey thus carries no metaphysical warrant for the way of education, which Dewey describes as liberal-democratic.

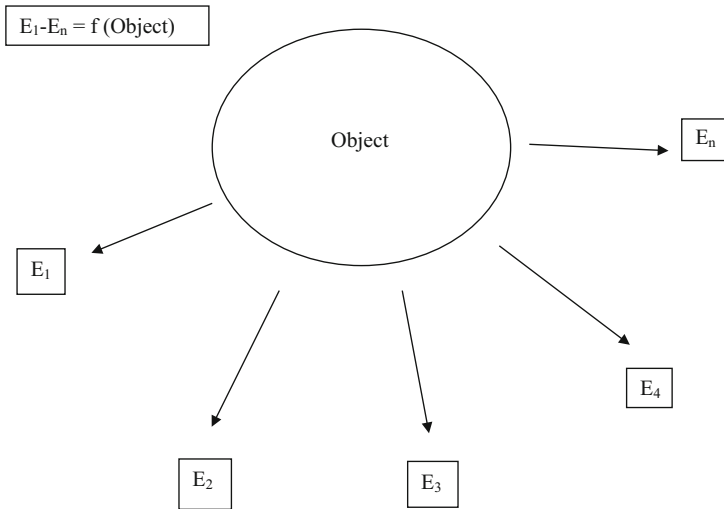
2 Normative Justifications of Human Rights Education in the *Pragmatic Maxim* of C.S. Peirce

Pragmatism develops a stronger normativity for a concept of education for democratic citizenship and human rights when taking into account the epistemological implications of the *Pragmatic Maxim*⁶ formulated by Charles Sanders Peirce, which is regarded as the quasi-founding document of pragmatism. It stakes a claim to validity that is apt to sustain a concept of human rights education:

The Pragmatic Maxim (...) is: Consider what effects, which might conceivably have practical bearings, we conceive the object of our conception to have. Then, our conception of these effects is the whole of our conception of the object. In order to develop the meaning of a thought, one merely has to determine what practices it produces, since the meaning of something simply lies in its implied practices. The character of a practice depends on in which way it causes us to act. (...) The aim of any action is to achieve a tangible result. We thus arrive at the tangible and practical as a reason for even the subtlest difference in thinking. (Peirce, 1903/1934, CP 5.519).

A result-oriented concept engaging the life-world is to be gathered from the unnegotiable practical relevance of mental processes that manifests itself in the *Pragmatic Maxim*. Peirce's view became characteristic for the pragmatic school of thought. According to his view, mental constructions that have no *practical* significance do not have a meaningful significance at all. In this way, the *Pragmatic Maxim* initially justified an individualistic philosophy of life and a concept for the successful encounter of the individual with the adversities of life. At the same time, it becomes clear that pragmatism makes a claim to be credible as a *social* philosophy as well. The concept of action implicit in the *Pragmatic Maxim* is suggestive of the social and political relevance of pragmatist thinking. Being able to respond to each and every situation appropriately invokes the competence of people to act in all life situations and contexts. However, these life contexts usually do not involve the conduct of isolated individuals, but the everyday practice of those people who become active against each other, next to each other, with each other or even for each other and who embark upon the search for generally acceptable solutions to emerging problems. As it was with Dewey's description of the learning process, the *Pragmatic Maxim* thus also manifests a strong affinity to a theory of pluralistic democracy that is implemented by the community based on free dialogue.

⁶ See the extensive discussion in the habilitation thesis of Erny (2005), p. 67 ff. with reference to the normativity of the pragmatic maxim.



Consequence of political didactics: *Communication*

Fig. 1 The pragmatic cognitive model (source: *own figure*)

The second sentence of the Pragmatic Maxim “*Then, our conception of these effects is the whole of our conception of the object*” already paves the way for the *linguistic turn*. This made it clear that things of themselves are silent and must be voiced. In this respect, the effects of the objects E_1 to E_n (Fig. 1) are to be regarded as effects on cognitive individuals who express their thoughts with the use of language.

The pragmatist model assumes that cognition is a process of “self-assertion” (James, 1907/1977, p. 126), in which effects (= insights/judgments of effects that are expressed through language that an object has on the participants in the dialogue-based community) occurring in a communication context compete with each other for recognition. Against constructivist ideas, according to which insights and ideas are to be understood as autopoietic creations of the individual, pragmatism does not place an exclusive claim of validity for cognition upon the subject. For contrary to constructivism, pragmatism adheres to the idea that the effects of the objects are attributable to these very objects as empirical findings. All effects are also a function of the object (Fig. 1). In so far as cognition is seen as a process of “self-assertion,” pragmatism exhibits an epistemology that goes along with the view that “in principle, everybody trusts each other to propose plausible hypotheses, but no one trusts another to possess the absolute truth.” (Apel, 1975, p. 14).⁷ Even if a common understanding of the objects to be recognized between the

⁷ Originally: (...) dass “jeder dem anderen grundsätzlich die Aufstellung plausibler Hypothesen, keiner aber dem anderen den Besitz absoluter Wahrheit zutraut.”

representatives of the views of E_1 to E_n has prevailed, this common understanding, granted, has a strong claim to validity in the dialogue-based community of the $\langle n \rangle$ parties, but no claim to validity of truth in the sense of congruence between the object and the concept of the object. The reason for this is due to the fact that the process of “self-assertion” is interminable because of the infinite number of the effects exerted by the object on forever different cognitive subjects, whose number is essentially limitless and who are able to access the dialogue-based community at any time. Here the need arises to communicate about what is to apply as intersubjectively valid regarding the object, and what is to be action-guiding as a result of cognition. However, the result of communication, even if it is based on a unanimous consensus, must not be stifled or removed from further discourse.

From the implications explained here, of the epistemology derived from the *Pragmatic Maxim*, there will appear substantive characteristics of a pluralistic democracy, which is implemented irrefutably, with a minimum standard of fundamental and human rights. It now must be clarified whether these characteristics can be marked normatively by the philosophy of pragmatism?

3 Foundations of Democracy and Human Rights Education in Pragmatism

Pragmatism offers two concepts of justification for democracy and human rights education that are closely linked in practice but analytically quite distinct.

3.1 *The Temporalization of Dissent: The OPENNESS Principle*

The infinite aspect of the process of “self-assertion” reveals a lack of ultimate justification. Because of this deficiency, the view of the constitutional lawyer Böckenförde regarding the theory of democracy has become very popular. According to his ideas, democracy is based on social and moral resources that cannot be generated on the authority of the state. For a general and universally applicable justification simply cannot be established. Should a democracy even attempt that, it would destroy its own liberal foundation (cf. Böckenförde, 1976, p. 60). As a first useful justification for ethical minima, a functional justification suggests itself in this context, which is based on the comparative performance of a human rights-saturated decision-making process: Since in their search, each of the co-agents activate the creativity at their disposal, and since the creativeness of the individuals cannot in quantitative measure be integrated into their activities, statements, opinions and (value) judgments are always subject to the “potentially better truth” (W. James). They must therefore remain subject to constant testing and

probation procedures. However, to maintain the community of the open dialog and the verification procedure justifies the requirement of upholding the openness as a basic principle of life in society. Herein lies the pragmatic consequence of impermanence and temporalization of dissent and conflict, for which a mutually agreed upon solution or answer has not yet been seen. If no final decisions can be made about claims of validity, the only acceptable action is the temporizing demand for the principle called openness. Within this context it is occasionally pointed out that the loss of binding uniform orientation patterns in modern society can only—if at all—be compensated for by those political-cultural practices that guarantee the right to diversity, the social structural openness of the social realm of action and the democratic reversibility of political decisions (cf. Dubiel, 1990, p. 140). Here various dimensions of OPENNESS are suggested: *First*, it refers to free access to the dialogue-based community (OPENNESS1) and *secondly* to the nature of the process within the dialogue-based community. The process itself must be open to the conditions of communication (OPENNESS2).⁸ *Third*, OPENNESS3 also refers to the character of the results of the process. The decisions made have the character of a contextually and temporarily relative truth. The result may be different in other dialogue-based communities and at other times. The suspicion of relativism which in this context has been variously raised against pragmatism, can however be refuted with reference to the pragmatic cognitive model. For the supposedly applicable option is precisely not at the discretion of the subject, or the dialogue-based community, but can always be reconnected to the identified object. Any insights, opinions and judgments are to be regarded as a function of the object and therefore not exposed to an unbounded conventionalism. As far as the nature of the decision is concerned, at least the postponement of the ultimate (value) decision would at least, through the formulation of the conditions under which a rational discourse is still possible, offer the starting point for the constitution of an ethical minimum of social life in keeping with, fundamental and human rights.

3.2 *The Performative Justification of Ethical Minima*

Peirce himself justified the necessity of communication and “*the indefinite community of investigators*” from the variety of effects that an object can have on individuals striving for knowledge. The social and ethical implications of this unlimited community of all rational beings (cf. Reese-Schäfer, 1997, p. 455) are now found in a discourse in which all participants encounter one another as “free and equal.” Three characteristics are thereby supposed to ensure that “symmetry” of communication: The reversibility of the positions, the universality, in the sense of participation of all parties involved, and reciprocity, in the sense of equal and

⁸ Cf. in this context the discourse-theoretical justification of the principle OPENNESS in Scherb (1996), p. 182 ff.

mutual *recognition* among the parties (cf. Habermas, 1992a, p. 113). In this context, the ‘transcendental’ communication community refers to an ethical priori, which Habermas conceptualized in the following principle of universality >U<: “Anyone who seriously attempts to redeem normative validity claims discursively, (may) intuitively engage in process conditions that are equivalent to an implicit acknowledgement of >U<.”⁹ (Habermas, 1992a, p. 103). Even if this universal rule is disputed in discourse, the performative proof of >U< can generally be provided through the transcendental-pragmatic derivation from presuppositions of argumentation. For—as Habermas notes—“[. . .] anyone who seriously raises one of these why questions enters the arena of the argumentative discourse, and that means: by reflecting on the meaning of his actions, he can convince himself that, by necessity, he has already acknowledged the rules [. . .] of cooperative reasoning and with that also the ethical standards of a communication community.” (Habermas, 1992b, p. 186). However, it has not yet been decided which quality of communication leads to the inter-subjectively accepted outcome concerning the validity of the perception of the object. Habermas assumes that his assumption of the ideal discourse situation is a counterfactual assumption, that is, that empirical discourse more or less always deviates from the ideal discourse situation. *First*, any communication community may well exhibit hierarchical structures, which also have an impact on the type of communication. In practice, asymmetrical communication structures in which power structures are evident are even to be expected on a regular basis. *Second*, the ethical presuppositions regarding the entry into the discourse may possibly not be an expression of the belief of the discourse participants, but carry strategic character. The binding force of transcendental-pragmatic justification therefore lies only in the performative application of the ethical implications of the communications taking place. Thus: we can only observe that participants in discourses observe certain ethical minima by their outward behavior. We cannot however make an inference as to their inner attitude. What normative power arises from the transcendental-pragmatic justification of ethical minima of communication for the individual discourse participants will always be for themselves to determine.

4 Conclusion

As far as democracy and human rights are understood to be a permanent task, then a practice is described that has already by its very being always conveyed value *content*. The values revealed in this reflection process include, for example, the values of tolerance and mutual respect, equality and equal rights for the participants in the discourse, the principle of the recognition of the person etc. Precisely these

⁹Originally: “Jeder, der den ernsthaften Versuch unternimmt, normative Geltungsansprüche diskursiv einzulösen, (lässt sich) intuitiv auf Verfahrensbedingungen ein, die einer impliziten Anerkennung von >U< gleichkommen.”

values however, have always preexisted a democratic practice given to a human rights orientation. Repeatedly recalling of these values in conscious reflection constitutes an unceasing, sometimes Sisyphean educational task. In any event, much evidence suggests that the cognitive reconstruction of the mature and experienced democracy in processes of political judgment formation is an absolute prerequisite for the development of democratic and human rights-consistent attitudes and behaviors. Reflexive judgment formation would not be restricted to the function of reconstructing process-immanent values meta-cognitively in order to enable a social coexistence in conformance to human rights. In the reflection process, one may successfully identify these values in their correspondence with the central values of democracy. However, the limit to cognitivism is reached with the question whether the person who has the insight will also translate this insight into decisions to act accordingly. There is no guarantee for the 'volitive' implementation or, as the question is asked, what motivational force comes with the philosophical and reflexive understanding of behavioral practice. Furthermore, despite efforts at justification in pragmatism the situation will remain unchanged, that liberal democracy, 'materially' implemented by human rights, will always have to deal with the risk it poses in and for itself.

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Prof. Dr. Armin Scherb is Extraordinary Professor of the Didactics of Social Studies at the Friedrich-Alexander-University Erlangen-Nürnberg, Germany.

The Child's Right to Religion. Religious Education as a Human Right?

Friedrich Schweitzer

Abstract Although most people are quite unaware of it, religious education is indeed a human right. The United Nations' Universal Declaration of Human Rights (1948) states (Article 26) the right of parents "to choose the kind of education that shall be given to their children", after having stated that education "shall promote understanding, tolerance and friendship among all nations, racial or religious groups" (which again implies religious education). Moreover, religious education can be understood as part of the "freedom of thought, conscience and religion" guaranteed in Article 18 as a basic human right. Since these articles refer to parents' rights (and duties) in the first place, the question of children's right to religion is more open. The most pertinent document, the United Nations' Convention on the Rights of the Child (1989), includes references to this right but these references cannot be considered fully satisfactory from an educational point of view. The present paper will explain and consider the legal situation, especially from the perspective of religious education and in the light of inter-religious education. It will be shown that there is a clear need for further developing the understanding of children's religious rights in a multi-religious context and vis-à-vis the challenges of inter-religious education.

This chapter concentrates on the legal situation, especially from the perspective of religious education and in the light of inter-religious education. Since educators may find this focus too narrow, it should be clear that the plea for children's right to religion also makes reference to educational contexts and that there are sound educational reasons for viewing religion and religious education as a human right. I have pointed out these educational reasons in a number of earlier publications, especially in my book on *The Child's Right to Religion*—a book that has received quite a bit of attention in a number of countries (Schweitzer, 2013,

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F. Schweitzer (✉)
University of Tübingen, Tübingen, Germany
e-mail: friedrich.schweitzer@uni-tuebingen.de

translations into a number of other languages; for earlier publications see Schweitzer, 2004, 2005, 2010). This attention is indicative of a controversial situation in which critics have advanced the view that religious education should not be considered education but abuse of children. Moreover, the increasingly multireligious situation of many societies makes it difficult to just continue traditional approaches to religious education that developed under different circumstances. Many of the questions arising in this context must be treated from a number of different perspectives—from the perspective of education, of sociology, of political science, to just mention some of them. Yet most often, legal perspectives also tend to play a crucial role. This is probably indicative of the fact that new challenges lead to a re-examination of legal regulations as well. This is also true for the question of children's right to religion that has not been considered very often in the past.

My focus in the following then will be on legal questions. Religious education has rarely been considered a human right explicitly. Yet it is easy to see that there clearly are several connections between human rights and religious education. At least some of these connections have received attention in the contemporary discussion. Especially the following three of them have been in the foreground:

- The relationship between religion and attitudes towards human rights (for example: Do religious attitudes support the appreciation of human rights?; cf. Ziebertz & Benzing, 2012)
- Human rights in Religious Education (as a topic to be treated at school and as an aim of human rights education; general overview on human rights education: Mahler & Mihr, 2004)
- Human rights as limiting the practice of religious education (for example, concerning circumcision; a German court ruled in 2012 that circumcision interferes with children's rights of self-determination; cf. Landgericht Köln, 2012).

While these specific connections are certainly important I want to focus on a fourth connection between human rights and religious education that is of a more general nature—the question if religious education itself can be considered a human right.

This question has received least attention so far (for example, Veerman & Sand, 1999; Scolnicov, 2007 as well as my own publications mentioned above). For reasons of space, I have to limit myself to some basic considerations of basic legal texts. I will discuss the question if religious education can be considered a human right, first in relationship to the United Nations' *Universal Declaration of Human Rights* (1948) and then the United Nations' *Convention on the Rights of the Child* (1989). Other texts, for example, European documents as well as current discussions on the understanding of religious freedom (for a current statement cf. Bielefeldt, 2012) cannot be considered here. Instead, it will be shown in a final section that there is a clear need for further developing the understanding of children's religious rights in a multi-religious context and vis-à-vis the challenges of inter-religious education. This section may also remind readers of the fact that I

am writing as a religious educator. I am not a specialist in legal issues. My questions come from the field of education and religious education.

1 Religious Education in the United Nations' *Universal Declaration of Human Rights* (1948)

The United Nations' *Universal Declaration of Human Rights* is quoted rarely in respect to religious education. Yet this declaration is not completely silent about this topic.

The main article on education in this declaration is Article 26. Three of its clauses may be seen as including religious education:

- (1) Everyone has the right to education [. . .]
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

This article states a general "right to education". This right is not specified but it is phrased such that it refers to the "human personality" in general. Moreover, it favors "understanding, tolerance and friendship" among "religious groups" and it guarantees parents' educational rights. In all these respects Article 26 may be understood to include religious education. The "right to education", for example, would be incomplete if it excluded certain areas like the field of religion.

Since religious education refers to religion, one must also think of Article 18:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The "freedom of religion" guaranteed in this article may be interpreted such that it also applies to the context of educational institutions, for example, to schools. In this sense, it would imply that young people have the right to exercise their religion there. Moreover, one could argue that this free exercise should include children having access to religious education or even to the religious education of their choice. In this case, Religious Education as a subject taught in school is not based on the rights of churches or other religious bodies but on the rights of the individual (an understanding of Religious Education that is becoming more influential in Germany, cf. Hildebrandt, 2000).

Altogether, however, the declaration is rather silent about children. They are actually only mentioned twice in the whole text, once in Article 26 in the context of parents' rights and once in Article 25 concerning children being born out of wedlock. This explains why many people saw a need to have a special declaration explicitly on children's rights. Yet before we actually turn to this later declaration it

should be underlined that even the 1948 declaration establishes a basic relationship between human rights and religious education, even if this relationship is not explicit but has to be uncovered through interpretation.

2 Religious Education in the United Nations' *Convention on the Rights of the Child* (1989)

This Convention is widely considered a hallmark in the history of children's rights as human rights. So it makes special sense to consider this Convention here in order to find an answer to the question if religious education can be considered a human right.

The convention directly refers to the relationship between religion and education in two places. Interestingly enough, the first clause—Article 14—was the object of many controversies, even to the point of delaying the whole process of passing the Convention.

Article 14.1 and 14.2 state:

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians and provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

The issue under debate was the “freedom of religion” that Article 14.1 guarantees for children (for background information and legal comments see, for example, Dorsch, 1994). This freedom could be understood as an expression of extreme educational liberalism and as the corollary of educational ideals that are critical of parental authority as such. The “freedom of religion” as stated in this Article could then be taken as the starting point for a very individualistic view of children's religious development with which adults should not interfere. At least at certain times, for example, after the turn of the twentieth century, views of this kind were prominently held by philosophers of education like Ellen Key, the author of *The Century of Childhood* (Key, 1978).

Article 14.2 of the *Convention on the Rights of the Child* excludes this interpretation by stating the parents' right to “direction” of the child “in the exercise of his or her right” of the freedom of religion. It is an open question if the interplay between Articles 14.1 and 14.2 should be seen as a successful balance, or if Article 14.2 in fact takes back what 14.1 would have granted to the child. While I cannot discuss this interesting question in the present context it should be clear that viewing children themselves, rather than just their parents, as owning the right of the freedom of religion can be an important step towards strengthening the claim to religious education as a human right. Religious education could then be seen as part of children's freedom of religion. Yet it is also clear that Article 14 only establishes the parents' rights in the sense of giving the child “direction”. This clause, however,

includes protection of parental rights against other social agencies that might want to determine the aims and contents of religious education. Historically, the state and the church or other religious bodies have acted as such agencies, by only allowing for certain kinds of religious education considered orthodox by them.

In terms of religious education, however, the most direct reference to education of the 1989 Convention is found in Article 27:

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

Article 27.1 affirms the child's right to "spiritual" development—a reference, by the way, that is not visible in the German version which only speaks of "mental (*geistig*)" and "psychological (*seelisch*)". Because of Article 27.1 the Convention has been praised by religious educators for giving religious education a firm legal basis (Hull, 1998). This is certainly true to some degree. Yet it should not be overlooked that the context addressed by Article 27 is not education but "standard of living". Consequently, the reference to religious education here is again only indirect.

On the other hand, education is the main topic of Articles 28 and 29. Article 28 draws up a whole list of pertinent aspects:

States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: [. . .]

while Article 29 states aims of education:

States Parties agree that the education of the child shall be directed to: [. . .]

Religious education is not mentioned in Articles 28 and 29. Again, just like in the 1948 Declaration, we only find references that can be applied to religious education—if, and only if, the text is interpreted such that it includes religious education. For example, in Article 29.1 it says:

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

Religious educators would most likely claim that their work is included here. Yet it cannot be overlooked that religious education is in fact not mentioned.

In order to not leave out further references to religion, I also want to quote Article 30 referring to religious and other minorities:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

An especially controversial clause should also not be omitted. In Article 24.3 we find the following:

States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

This clause was introduced in respect to so-called female circumcision (that really is, in my understanding, not a religious ritual but a clear violation of a girl's bodily integrity) (cf. Dorsch, 1994, p. 169). Nowadays, some lawyers are wondering if this clause could also apply to male circumcision—in order to ban it as well (for example, Landgericht Köln, 2012).

Summing up, we can say that the 1989 Convention on children's rights clearly goes beyond the 1948 declaration in respect to religion and that it gives more reason to consider religious education a human right on this basis. Yet it can also not be overlooked that things are not sufficiently clear in the 1989 Convention either, at least not in respect to religious education. From the point of view of religious education, much clearer statements should be included.

3 Evaluation and Discussion: Children's Right to Religious Education in Multi-Religious Society

Having reviewed the two major legal texts in question, the task remains to further evaluate and discuss the results of this review. According to my interpretation, religious education can indeed be called a human right. While both documents reviewed do not state this right clearly and explicitly, it is manifest that the child's freedom of religion as well as the parents' right to direct the child in respect to religion do in fact imply that religious education itself can be called a human right. In any case, there is an obvious relationship between clearly recognized human rights and religious education. This is true for the freedom of religion as well as for parents rights. Moreover, the "right of every child to a standard of living adequate for the child's [...] spiritual [...] development" further supports this claim. It is indeed the most explicit reference to children's right to religion and religious education in the 1989 Convention.

In this sense it can be stated that the 1989 Convention on children's rights has rightfully been praised for this appreciation of religious education in the context of human rights. Since this aspect of the 1989 Convention is still fairly unknown to the general public and also widely absent from the contemporary legal discussion, there is good reason for efforts to make this right more well-known and to advocate it in public—explicitly as a human right. From the perspective of religious education, efforts in this direction must be most welcome at a time when the traditional ways of legitimizing this kind of education with references to the church or to other religious bodies are not convincing anymore (Schweitzer, 2013). Given the more and more pluralized and individualized situation of religion in many countries, the reference to children's right to religious education carries considerable weight for justifying religious education.

In order not to be misunderstood I want to add that this right does of course not imply a corresponding duty. No child can or should be forced, legally or otherwise, to take part in any kind of religious education. This applies to schools but also to

other educational settings. Also, no parent can be obliged legally to educate their child religiously. Both would be against the freedom of religion of the children and of the parents. It would therefore be a violation of human rights. Not to have a religion is a human right as well. Speaking of religious education as a human right implies making provisions for children and parents who do not want to make use of this right.

Although it is possible to refer especially to the 1989 Convention on children's rights as a basis for the claim that religious education is a human right, there is a clear need to further develop the legal basis for religious education as a human right. In this respect, I want to point out five directions for the future:

1. *Future documents should describe religious education as a human right more clearly and more explicitly.*

Since I have already made this point there is no need to further elaborate it. It is not satisfactory that the question of religious education as a human right is not clearly stated but is left to further interpretation of the legal documents.

2. *Religious education should not only be viewed as in need of protection from all kinds of infringements—it should first of all be considered an entitlement of children and their parents.*

In my understanding, this is probably the most serious shortcoming of the 1989 Convention. The Convention clearly states that children are entitled to education but it does not mention religious education in this context. A reference to religious education would not have been impossible. For example, the 1989 Convention does not include the equivalent to the following clause from the 1981 *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* which can be considered an adequate statement of children's respective rights:

Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents, or, as the case may be, legal guardians and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.

This clause from 1981 makes "access to education in the matter of religion or belief" an entitlement of the child, while also being clear that there is no corresponding duty to make use of this access. It would be an important step to include an equivalent of this understanding in future declarations on children's rights.

3. *The importance of religious rituals of initiation should be stated.*

As we have seen, the 1989 Convention foresees a need to protect children from "traditional practices prejudicial to the health of children" and that this clause was meant to refer to so-called female circumcision. Recently, circumcision has come under debate in Germany from exactly this perspective of children's rights and of the best interest of the child (the Landgericht Köln, 2012, ruling was the main starting point for this debate). We may also assume that some people would interpret other rituals like infant baptism as practised in Christianity as

infringing upon children's right to healthy development and self-determination. The German court's ruling in question points in this direction by stating that there is no need for such rituals before the child or adolescent has come to a point where a decision of their own is possible. Even religious rituals that do not interfere with the bodily integrity which was invoked by the court as well, can be seen as interfering with the idea of self-determination. Ultimately, this would make any kind of religious education including rituals impossible.

From my point of view, children should indeed be protected from negative influences, even if such influences are supposedly justified by religious convictions. Yet this need for protection must be most carefully balanced against children's need for being accompanied and supported by religious rituals in the process of their growing up in a healthy manner. It does not make sense to deprive children, allegedly in their best interest, of support systems that are most valuable for their personal development towards (later) independence and autonomy. From my point of view, this would clearly be a contradiction in terms. The 1989 Convention is aware of the risks of certain religious rituals but does not mention the benefits that rituals include for children. In this respect, it clearly falls short of the need to protect children from both, from the interference with their integrity and from being deprived of the support they need.

4. *The need for interreligious education in multi-cultural contexts and as part of any education for peace and tolerance should be clearly stated.*

This need has a twofold background. The one background—society's need for an education that prevents conflict, aggression, or even violence—has been widely addressed, especially in the last decade. It should not be overlooked, however, that there also is another background, i.e., the needs of children growing up with cultural and religious diversity. Such needs can be identified as becoming able to find one's direction in a diverse world, as being able to crucially consider and evaluate different options for one's life and for the meaning of life, to live with other people with different beliefs and values—without resorting to either relativism or fundamentalism.

As shown above, the legal texts come close to making a connection between multi-cultural or even multi-religious contexts and religious education. At the same time, this connection is not elaborated or explained. Again, the consequences are left to further interpretation.

5. *The implications of children's rights for the understanding of religious education should be explained.*

It does not make sense to call religious education a human right while, at the same time, designing approaches to religious education that are not based on the needs of children. Historically, there is a close connection between viewing children as having rights of their own on the one hand and child-oriented approaches to religious education. This connection should also apply today. In other words, we should not be led to abuse human rights or children's rights by only calling upon them in order to legitimate the importance of religious education, for example, at school. Instead, the reference to children's rights must be recognized as obliging religious educators as well—most of all with the

obligation to design ways for religious education that will support children in their being and becoming independent persons who most of all deserve our respect, in law but also in education.

Another question that cannot be discussed here in any detail, refers to the reception of the 1989 Convention on Children's Rights by different religious traditions. My own work is indicative of a Christian reception of the Convention (Schweitzer, 2013, with references to the discussion in the Protestant Church and in Christian religious education). The Convention also triggered two Muslim declarations on the rights of children—the *Covenant on the Rights of the Child in Islam* (OIC, 2004) and the *Rabat Declaration on Child's Issues in the Member States of the Organization of the Islamic Conference* (OIC, 2005). Both documents include references to children's rights in respect to religion. To interpret these references in Christian and Muslim documents, in the contexts of Christian and Muslim religious education as well as different social and cultural contexts, would be an interesting endeavor that would well deserve a special study.

At the beginning of this chapter I tried to make clear that I will focus on legal aspects here and therefore will not try to do justice to the educational context. Yet in order to at least allude to the educational meaning of the child's right to religion I want to remind readers of the famous Polish-Jewish educator Janusz Korczak who chose to die with his foster children in a Nazi concentration camp, rather than letting the children go by themselves. Korczak (1970) actually did not speak of children's right to religion or religious education. Yet his many pleas for children's rights, including the child's right to respect in the first place, come very close to this right. He definitely has taught us what it means to respect children in all dimensions, including children as spiritual beings. So I conclude with my own plea drawing on the work of Korczak: To accept children's right to religion as a human right means viewing them as human beings of equal value and as deserving our respect, in all dimensions, including religion.

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Prof. Dr. Friedrich Schweitzer is Professor of Practical Theology specializing in Religious Education at the University of Tübingen, Germany.

Empirical Findings on the Attitudes of Christian and Muslim Youth Towards Human Rights

Hans-Georg Ziebertz

Abstract Human rights are closely associated with the conception that they are indivisible and in their totality unabridged, they are universal and apply equally to all countries regardless of any particular cultural differences. Universality and equality are two decisive concepts in the Universal Declaration of Human Rights of the United Nations in 1948. Universality includes the understanding that these rights should apply irrespective of any religious or other cultural features. Equality also implies that there should be no hierarchy between them, but that they are all equally important regardless of their content-related differences. This contribution deals with the issue how Christian and Muslim youth in Germany value the different rights. In contrast to the lecture presented at the Nürnberg Forum, this text has been reduced to the empiric findings.

1 Sample

The sample was taken in the framework of an international pilot project “Religion and Human Rights” which was conducted in 12 countries under the direction of Professor Johannes A. van der Ven (Radboud University, Nijmegen/NL) (see van der Ven & Ziebertz, 2012, 2013). For this sample students from the year 10 and 11 were asked to fill in a standardized questionnaire on one occasion during the winter of 2007–2008. They provided information on their religious affiliation, their value orientation and their attitude towards human rights. After the pilot project the go-ahead was given in 2013 for an international main study which is now being conducted in the countries involved (see www.rhr.theologie.uni-wuerzburg.de/). In this brief account, however, the results of the pilot study will be presented.

Comprehensive publications are: Van der Ven and Ziebertz (2012, 2013), Ziebertz and Benzing (2013), Ziebertz (2015), Ziebertz and Ballin (2015), and Ziebertz and Črpić (2015).

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H.-G. Ziebertz (✉)

University of Würzburg, Würzburg, Germany

e-mail: hg.ziebertz@uni-wuerzburg.de

As criterion for the selection of schools, a minimum of 20 % Muslim student body was required. Altogether male and female students from 13 schools from Bavaria and North Rhine-Westphalia took part in the study (for details, see: Ziebertz & Benzing, 2013).

The total of 1785 students surveyed were between the ages of 16 and 17. With 888 male students and 881 female students, both genders were nearly equally represented. With regard to their religious affiliation, just under half of all those surveyed were Christian (N = 849, 47.6 %), and just under a quarter were Muslim (N = 416, 23.3 %). 19 % listed themselves as having no religious affiliation (N = 340). The remaining respondents (10.1 %) either belonged to another religion or left this question blank.

The self-estimation of the degree of religiosity based on a total of three categories showed approximately three equal groups among the Christians: 35 % designated themselves as non- or slightly religious (N = 300), 34 % as uncertain (N = 282) and 31 % as strongly religious (N = 258). Regarding the Muslims the results were clearly different: 79 % referred to themselves as strongly religious (N = 324), 12 % as uncertain (N = 52) and only 7 % as weakly or non-religious (N = 34). The low number of slightly religious surveyed has to be considered in the analysis.

2 Research Questions

The aim of the survey was to compare the attitudes of Christian and Muslim youth towards human rights. First we dealt with their basic attitudes towards human rights then we examined how those attitudes are influenced by religion.

The research questions for the empirical study were: (1) What are the attitudes of youth towards human rights? (2) Is the attitude towards human rights affected by the personal religiosity of Christians and Muslims alike? (3) Are there any differences in the attitudes towards human rights between Christians and Muslims, and if so, do those differences change when only the strongly religious youth of both religions are considered?

At first we examine each of the two religious groups. Then we focus on the differences between both religious groups.

3 Conceptualization

Twenty-one human rights areas were selected for the conceptualization of human rights (see Table 1). Altogether the scale contains 42 items (see a selection in the [Appendix](#)). The respondents could indicate in a 5-point Likert scale how strongly they agreed or disagreed with the respective statements

(possible answers: 1 = completely disagree; 2 = disagree; 3 = partially agree; 4 = agree; 5 = completely and fully agree).

The relevance of formal religious affiliation in empirical studies is only partially relevant since young people usually still share the religious belief of their parents. Though we take their formal religious affiliation into account we also consider their personal self-evaluation of religiosity. The variable of “religion” comprises these two dimensions (see Fig. 1).

The respondents could indicate their formal religious affiliation from a list of 16 religious communities. For the self-estimation of the degree of religiosity the item “As how religious would you classify yourself?” was used (Answer scale: 1 = not at all religious; 2 = somewhat non-religious; 3 = I don’t know; 4 = slightly religious; 5 = strongly religious). To simplify matters the results are summarized: the two values “not at all religious” and “somewhat non-religious” are combined in the category “slightly religious” and the values of “somewhat religious” and “very

Table 1 Contents of the human rights scale

Civil rights	Rights to life	Political and legal rights	Socio-political rights	Environmental rights
Freedom of lifestyle	Protection from torture	The right to demonstrate	The right to employment	State’s obligation
Separation of state and religion	Abortion (medical reasons)	Rights of refugees	Right to social security	Civil engagement
Freedom of religious speech	Abortion (social reasons)	Judicial rights	Rights of the child	
Freedom of moral speech	Euthanasia ^a		Rights of women	
Freedom of assembly				
Freedom of the press				
Right to privacy				
Freedom of religion				

^aI have retained the concept “euthanasia” because it is used in the international study. No connotations in connection with the Third Reich are intended

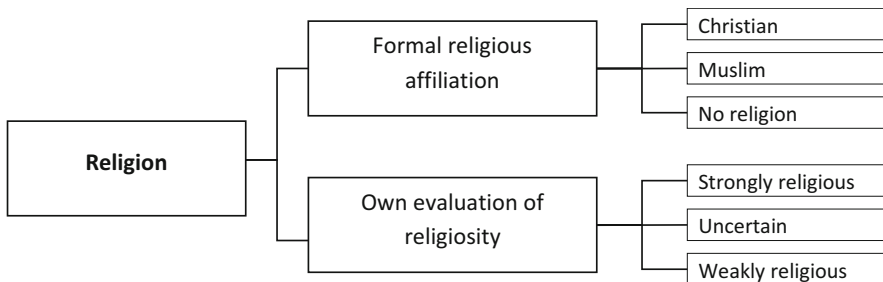


Fig. 1 Conceptualization of religion

religious” form the category “strongly religious”. The value “I don’t know” however, remains with the designation “indefinite”. The self-evaluation of religiosity thus comprises three forms.

4 Empirical Results

The analysis of the data is presented according to the research questions. At first we address the general findings on human rights and then the comparison analyses.

4.1 *Acceptance of Human Rights*

The first research question examines the attitude of youth to human rights (see Table 2). As explained above, the mean values are derived from a five-point Likert scale (1 = negative to 5 = positive). It is evident that human rights are generally valued very positively. Sixteen aspects were approved of and only five declined.

Five of the positively valued human rights have a high degree of approval ($M > 3.8$). This includes the rights of the child ($M = 4.14$), social security ($M = 4.13$) and the rights of women ($M = 4.02$). These three human rights belong to the area of socio-economic rights (SE). Further rights that were valued very positively are environmental rights (ER) implying government regulations for the environment ($M = 3.97$) and civil rights (CR) referring to the diversity of lifestyles ($M = 3.86$).

Six further human rights received moderate approval. This includes the right to employment ($M = 3.75$), the freedom of moral expression ($M = 3.62$), the legal right to abortion for medical reasons ($M = 3.62$), the right to privacy ($M = 3.46$), the separation of state and religion ($M = 3.44$) and the right to demonstrate ($M = 3.32$). To be clear: abortion and euthanasia operationalize the rights of life because the items are about exceptions from the obligation to protect human life under all circumstances.

Eight human rights were neither clearly positively nor clearly negatively assessed (mean values between $M = 3.2$ and $M = 2.8$). These comprise civil involvement with regard to the environment ($M = 3.19$), the legality of euthanasia ($M = 3.17$), the right to assembly ($M = 3.06$) and freedom of the press ($M = 3.06$), the rights of refugees ($M = 2.99$), judicial rights ($M = 2.94$) and abortion for social reasons ($M = 2.92$).

Two rights received moderate disapproval. These comprise both civil rights that address religious matters; specifically freedom of religion ($M = 2.75$) and freedom of religious speech ($M = 2.47$).

Higher standard deviations, up to a value of $SD = 1.19$, occur especially in the middle and negative areas of the scale. This means that the youth surveyed exhibit major differences in their attitudes towards these rights. On the other hand, there are

Table 2 Attitudes towards human rights (all respondents: N = 1605)

Concept	Human rights	M	SD
SE	Rights of children	4.14	0.95
SE	Social security	4.13	0.78
SE	Rights of women	4.02	0.89
ER	Environment: state intervention	3.97	0.91
CR	Freedom of lifestyle	3.86	0.89
SE	Right to employment	3.75	0.85
CR	Right to moral speech	3.62	0.88
RL	Abortion allowed (med. reasons)	3.62	1.08
CR	Right to privacy	3.46	1.02
CR	Separation of state and religion	3.44	0.98
PR	Right to demonstrate	3.32	0.90
ER	Environment: civil involvement	3.19	1.01
RL	Euthanasia allowed	3.17	1.12
CR	Right of assembly	3.06	0.91
CR	Freedom of the press	3.06	1.03
CR	Protection from torture	3.01	1.09
PR	Rights of refugees	2.99	1.02
PR	Legal rights	2.94	1.18
RL	Abortion allowed (social reasons)	2.92	1.19
CR	Freedom of religion	2.75	0.97
CR	Freedom of religious expression	2.47	1.11

M = Mean values (1 = negative; 5 = positive), SD = Standard deviation, sorted in descending order. CR = Civil rights/ RL = Vital rights/PR = Political rights/SE = Socio-economic rights/ER = Environmental rights. Interpretation of values: <2.2 = strong disapproval; 2.21–2.8 = disapproval; 2.81–3.2 = ambivalence positive or negative; 3.21–3.8 = positive; >3.8 = very positive

also a number of rights that are relatively non-controversial, most of all the aspect of social security (SD = 0.77).

These first results show that there is not *one* attitude of youth towards human rights. According to the five areas (civil rights, rights of life, political rights, socio-economic rights and environmental rights) some preferences are noticeable. Particular approval is displayed towards the socio-economic rights (rights of the child, social security, rights of women and the right to employment) as well as state intervention for environmental protection.

Considering the age of the respondents it is striking that the freedom of lifestyle only places fifth. When we look at the area of rights of life, we can see that the acceptance of abortion for medical reasons is generally approved, whereas the other three rights (euthanasia, protection from torture and abortion for social reasons) are neither approved nor disapproved.

In the group of political rights only the right to demonstrate finds unequivocal approval; the rights of refugees and legal rights are neither approved nor

disapproved of. The individual rights from the area of civil rights (freedom of lifestyle, freedom of moral speech, the right to privacy and separation of state and religion) are located in all approval-categories. The rights of assembly and of freedom of the press fail to find clear disapproval or approval. It is remarkable that youth are critical towards the rights of freedom of religion and freedom of religious expression. The items were formulated in the sense of negative freedom of religion (Ex.: “It must be legally possible, for instance, to ridicule religious persons in a cabaret”). Our contemporary world shows that the content of such a sentence can evoke a storm of protest in all parts of the world.

4.2 Religion and Human Rights

Let us now consider how personal religiosity affects the attitude towards human rights. First we will discuss the Christian and then the Muslim youth. The differentiation “Christian” and “Muslim” depends on the response to the question of religious affiliation. To determine the differences within the respective religious groups, two different categories (strongly religious and slightly religious) were created according to the statements about religious self-evaluation. Thus it is possible to distinguish between strongly and not strongly or slightly religious, as well as indefinite. The attitude of the respective respondents was calculated by comparing the means (T-Test for independent samples). The relevance of religion for human rights can be determined when we consider the internal differentiations (according to the self-evaluation of religiosity) within the groups of Christian and Muslim youth. If the Christian religion and Islam are relevant, then significant differences should be noticeable between strongly and slightly religious Christians, as well as between strongly and slightly religious Muslims.

4.2.1 Influence of Christian Religion on Christians

Let us first see whether and to what extent religion affects the attitude of Christians towards human rights (see Table 3). When we compare the mean average values of strongly and slightly religious Christians twelve significant differences are revealed. Eight of the twelve human rights are valued more positively by strongly religious Christians (N = 258) than by the slightly religious ones (N = 300), but with the four other human rights it is just the opposite.

The greatest difference can be seen in the categories civil involvement and state intervention for protection of the environment. Strongly religious Christians value civil involvement positively with $M = 3.41$, slightly religious ones are uncertain ($M = 3.03$). Strongly religious Christians also support state intervention for protection of the environment strongly with $M = 4.10$, whereas the approval of the slightly religious drops by 0.34 points to $M = 3.76$. They are followed by three socio-economic rights, which are approved of by all respondents, but most of all by

Table 3 Differences among Christians according to self-evaluated religiosity (strongly religious: N = 258; slightly religious: N = 300)

	Christians by religiosity		Significant difference of the means
	Strongly religious	Slightly religious	
Environment: civil involvement	3.41	3.03	0.38
Environment: state intervention	4.10	3.76	0.34
Rights of women	4.11	3.84	0.27
Right to employment	3.78	3.53	0.25
Social security	4.22	3.97	0.25
Abortion legal (social)	2.77	3.01	0.24
Freedom of moral speech	3.71	3.49	0.22
Freedom of religion	2.55	2.75	0.20
Abortion legal (medical)	3.49	3.69	0.20
Euthanasia legal	3.12	3.32	0.20
Rights of refugees	2.98	2.81	0.18
Rights of the child	4.13	3.96	0.18
Freedom of lifestyle	3.84	3.80	
Separation of state and religion	3.37	3.42	
Freedom of religious speech	2.45	2.55	
Right of assembly	3.05	2.96	
Freedom of the press	2.94	3.04	
Right to privacy	3.39	3.37	
Protection from torture	2.97	2.81	
Right to demonstrate	3.29	3.19	
Legal rights	2.89	2.77	

Mean values 1 = negative; 5 = positive; sorted in descending order according to the column “Significant difference of the means”

*p < 0.05

the strongly religious. Those rights are: social security (M = 4.22), the rights of the child (M = 4.13), rights of women (M = 4.11) and the right to employment (M = 3.78). The approval rate of slightly religious Christians is 0.25 points lower. This group of rights, which receives more approval from the strongly religious than the slightly religious, comprises special individual rights as well as tasks for the public services.

Slightly religious Christian respondents stronger approve of legalized abortion and euthanasia. With abortion for medical reasons the approval of the slightly religious stands at M = 3.69, that of the strongly religious at (M = 3.49). Euthanasia is approved of by the slightly religious (M = 3.32), and (though only marginally) by the strongly religious as well (M = 3.12). Both groups regard the legalization of abortion for social reasons critically. While the slightly religious are uncertain

($M = 3.01$), the strongly religious disapprove of abortion for social reasons ($M = 2.77$). Both groups share the negative opinion of freedom of religion, which is more clearly disapproved of by the strongly religious ($M = 2.55$) than by the slightly religious ($M = 2.75$).

The findings indicate that the attitude towards human rights is indeed influenced by Christian values. It is in accord with the ethical attitudes of the Christian churches that life has to be protected under all circumstances. Abortion and euthanasia are judged more critically by the strongly religious than by the slightly religious. Strongly religious respondents value the protection of life more highly than the individual freedom of choice. But Christian religious convictions also play a role in the attitude towards community rights, i.e. rights of the “second generation”. Strongly religious think that environmental rights and socio-economic rights are more in need of protection than the slightly religious do.

4.2.2 Influence of Islam on Muslims

Let us now turn our attention to the Muslims. This group is also differentiated into a strongly and a slightly religious subgroup. However, we have to keep in mind that both subgroups differ considerably in size (in contrast to the Christian respondents): Only 8% of the Muslims regard themselves as non-religious ($N = 34$) while 79% indicate that they are strongly religious ($N = 326$).

While this reflects the strong foundation of the Islamic religion among Muslims such a significant difference in size is quite difficult to handle statistically. We cannot be sure how accurately those 34 respondents represent the slightly religious Muslims in Germany. Also, the comparison with the considerably larger group of Christian respondents is difficult. At any rate, these are the case numbers that are available and we will conduct the analysis analogous to the Christian respondents. The question is: Does the personal religiosity of Muslims affect their attitude towards human rights (see Table 4)?

In comparison to the Christians it is first apparent that there are only four significant differences, even though the differences themselves are considerably greater. The greatest difference between strongly and slightly religious Muslims regards abortion for social reasons. The strongly religious disapprove clearly ($M = 2.55$) while the slightly religious approve of this reason for an abortion ($M = 3.50$). The difference between both groups amounts to 0.95 points. The rate is similar regarding the legalization of euthanasia which is disapproved of by the strongly religious ($M = 2.72$), while the slightly religious approve ($M = 3.46$). The difference here amounts to 0.74 points. Both groups approve of the legalization of abortion for medical reasons, however the strongly religious approve of it with $M = 3.31$, and the slightly religious with $M = 3.91$. The civil right to separation of state and church also receives significant differences: Both groups approve of it, but the strongly religious less ($M = 3.26$) than the slightly religious ($M = 3.63$).

The findings show that the slightly religious Muslims value the self-determination of the individual higher than the right to life. Even though the

Table 4 Differences among Muslims according to self-estimated religiosity (strongly religious: N = 326; slightly religious: N = 34)

		Muslims by religiosity		Significant difference of the means
		Strongly religious	Slightly religious	
RL	Abortion legal (social)	2.55	3.50	0.95
RL	Euthanasia legal	2.72	3.46	0.74
RL	Abortion legal (medical)	3.31	3.91	0.58
CR	Separation of state and religion	3.26	3.63	0.37
CR	Freedom of lifestyle	3.81	4.03	
CR	Freedom of religious expression	2.23	2.47	
CR	Freedom of moral expression	3.69	3.56	
CR	Freedom of peaceful assembly	3.22	2.96	
CR	Freedom of the press	3.03	3.16	
CR	Right to privacy	3.64	3.75	
CR	Freedom of religion	2.70	3.04	
CR	Freedom from torture	3.40	3.22	
CR	Right to demonstrate	3.35	3.54	
PR	Rights of refugees	3.25	3.50	
PR	Legal rights	3.12	3.21	
SE	Right to employment	4.02	4.04	
SE	Social security	4.30	4.34	
SE	Rights of the child	4.24	4.18	
SE	Rights of women	4.13	4.09	
ER	State intervention	4.08	4.17	
ER	Civil involvement	3.14	3.02	

Mean values 1 = negative; 5 = positive; sorted in descending order according to the column “Significant difference of the means”

*p < 0.05

mean values of the other rights show differences, they are not significant. How can this low number of differences be explained? The intensity of religiosity appears to have only little influence on the order of values. Does this empirically obvious cultural homogeneity simply derive from being a Muslim “in itself” in the sense of “belonging”?

4.3 Christians and Muslims in Comparison

Now we focus on a comparative analysis associated with the third research question. The first part of the question deals with the difference between Christians and

Muslims in their attitude towards human rights. Here all those respondents were taken into account who listed their religious affiliation as Islam or Christianity. The second part of the question focuses solely on the strongly religious in both religions. Are potential differences in the evaluation of human rights larger or smaller when only these respondents are involved? In other words: Do strongly religious Christians and Muslims think similar when it comes to the evaluation of human rights, or do the differences between the religions increase with the degree of religiosity (see Table 3)?

4.3.1 All Christians and Muslims

The comparison of the attitudes between Christians and Muslims shows significant differences in 17 of a total of 21 human rights. Five human rights are more positively viewed by Christian respondents, five by Muslim respondents. Let us first look at those human rights that are valued higher by Christians.

The greatest difference ensues with 0.43 points in the approval or assessment of the legality of euthanasia. Christians tend to agree with that ($M = 3.26$), Muslims rather not ($M = 2.83$). In this case it is a clear yes or no, as the difference extends to the negative and positive halves of the scale. The difference towards abortion for social reasons is weaker. The Christian respondents are undecided about this matter ($M = 2.94$), while the Muslims disapprove of it ($M = 2.66$). The remaining differences are all either positively nor negatively oriented. Thus members of both religions approve of the separation of state and religion (Christians with $M = 3.41$ and Muslims with $M = 3.27$), as well as of the legalization of abortion for medical reasons (Christians with $M = 3.62$ and Muslims with $M = 3.38$). Both groups disapprove of the right to freedom of religious speech, Christians with $M = 2.48$ and Muslims more strongly with $M = 2.25$ (Table 5).

Let us now consider those twelve dimensions that are more positively rated by Muslims than by Christians. Four of them show a clear yes-no difference. At the fore stands protection from torture. Muslims approve of this right ($M = 3.31$) while Christians disapprove slightly ($M = 2.88$). The right of refugees shows a similar pattern, Muslims approve with $M = 3.28$, but Christians disapprove slightly with $M = 2.88$. Legal rights have a low approval rating by Muslims with $M = 3.12$, while Christians reject it slightly with $M = 2.82$. The right of peaceful assembly shows a similar pattern: Muslims approve with $M = 3.20$, and Christians marginally disapprove with $M = 2.98$. However, we have to keep in mind that the Muslim respondents gave their answers as members of a social minority, i.e. some of these rights are not just theoretically important, but (under some circumstances) also have an existential meaning.

A comparison of the remaining human rights shows that the answers tend to go in the same direction, i.e. the answers of Christians and Muslims alike are situated in the positive half of the scale. Greater differences can only be seen with the right to employment (0.35 points) and the right to privacy with 0.28 points that have a higher approval rate by Muslims than by Christians. The socio-economic rights,

Table 5 Significant differences between Christians and Muslims on human rights (T-Test)

		Christians N = 848	Muslims N = 416	Diff.	Sign.
<i>a) Christians with positive values in comparison to Muslims</i>					
LR	Euthanasia legal	3.26	2.83	0.43	0.000
LR	Abortion legal (social)	2.94	2.66	0.28	0.000
LR	Abortion legal (medical)	3.62	3.38	0.24	0.000
CR	Freedom of religious speech	2.48	2.25	0.23	0.001
CR	Separation of state and religion	3.41	3.27	0.14	0.020
<i>b) Muslims with positive values in comparison with Christians</i>					
VR	Protection from torture	2.88	3.37	0.49	0.000
PR	Rights of refugees	2.88	3.28	0.42	0.000
SE	Right to employment	3.66	4.01	0.35	0.000
PR	Legal rights	2.82	3.12	0.30	0.000
CR	Right to privacy	3.36	3.64	0.28	0.000
CR	Right to assembly	2.98	3.20	0.22	0.000
SE	Social security	4.08	4.26	0.18	0.000
SE	Rights of the child	4.07	4.22	0.15	0.009
PR	Right to demonstrate	3.23	3.38	0.15	0.008
ER	State intervention	3.92	4.06	0.14	0.007
SE	Rights of women	3.97	4.11	0.14	0.011
CR	Freedom of moral speech	3.55	3.67	0.12	0.029

Christians and Muslims according to formal religious affiliation

Mean values 1 = negative; 5 = positive; Diff. = average difference; Sign. = Significance (p)

such as social security, the rights of the child and the rights of women are approved of by all respondents, though more so by Muslims. The same applies to political rights (the rights of refugees were already mentioned above), legal rights and civil rights.

The comparison of the attitudes of all Christians and Muslims towards human rights shows that Christians value three vital rights more positively (or less negatively) than Muslims. The secular influence, as well as the western understanding of individuality and autonomy is clearly evident in those attitudes. We are talking about the legality of euthanasia and abortion for medical and social reasons. It is difficult to explain why the vital right of freedom from torture is disapproved of by Christians (while Muslims approve). It is also surprising that Muslims approve of all socio-economic and political rights more clearly than Christians. As indicated above the reason could lie in the status and special situation of Muslims in Germany that they approve of some rights more than Christians, who belong to the social majority. However, these results contradict certain stereotypes spread by the media, namely that there is a natural link between the approval of human rights and western (Christian) thinking, whereas Islam is assumed to have a problematical relation to human rights. In any case, the Muslim youth surveyed here do not fulfill this stereotype.

4.3.2 Comparison of Strongly Religious Christians with Strongly Religious Muslims

The second part of the third research question considers the impact of the degree of religiosity by comparing both strongly religious groups. The data are already provided individually for each religion in Tables 3 and 4. Table 6 presents them side by side for better comparison. Do the differences increase or decrease when only the strongly religious are considered?

The results show that significant differences between strongly religious Muslims and Christians occur only with nine human rights dimensions. Quantitatively we can conclude that the number of differences, as opposed to the comparison of all Christians and Muslims, has declined. If only the religious affiliation is considered, there is more agreement between the strongly religious of both religions than between all Christian and Muslim respondents.

In qualitative terms only two larger differences are noticeable. The first involves the evaluation of euthanasia. Strongly religious Christians approve of it (if only just barely) with $M = 3.12$, whereas strongly religious Muslims are clearer in their disapproval ($M = 2.72$). The second difference involves the protection from torture. Strongly religious Muslims are unequivocally positive in their approval ($M = 3.40$) while strongly religious Christians are undecided ($M = 2.97$). In these two cases the differences consist of 0.40 or 0.43 points, all the other differences only amount to 0.17–0.27 points. Even if the strongly religious Muslims disapprove of abortion for social reasons more than strongly religious Christians, both concur in their disapproval. Freedom of religious speech is a similar case. Strongly religious Muslims approve of freedom of privacy and the right to employment more than strongly religious Christians, but both approve of these rights. Thus, on the whole, we can speak of gradual differences, but certainly not of insurmountable discrepancies.

Table 6 Strongly religious Christians and strongly religious Muslims on human rights

		Christians N = 258	Muslims N = 326	Diff.	Sign.
<i>a) Christians more positive than Muslims</i>					
LR	Euthanasia legal	3.12	2.72	0.40	0.000
LR	Abortion legal (social)	2.77	2.55	0.22	0.027
CR	Freedom of religious expression	2.45	2.23	0.22	0.019
ER	Civil involvement	3.41	3.14	0.27	0.001
<i>b) Muslims more positive than Christians</i>					
LR	Freedom from torture	2.97	3.40	-0.43	0.000
PR	Legal rights	2.88	3.12	-0.24	0.015
CR	Right to privacy	3.39	3.64	-0.25	0.004
SE	Right to employment	3.78	4.02	-0.24	0.001
CR	Right to peaceful assembly	3.05	3.22	-0.17	0.024

Christians and Muslims according to self-estimated religiosity

Mean values 1 = negative; 5 = positive; Diff. = average difference; Sign. = Significance (p)

5 Outlook

We could confirm that human rights in general are very positively viewed. In the focus was the question of whether personal religiosity has an influence on the attitude towards human rights.

At first each religion was considered separately. The results show that there is indeed a difference within both religions. Differences that document an influence of religion on the attitude towards human rights were determined within the Christian, as well as within the Muslim group. The number of significant differences among the Christians indicates the importance of religion and religiously based values for human rights. Strongly religious and slightly religious respondents view the human rights dimensions differently. While the strongly religious Christians approve of the socio-economic rights to a greater degree than the slightly religious, the latter are more likely to approve of euthanasia and abortion and thus favor the self-determination of the individual. The attitude of slightly religious Christians and Muslims towards the rights of life indicates a western-secular influence that is particularly evident in the attitude towards abortion for social reasons, but also towards freedom of religion. Considering the Christian respondents it became obvious that not just the religious affiliation effects the attitude towards human rights, but, to an even greater extend, the personal degree of religiosity. While in case of the slightly religious Christians a secular effect on human rights is noticeable, the faith of the strongly religious is clearly relevant for the attitude towards political, socio-economical and environmental rights, especially in the sense of assuming responsibility for fellow human beings and the creation.

The comparison between Christians and Muslims was quite enlightening. The analysis revealed a total of 17 significant differences in the attitudes towards human rights. However this number is reduced by half when only the strongly religious from both religions are considered. Between them there are only nine differing scores on the significant level. This is an interesting finding, in other words: the higher the degree of personal religiosity, the more they have in common. "Religion matters" could thus be one of the conclusions. Overall, the differences decrease with the increase of the degree of religiosity.

However, the higher number of differences between the less religious cannot be explained by religion alone. They are probably the result of an amalgam of religion and (national) culture, but it is extremely difficult to tell how much of that mixture derives from religious and how much from cultural influences—further extensive studies are required in this respect.

Human rights are universal and egalitarian in their claims. And they should, as indicated in the beginning, be justifiable independently of any religious convictions. But empirically we could show that they are indeed estimated differently when the degree of religiosity is taken into account. Thus, religion definitely influences the attitude towards human rights, but religion is not the only issue. We assume that there are other factors as well, such as the political position, the evaluation of the multicultural environment and the personal value orientation that are important.

These open questions are the topic of the new international research program “Religion and Human Rights”,¹ in which about 30 countries are involved and a revised questionnaire is used.

Appendix: Selected Items

For each of the 21 concepts (groups of rights), two items were used, in toto 42 items. In the following, some items are reported as example. The complete questionnaire is available in the volume Ziebertz and Benzing (2013), and in other publications of the project as well. The concept-labels have not been presented in the questionnaire, of course.

Answer categories are:

1 = I disagree completely; 2 = I disagree; 3 = I agree partially, 4 = I agree; 5 = I agree fully and completely.

Civil Rights

Freedom of lifestyle

Our laws should protect a citizen’s right to live by any moral standard he/she chooses

Separation of state and religion

In regard to euthanasia politicians should decide irrespective of any religious leader’s will

Freedom of religious speech

Making fun of religious people in cabarets is a legally protected right

Freedom of moral speech

Children should be free to discuss all moral ideas and subjects in schools, no matter what

Freedom of assembly

A cabinet minister should allow his striking officials to meet in a ministerial building

Freedom of the press

TV journalists with radical ideas have a civil right to employment

Right to privacy

The police are only allowed to inspect people’s cars under strict judicial conditions

Freedom of religion

Prayers in public schools should be forbidden

Protection from torture

Imposing inhuman mental treatment on people accused of mass murder is forbidden.

¹ The project’s website is: www.rhr.theologie.uni-wuerzburg.de.

Right to life—Abortion (reasons for exceptions)**[Health-related]**

1. There is a strong chance of serious defect in the baby
3. The woman's own health is seriously endangered by the pregnancy

[Social-related]

2. Economically she cannot afford any more children
4. Psychologically she cannot afford any more children

Right to life—Euthanasia (reasons for exceptions)

1. The doctor is allowed to do this
2. The doctor is allowed to do this, only if palliative care is exhausted

Political rights**[Right of protest]**

1. The police should not use force against political demonstrators.

[Rights of refugees]

4. The government is obliged to provide a decent standard of living for political refugees.

Judicial rights

2. A mass murderer should be informed of his/her right to keep silent before the court.

Socio-economic rights**[Employment]**

6. The government should provide a decent standard of living for the unemployed.

[Rights of the Child]

3. The state is obliged to protect children from neglect or negligent treatment.

[Rights of Women]

7. The state should protect women's right to adequate job opportunities.

Environmental Rights**[state's obligation]**

1. The state should protect unspoilt nature.

[civil engagement]

4. I am willing to pay higher prices for products if that would mean less industrial pollution.

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Prof. Dr. Hans-Georg Ziebertz is Professor of Religious Education and the Didactics of Religious Education at the University of Würzburg, Germany.

Human Rights Education and Religious Education: A Protestant Perspective

Thomas Schlag

Abstract “Is there a *differentia specifica* justified for the educational topic of human rights?” and “What can be considered as the profile of human rights education at school from a Protestant perspective?”

This paper generally assumes that one can actually justify a specific Protestant justification and potential in view of the human rights education issue. In more concrete terms: theological and ethical modes justification from a Protestant perspective can make a significant contribution to contemporary human rights education—and this is true not only for the national context of Germany or the other German-speaking countries with their denominational background of religious education, but also in the international context and its secular forms of learning about religion in school.

For this, a general provision is made at the start: human rights education in the school context is based on the central idea of “human dignity and worthiness of protection” as a general educational goal, which at the same time is associated with an openness to diverse forms of justification and thus to different educational subjects such as religious education (RE). Closer determinations and distinctions are fundamentally important for processing the questions mentioned above, which are geared not towards differentiation, but towards a productive conviviality of different forms of justification and education.

In this paper, this initial determination is developed in more detail in four sections:

1. What are the fundamental challenges that arise with a specific denominational profile of RE from the perspective of human rights education?
2. How is this requirement for interpretation currently reflected in teaching and educational plans as well as teaching materials in Protestant RE?
3. Which specific theological and ethical thought patterns are relevant for a theoretical reflection from a Protestant perspective?
4. What didactic consequences can be drawn from this for future

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T. Schlag (✉)
University of Zurich, Zurich, Switzerland
e-mail: thomas.schlag@theol.uzh.ch

human rights education—including with an interreligious orientation—in the context of RE? A final 5th part summarizes these reflections.

1 Why Is Protestant RE (Still) Important and What Is Its Specific Perspective on Human Rights Education?

In the context of the educational system of the Federal Republic of Germany, Protestant RE continues to be well established as a denominational subject. But in the present situation of religious plurality, this model is—not only because of alternative models throughout Europe, but also from developments within the country—facing considerable challenges to its legitimacy and plausibility: in some critical comments from players in education policy, the question of the *importance and appropriateness of a denominational focus* is raised and, in criticism of denominational segregation, the case is made for principally ecumenical co-operation. From a different point of view, a “neutral” form of teaching RE is seen as the real alternative to any denominational or ecumenical RE, which can be noticed in Switzerland, England or the Scandinavian countries with their multi-faith approach.

Given such perceptions and the general change of the European religious landscape, not only the constitutional guarantee of this subject in Germany (in accordance with article 7.3 of the German Constitution) more than ever needs a theological and pedagogical legitimacy, but also any newly developed form of RE in the secular context.

Such legitimization from a theological-ethical dimension can contribute to the profile of Protestant RE as school subject. Given the current burning global and local human rights issues, Protestant RE is capable of developing a specific powerful relevance that cannot be achieved through any other subject. The issue of human rights education thereby has particular potential for the substantiation and validation of RE as a whole. In short, if ideas on the topic of human rights which are relevant to our lives can be stated and experienced in Protestant RE—indeed, when *humans and their facets of life* become altogether significant at the center of teaching—then this speaks for the subject as a whole.

At the same time, the use of human rights education as a mere legitimization of the subject must be avoided. How can Protestant RE now support human rights education? What is the productive power of this *differentia specifica*?

The following remarks have their starting point by looking mainly at the situation in Germany; nonetheless, my argument is, that looking at this specific context sheds paradigmatically light on the required standards of “good” RE in a common sense.

Of course it should be remembered that for historical reasons one can rightly take a sceptical approach to a denominational perspective on human rights issues, as for a long time there was “elegant” Protestant ignorance on this issue. A positive reception of human rights is not in any way an obvious continuum of the modern

Protestant church and theological history. Rather, the positive perception of and active engagement with this issue only presented itself gradually in the late decades of the twentieth century (cf. der Rat, 1975). So it is hardly surprising that human rights issues did not constitute a major topic in the materials and official curricula of Protestant RE until at least the early 1990s (cf. Heide, 1992). Because of its own fragile history and the neglect of the human rights issue, Protestant RE has to be careful in now presenting its own perspectives.¹

However, there are some official papers which assume that RE can make a significant contribution to European civil society and human rights education (see ODIHR, 2009).²

In the German context, strong evidence for the connection between education on religious values and human rights education has recently been provided in official statements relevant to educational policy: in the context of the debate surrounding educational standards, attention has been drawn to the specific form of rationality or “constitutive rationality” of religion and philosophy, with whose help, according to Jürgen Baumert, “ultimate questions” (Baumert, 2002, pp. 100–150: 107) can be dealt with. From the conception that religion deals with the basic anthropological question of the “how, where and why of human life” (ibid.), this is also reflected in the competence debate on Protestant RE. Therefore in 2006, on the part of the Comenius Institute, from the perspective of “religion as a social phenomenon”, the following competences are named: “Explaining underlying religious ideas (e.g. human dignity, charity, justice) and bringing them to bear in social conflicts” (Fischer & Elsenbast, 2006, p. 19).

In the Resolution of the Standing Conference of the Ministers of Education and Cultural Affairs of 16.11.2006 on standards in the RE high school graduation exam (Abitur),³ human dignity in the context of the description of the competence “ability to judge—to judge based on religious and ethical issues” is discussed. Abitur students must be able to “theologically justify human dignity and bring it to bear as a core value in current ethical conflicts” (ibid., p. 9, see also Schwendemann, 2008).

¹ It is conceivable that human rights education could take place without the dimension of religious value education. The UN “World Programme for Human Rights” running from 2005 to 2015 appears in no way ignorant on questions of religion. However religion is primarily discussed as a possible subject matter, but rarely from the perspective of an institutionalised religious human rights education. In short: the initiative will serve for the better and peaceful co-existence of religions, but they are not talking here about an educational contribution by religious institutions themselves or even about a specific religious justification potential of human rights. Maybe behind it is a specific secular belief that one is well advised, especially in these times, to keep the religious factor out of these debates as this could just act to exacerbate the conflict.

² The Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools published by the OSCE in 2007 must be mentioned here (see http://www.osce.org/publications/odihr/2007/11/28314_993_en.pdf; as of June 10, 2010).

³ Standardised testing requirements in the Abitur (school leaving certificate) examination on Protestant theology (Resolution of the Standing Conference of the Ministers of Education and Cultural Affairs of 01.12.1989 as amended on 16.11.2006), 32 (Online).

In terms of theoretical reflection on RE, it must be asked how such a claim can be systematically described in more detail and legitimized (see Fischer & Elsenbast, 2006, p. 13).

2 Examples of Current Teaching Materials

In the school context, addressing human rights and their violation is—far beyond RE—a didactically complex and delicate matter. This is due to the significant tension usually found between emotionally connoted and factual discourse, in other words between a necessary emphasis and a cognitive necessity for clarity. Where these tensions are overlooked or avoided, human rights education already misses its entire target upon implementation.

For human rights education, in the framework of the UN decade, a threefold objective is given: 1. to disseminate knowledge and information on human rights, 2. to promote the development of values and personal attitudes and 3. to allow forms of active participation in order to defend human rights (see Mihr, 2005). This threefold objective is connected analogously with a triple, and thus also an exciting, didactic objective:

1. Cognitively, to acquire a “knowledge of the origin, norms and standards of human rights, their legal foundations as well as instruments”—i.e. learning *of* human rights (knowledge);
2. Affectively, to develop “a sense of outrage at human rights violations and injustice due to a personal or passive experience of injustice”—i.e. learning *through* human rights (values);
3. From an activity-oriented perspective, to promote active action “which involves the commitment to human rights”—i.e. learning *for* human rights (skills).

These references to the complex challenges for human rights education now seem appropriate for RE in a particular—and ambivalent!—way. This is because RE is often valued as being responsible not for the detailed description, but for the *emotional perspective*. Dealing with political situations and factual issues is normally—and sadly—not attributed to RE, and neither is the dimension of legal and political issues. In contrary, RE is often located where hard facts come to an end and where an appeal is made for human solidarity and “compassion” (J.B. Metz) towards the victims. How is this now represented in guidelines and materials for religious education?

In general, the issue of “human rights” forms an integral part of Protestant RE. There are implicit and explicit references in many educational and school curricula, textbooks as well as teaching materials (see Schwendemann, 2010, p. 12). Thereby, the reference to the competence orientation is obvious.

Meanwhile, there is an initial overview referring to the extent to which human rights education relates to the subject of Protestant RE at secondary level I (see der Sekretariat, 2008). Here, an interesting differentiation is made between different

school subjects: “While in the subjects of religion, ethics and philosophy, values and standards and the dignity of humans can be discussed, totalitarian systems are often discussed in history lessons; terms such as slavery, oppression and racial fanaticism are compared with the values of the Enlightenment, freedom and equality” (see *ibid.*, p. 9).

In the Baden-Württemberg education plan, for the 6th class at secondary schools (Hauptschule/Werkrealschule) one finds the topic of “Creation and responsibility” in the area of “World and responsibility”. In that regard it is stated: “People are created as unique, equipped with dignity”. The following competences are derived from this: “Students can recognize their differences, respect each other and treat each other fairly. Students know biblical instructions for the action of mankind (Ten Commandments) and know ways to resolve their conflicts peacefully.” For the middle school (Realschule), again 6th class, it is formulated: “Students are aware of the dignity of all living things, of their mutual dependence and their common right to life as creatures of God”. Even for the high school (Gymnasium), here with the example of the 9/10th class, there is a close connection between the biblical message and individual action. Therefore students should “include central ethical statements from the Bible in a standard critical judgement” [those mentioned include: Ten Commandments, Golden Rule, double commandment of love, T.S.] and from this know the challenges “for their own conduct of life and the shaping of society”.

In thematic teaching materials, the strong reliance on relevant legal materials and framework conditions as well as current political realities is obvious. In teaching material for secondary education published by W. Schwendemann, “Human rights in religious education” (see Schwendemann, 2010), there are multiple instructions in order to first of all learn about the most important human rights and the underlying declarations in RE.

The following is given as a learning objective: “Students learn about human rights, relate them (through examples) to their world and know that the Bible speaks of how man’s likeness to God is the basis of human rights” (Ding & Wagensommer, 2010, p. 17). However this explanation, which should be clarified with reference to Psalm 8, is somewhat unclearly linked to the preceding factual information on the development of human rights. At the end it is simply described as “preserving results”: “Preserving the central message of biblical writings: ‘The human being is a valuable, unique creature, a marvel of God’” (*ibid.*, p. 19).

The teaching material published by Veit-Jakobus Dieterich for high school RE on the subject of justice also raises the issue. In the teacher’s edition, in the unit “Human rights—Western world”, the first issue for teaching is explicitly titled “The issue of human rights as a whole, in addition to (for example) addressing some important concrete human rights, highlighting their central importance and raising awareness of their violation” (Dieterich, 2010, p. 85). In the sense of the competence orientation it is formulated as follows: “Students should describe human rights and human dignity as principals of a universal ethic, mentioning some human rights specifically, applying them to practical cases, interpreting human rights and dignity from the perspective of the Christian faith, and identifying and

evaluating options for a concrete commitment to human rights”. This links—both in the teacher’s and student’s editions—with excerpts from the Universal Declaration of Human Rights, some philosophical and also some theological texts on the subject. However, this perspective of the Christian faith is only expressed through the presentation of theological texts by W. Huber, W. Härle, K. Barth and K. Rahner and their possible interpretation, which remains somewhat abstract.

On the other hand, some materials also show significant blind spots in respect of the legal dimension: in the latest *“Kursbuch”*, a school textbook for RE in vocational schools, which is explicitly oriented towards the acquisition of skills, units can be found on the question of “What is man?”, on “Ethical action”, on “Violence” and on “Justice”. However, there are no references to the issue of human rights: Thus, the section on “Justice for the disadvantaged”—in this case asylum seekers—is determined by the theme of mercy and by the justice of God. However, information on constitutional guarantees or even the term “human dignity” and its tradition is missing.

If one looks for the topic of human rights on the “rpi-virtuell.de” website, an important digital source for RE teachers, a variety of links and materials on the legal and political foundations of human rights can be found. However one has to search intensively to find material about theological reflections on this issue. Theological references appear somewhat rare and are not really integrated into the whole issue.⁴ Therefore it is obvious that, while these materials aim at connecting genuine aspects related to religion and the secular justification of human rights, they do not deal with this intensively.

From the awareness raised by these examples, the next step shall detail consequences for the theoretical reflection of RE and the practice of contemporary human rights education.

3 Theological-Ethical Considerations on Contemporary Human Rights Education

The following formulation serves as a theoretical starting point for education and a hermeneutical premise: Protestant RE represents a *facilitating practice both individually and collectively for the meaningful interpretation and conduct of life* (for further historical and systematic context see Schlag, 2010). First and foremost an eminently theological interpretation task is thereby addressed: the question is what claim to validity the theological meaning of the image of God can make in relation to the reflective understanding of human dignity and human rights.

⁴ See, for example the question of: Human dignity or: When does the right to life begin? <http://www.1000fragen.de/hintergruende/dossiers/dossier.php?sid=d5f30fdc13afb2401d930b28c03bbace&did=14&simple=n&pn=1>.

This discussion of the image of God refers to the question of the creaturely quality of humans in relation to God. The understanding of humans in the sense of biblical anthropology is to be read primarily as a term for the basic dependency of humans on existential life protection—and this includes the experience that in principle this protection is not secured from the beginning and remains unsecured. The story of creation and especially the expulsion from paradise principally always shows the precarious and non-paradisical nature of human existence. The fall of man is the highest biblical expression for the realistic view of human limitations.

The discussion of the divine likeness of humans thus has a protective function, which carries its own meaning in addition to any legal protection, guaranteed by constitution and law. Such a theological discussion can then transcend the legal category of human dignity and human rights. Not in the sense that it explains this as insignificant because of its lack of metaphysical justification, but in the sense that it demonstrates to humans, as creatures, their unconditional worthiness of protection and their justification, in a specific light. Such differentiation is reflected in this sense as a Protestant form of justification, as the figure of *justification in freedom* is strengthened as the central moment of interpretation of the fallen and justified creation. Such common thinking about justification and freedom leads to a *common theological concept*, which reveals humans in their relationship *with God* and *in orientation towards God*.

Protestant education therefore takes place in the mode of a theologically interpretive understanding of the world from a human perspective *coram Deo*, *coram mundo* and *inter homines*. In this sense, human rights education in a Protestant dimension is, in the first and last sense, *personality education* in its *essential reference to God's humanity*.

Such a figure only gains its normative and orienting power through *common communication and free interpretation*, as freedom and justification must in themselves be *discussed* and *thought about*, based on experience, in order to allow their meaning to become clear. In a didactic sense, the basic theological and hermeneutical provision must consequently be further clarified:

4 Didactic Consequences

The theological basis of the legitimate subject *coram Deo* has its didactic equivalents. Thinking about human dignity opens up a constructivist perspective of the individual learning processes related to understanding of self and the world. Such a perspective represents the didactic manifestation of individual freedom in processing and experiencing one's own questions on how to conduct life. Good RE is characterized by the fact that communication about human dignity takes place in a form that is both discursive and open to the plurality of interpretations.

For example, from a Protestant perspective the discussion of *key problems* must be combined with a hermeneutical perspective on the theological and anthropological question of individual life conduct. Processing key problems is only possible if

this is done, or at least thought of, at the level of the individual and real *key experiences* or “requirement situations” (see Obst, 2008, pp. 147–148).

By thinking about the limits of what is humanly possible, adolescents, for example, can experience that human rights education has more to do with themselves and their life situations than might seem the case at first glance. Where there are *forms of everyday incapacitation and functionalization* or reductions to formal education principles, greater attention to possible human rights violations in an everyday context is needed.

Such value-based human rights education also raises the question of a *dignified and human-centered practice of school education as a whole*. Or more broadly formulated: the question of successful ethical education also results in the ethical question of successful education overall.

In this context, for theological reasons, the fundamental difference between *life-serving* and *useful* educational processes must be pointed out and championed. In this context, any attempts by state, church and society to divert or functionalize education for other interests must be strongly criticized. Especially when it comes to skills acquisition, it is crucial to express a human rights-based education practice, also in the basic attitude of teachers.

Thus, one of the future key credentials of Protestant RE is to point to the original, deeply humane meaning and intention of holistic education. That this also includes a critical examination of anthropo-technological conceptions of the human being, should be mentioned here (see der Rat, 2003). In any case, the following applies: “The old (sinful) human in the biblical sense is not in need of improvement, but in need of forgiveness” (Körtner, 2000, p. 54). Thus, good RE must not only have cognitive content, but it must also be characterized by a component that appreciates the individual needs, desires and hopes of young people and gives them space and a voice.

5 Conclusion

Secular rational discourses on the issue of human rights should not be taken as the only possible form of educational processes. Rather, the principles of openness to justification⁵ and mutual openness to dialogue about theological and humanistic conceptions of human rights must be emphasized—and this is something, which the theoretical reflections from a secular pedagogical perspective and also the different didactical models of secular RE are obviously lacking so far. With regard to the question of the universality of human rights, culturally specific forms of justification should neither be levelled nor neglected. Therefore, from an education theory perspective, it must be asked whether the approach of a global ethic with the idea of

⁵ “The concept of openness to justification proves to be a middle ground, seeking to avoid the extremes of radical universalism and radical relativism” (Vögele, 2000, p. 490).

an “overlapping consensus” does not underestimate the complexity of contextual, i.e. historical and cultural backgrounds and with it the factual differences of different justification figures.

This paper has not argued for a theological justification of human rights in the sense of an exclusivist foundation in a particular religious tradition, or under the heading of a particular, firmly defined guiding culture or an established denominational form of RE. But an understanding of human rights as a regulative idea requires specific interpretation and implementation in the respective political culture: this, therefore, makes it clear that a *differentia specifica* for the teaching of human rights is well justified.

Due to this complex overall situation, it is as necessary as it is challenging for contemporary RE to intensively address the current debate on modern human rights education, both in theory and in practice—and this not from an unrealistic perspective, but from the basis of its own specific educational mission for the world and in the world. Reflection on contemporary human rights education makes it clear that *Protestant RE as a theological discipline* and practice is integrated into a diverse framework, from which various interdisciplinary connections are possible and necessary.

In this thematic context, it should also be mentioned that discussion with other denominations and religions, as well as with the discipline of religious studies, is not only helpful but essential. Reflection on human rights issues must explore ways of developing common interpretation skills in the context of a multi-religious and multicultural society. So one of the main challenges for theology and religious studies will be to devise standards for good RE which serve our ways of living, and which also integrate interreligious communication and understanding.

For a hermeneutical reflection on issues of human rights education, in addition to the interdisciplinary discourse with law and political science, political philosophy is also necessary. Here religious education must itself develop the culture of a much stronger awareness of these developments. Especially for educationally theoretical reasons, as broad a knowledge of the legal and political scientific facts as possible is strongly recommended, because otherwise all hermeneutical approaches will remain on shaky ground from the start.

Such programmatic openness to dialogue also requires secular and other religious human rights discourses to engage in a productive discussion with forms of justification from the perspective of a Christian ethos.

For contemporary teaching this means:

Protestant RE can only receive and gain new public relevance, if it neither limits itself to internal religious questions nor concerns itself completely with moral questions. Rather, the educational art of RE is to connect the *core contents of the school subject with the central questions of life conduct in an existential manner*.

Only when RE, from its specific content perspective, develops a specific sensitivity to *humans' worthiness of protection* will it prove to be of indispensable importance in the context of school and educational reality. The *profile* of school human rights education from a Protestant perspective is reflected in questions of

individual and community value education from a *specific Protestant spirit of freedom* being conveyed clearly and bravely.

Protestant RE in an ecumenical and interreligious orientation must therefore also be able to include different ideas about human rights, without representing an explicit or implicit claim of exclusive truth. Precisely such processing of thematic challenges can illustrate the specific interpretation profile of the school subject and its actors in a special way, both internally and externally.

In view of the increasing cultural and religious plurality of the current generation of young people, there must be consideration of how, in future, differing culturally influenced views of humans and understandings of human rights can be involved in value-oriented constructive discussions in the context of RE. RE is thereby more than just the forum for such dialogues. It provides the possibility of a culture of dialogue, so to speak, from its own viewpoint and from this position opens up ways of thinking about other perspectives.

It is thereby essential to repeatedly bring one's own theological-ethical premises into the discussion. The didactic challenge is to communicate and maintain the Gospel's claim to truth in such a way that it is recognizable as a life-serving benchmark in the permanent dialectic of uniqueness and openness, freedom and self-commitment.

From there, RE can help young people to discover ways of giving up the role of indifferent observer in favor of personal responsibility and practicing the ability to develop critical and worthwhile attitudes (see Dressler, 2002, pp. 256–269).

For this, theologically substantial education processes are required. Where this happens, both in the context of the respective class and school, and in the wider public, the importance of the school subject can be made plausible as the space in which, also in future, questions on human rights issues are raised more intensely and dramatically than ever before.

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Prof. Dr. Thomas Schlag is Professor of Practical Theology specializing in religion education and cybernetics at the University of Zürich, Switzerland.

Human Rights Education and Religious Education: A Catholic Perspective

Bernhard Grümme

Abstract Theological justifications and interpretations of human rights have a difficult position in current academic discourse. But how then can religious education actually provide a place for human rights education when religious perspectives on human rights are contested? Is this symptomatic of the failure of religious education to keep up with current developments? Or could human rights education provide a place for religious education to legitimize itself in the midst of pluralism and secularization?

These questions will be approached from four different angles:

Firstly, the current debate regarding human rights will be outlined. Secondly, the human rights issue will be looked at exclusively and thoroughly in the context of education. Thirdly, the idea of justice as a background to human rights will be discussed. Lastly, human rights education will be substantiated with the help of the concept “learning to be just”.

1 Human Rights and the Reasons Behind Them

The influential position of the political scientist and doctor of law Gret Haller is symptomatic of the rejection of religious reasons for human rights. She argues that putting human rights into a religious context cannot fulfill the demands of a pluralized society in the global age. Whenever human rights are based on a specific religion, such as Christianity, they lose their universality. According to her, human rights have to be legitimized in a different way: They have to be compiled and legitimized in the democratic process again and again (cf. Haller, 2013, p. 206). If human rights need to be based on the absolute, this absolute can only be found within man as an individual (cf. Haller, 2013, p. 205). According to Haller, Christianity evidently only has the function to have provided the theological roots

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B. Grümme (✉)
University of Bochum, Bochum, Germany
e-mail: bernhard.gruemme@rub.de

of the human rights, but not to contribute valid or stimulating interpretations to the current human rights discourse. Human rights are to be defined as “rights which are granted to all people because of their personhood” (Senft, 2001, p. 1327), regardless of the color of their skin, nationality, religious and political convictions, economic and social position, age and gender (cf. Heimbach-Steins, 2001, pp. 12–36). The codifications in human rights charters are to a substantial extent translations of theological impulses into the form of secular law. But what happens if faith loses its power and the acceptance of a theology based on the belief that man was created in the image of God can no longer be taken for granted? The sociologist Durkheim analyzed this issue, which he considered to be of central importance. The only thing left is what he calls the sacralization of the person. Only by elevating man, by giving him this sacred or holy status, the idea of humanity can be saved and a society, that is very differentiated and increasingly disintegrating in the processes of the Modern Age, still be integrated. According to Durkheim, himself a convinced atheist, the commitment to human dignity and human rights is the “Religion of the Modern Age” (Gabriel, 2013, p. 229), which has replaced Christianity. Nevertheless, in view of the catastrophes of the twentieth century one has to come to the conclusion that the idealism, which has been advocated here, could not be realized (cf. Joas, 2004). Obviously, man has not been able to find within himself the sources from which to draw unconditional respect for his fellow men. Durkheim’s intended ‘small transcendence’ of an inner-worldly religion could not generate the necessary powers of motivation and inspiration.

It is certainly too easy to attribute the genesis of human rights and the idea of human dignity to a merging of Greek-humanistic-enlightening and Jewish-Christian roots. In his groundbreaking book “The Sacredness of the Person” Hans Joas could show that human rights were not simply derived from these roots (Joas, 2011/2013). He himself refers to Durkheim but leaves the assumed frame of the secularization theory. In his opinion human rights have been created in a “sacralization process” in which humans have become intangible because the human being is sacred (cf. anthropological reasons behind such intangibility, Boschki, 2010, and Grümme, 2012). Joas believes that the decisive elements in this process are the completely different religious and ideological traditions from which these values have originated (Joas, 2011, p. 204). Unlike Gret Haller and Emile Durkheim Joas believes that religious sources are also important, even essential. If and insofar as the Churches do not oppose the growing demands for autonomous freedom the inspirational power of the gospel can play its part in the still undecided fight for human rights and universal human dignity (cf. Joas, 2004, p. 168). Since they are based on different traditions human rights are “central path markers” (Gabriel, 2013, p. 230) for a successful co-habitation in a pluralized world society.

2 The Importance of Education (“Bildung”)

Exactly here the relevance of education, especially of religious education, can be seen. To the extent to which human rights have become fragile their institutionalization and realization depend heavily on the adequate and active commitment of the respective new generations (cf. Joas, 2004, p. 168). Therefore, is absolutely essential for human rights that something should be generated and handed down in the education processes. But what, from a viewpoint of religious education, should that be?

With its teaching that man was created in the image of God religious education introduces a specific tradition for the human rights education which intensifies and radicalizes the struggle for human rights with its option for the Others—the poor, the sick and the excluded. This is no unimportant matter for Christian religious education. In fact it is the ranking of religious education in the social discourse, which is up for debate here. This does not mean that the functionalization or politicization of religious education are advocated—quite the contrary! In the context of secularization and pluralism religious education can only legitimize itself by its contribution to the autonomy and education of man. In principle it therefore has to be laid out as a public religious education, in which political and aesthetic, practical and cognitive dimensions refer to each other (cf. Grümme, 2009) and which thus plays an active role in the effort for education. Religious education therefore contributes to civic education (cf. Grümme, 2009, p. 25). This implies the struggle for an adequate image of the human and also an adequate concept of human rights (cf. Grümme, 2012). One can definitely derive not only a right to education (cf. Lenhart, 2003, pp. 70–88) but also a right to human rights education (Kunze, 2009, p. 147) from the 1948 declaration of human rights. In view of this emphatic-normative requirement the references in the education curricula, guidelines and also in the standardized higher education requirements for Catholic religious education come across as rather non-binding and general. For example, if you look at the mandatory syllabus (Kernlehrplan¹) for the state of North Rhine-Westphalia you will see that human rights studies are seen as rather unimportant.

Besides, empirical research about the connection between religion and human rights shows that, as far as Muslim and Christian youths are concerned, a certain link exists, which can vary depending on the individual human rights issue and the extent of the respective religiousness, even though it has not been possible to verify a single cause for this conclusion so far (cf. Benzing & Ziebertz, 2010, p. 199; cf. differentiations: Ziebertz & Benzing, 2012; Ziebertz & Reindl, 2011).

Human rights education should not be something that is added to religious education as an afterthought. In fact there is an inseparable, intrinsic connection between religious and human rights education because of the theological as well as

¹ http://www.schulentwicklung.nrw.de/lehrplaene/upload/lehrplaene_download/gymnasium_g8/G8_Kath._Religionslehre_Endfassung.pdf.

educational foundations. Seen in this light human rights are a matter close to the heart of religious education, even if it is naturally not completely absorbed by it.

Human dignity as subject of Christian educational processes is based on the fact that it is not only an essential pre-condition for all educational processes but also the normative basis of man's position in state and society. Human rights are therefore an essential issue in general education, not only because man is given recognition but also learns that he has a right to human dignity in the educational process.

Man should learn from which philosophical and religious traditions the concept of human rights has originated and that fighting for universal human rights is a worthwhile cause (cf. Schweitzer, 2011, p. 91).

Cognitive, affective and action-orientated objectives fuse in such a human rights education, because here the learning of human rights (cognitive), by human rights (affective) and for human rights (action-orientated) strictly relate to each other (cf. Schlag, 2011a, 2011b, pp. 98–99; Kunze, 2009, p. 147). So this is about becoming familiar with human rights, developing the will to defend them on a universal scale and in the end developing the capability “to acknowledge human rights as one's own moral values and act accordingly” (Schwendemann, 2010, p. 9). In the environment of school and school subjects religious education is particularly qualified because it introduces the Hope in God. Through its recourse to Christian hope this form of human rights education has to be understood as intensification which “exceeds what has already been achieved by a secular legal order” (Huber, 1992, p. 593; cf. Simon, 1996, p. 181). A theological perspective could introduce the critical self-limiting objection against a power declaring itself absolute as well as the down-to-earth realization that even the greatest commitment to human rights cannot implement them completely, as history has shown (cf. Hilpert, 2010, p. 60).

In the following this will be outlined using the topic of justice, which is of fundamental importance for human rights education, because freedom, equality and participation are closely interlinked with justice.

3 Biased Justice

In Jürgen Habermas' opinion Christian freedom has contributed considerably to the genealogy of the modern concepts of freedom and justice. But just as precisely he has marked the difference between the communicative freedom as inspired by Kant and Christian ethic, which mainly has to do with the supererogatory nature of this kind of freedom, which sees itself as a liberated and engaged freedom and therefore surpasses what can be expected of everybody on the basis of mutuality (Mendieta, 1999, p. 206). In the Jewish-Christian tradition justice is firstly and above all the justice of God, who declares the unjust to be wrong and who gives rights to those who have no rights. God's justice (Hebrew: *zedaka*) is a justice of love that goes hand in hand with mercifulness. It serves the weak, the poor, and the excluded and is therefore a biased justice. Man corresponds to God's covenant by doing what is just. Faith and justice are so closely inter-linked that the violation of the other's

dignity and freedom is not just a social offence. According to the oneness of the love of God and neighborly love it violates the relationship to God himself. Jesus and his message of God's Kingdom are at the center of this hope in justice. He claims to make something of this zedeka present in his message and life.

Because God treated and treats man justly, it is not possible to believe in him without fighting for justice far and near (Aufenanger & Mette, 2001, p. 696). This concept has implications for the process of learning to be just and human rights education in the spirit of religious education.

4 Learning to be Just

In the context of religious human rights education learning to be just can be found within the wider scope of learning ethics, which itself also falls under religious education. There are four different approaches to teaching ethics: the transference of values, the elucidation of values, the development of values and the communication of values. The transference of values communicates given values for direction purposes. In contrast, the elucidation of values makes students reflect on known and accepted values. Whereas the first model works along deductive lines and promotes adjustment to the already existing, the second model and its inductive structure lead to a reduction to individual important values (cf. Lindner, 2012). In contrast, the model of developing values promotes by stages improvements in the capacity for moral judgment. In Lawrence Kohlberg's approach the discussion of moral conflicts described in dilemma stories leads to a principle-guided, ethical judgment. Kohlberg's structural theory of moral development can be seen throughout the inner teleology from selfish via universal to increasingly internalized reasons for moral judgment. Within political didactics Bernhard Sutor warned against such concepts, because they advocated a one-dimensional perception of politics and promoted "non-political moralizing" (Sutor, 1980, p. 248). Within the field of religious education one increasingly has similar reservations (cf. Grümme, 2009, pp. 63–101). Therefore it does not come as a surprise that the more interactive model of the communication of values is widely preferred. Based on the concept of communicative reason the focus is here on the participation in argumentative discussions, which enables the participants to communicate and argue through the changed perspective created by the Others' situation. In accordance with the educational paradox the participants' maturity is increasingly assumed in this approach, which deals with the examination of validity claims and the clarification of which values and value orientations can claim validity (cf. Ziebertz, 2010, p. 439).

These models can actually overlap in religious lessons. However, the last model, which strengthens the youths' autonomy in the sense of an identity in universal solidarity, has to be considered as particularly relevant. Yet, there are also additional forms of practical as well as emotion-based learning, which are used to go beyond the focus on cognition. For such psychological reasons Georg Hilger favors

a “raising of social awareness as a holistic moral education” (Hilger, 2006, p. 239). Accordingly, “learning to be just” requires feeling empathy for the other with the capability to see things with his eyes, social cognition as learning by understanding and acting for the common good. So cognitive methods have to be complemented by model-based learning, instruction-based learning and by social acknowledgement. The opportunity to experience justice has to be given (cf. Mette, 1994, p. 115). A constructive, strictly subject-orientated approach is particularly relevant in this context (cf. Schlag, 2011a, 2011b). Additionally, in religious lessons “to be just” is mainly conveyed by the concept of recognizing the rights of the Others. This concept is based on the experience that acts of justice have a pre-ordained justification, which provides strength, impulses and resilience in the face of adversity. The three following examples will illustrate the design of this human rights education with its emphasis on justice.

- a) The concept of “Learning for One World” as well as the conciliar learning process of “Justice, Peace and the Protection of Creation” play an important role. These religious education concepts are action-orientated and focus on teaching peace from a Christian perspective on an individual, interpersonal and societal level. Additionally, these concepts not only teach protecting and caring for nature as God’s creation but also put human rights education in the light of “learning to be just” into practice. A learning process takes place that deals with social key problems in the light of the biblical vision of an all-embracing justice. This connects the cognitive understanding of the economic and political background to justice and injustice on a global scale with practical forms of learning. It tries to treat justice as a central issue during lessons either inside or outside school and to practice justice in order to put human rights education into practice.

The Just Community Project that was carried out in the USA by Kohlberg and subsequently in Germany by Oser and which sees school as a just community and practices forms of just behavior in lessons and the school environment, continues to constitute an important element (cf. Bahr & Leimgruber, 2010; Grümme, 2009).

- b) An important social learning concept is “The Compassion Project”. It was first implemented at Catholic private schools in the state of Baden-Württemberg. Meanwhile it has become an essential concept of social learning from a Christian perspective in various states of the Federal Republic of Germany. The Compassion Project uses a combination of real life education, reflexive and pragmatic elements to develop social attitudes, such as willingness to communicate, cooperate and show solidarity with people, who need help from others (cf. Kuld, 2008, p. 13). During a social work experience, which usually lasts 2 weeks, students work at social facilities such as old people’s homes, facilities for handicapped people or hospitals. They are prepared for this work experience at school and are chaperoned by religion teachers. This charitable and social work experience is characterized by the link between the experience in the facilities and the subsequent reviews at school.

c) Role Model Learning is not primarily about famous role models like Mother Theresa, Ghandi or Martin Luther King. Above all, its main focus is on learning by the example of “Local Heroes”, the everyday heroes such as the sports club coach, the neighbor, the students’ representative or the teacher. This kind of learning proves that, even in our society, different forms of altruistic behavior such as caring for the weak, the excluded or refugees are possible. These role models who you know personally because of their local proximity, are in their ordinariness “a bridge between the students’ dominating expectations from life and the higher value of Christian social behavior” (Mendl, 2005, p. 100). This practical learning helps children and youths to find out what it means to live as a Christian and to integrate it into their daily lives.

It has to be pointed out, though, that ethics learning and social learning, which both aim to contribute to “learning to be just”, can only be protected from depoliticizing tendencies by being integrated into political-structural categories of religious education. Only this political level allows religious education to provide a critical-productive contribution to the general education at school. The radicalness of human rights education which also includes the social structures of human co-habitation would only then have been achieved.

5 Conclusion

As should have become clear, the human rights discourse depends on the power and dynamics of specific traditions because in a functionally differentiated and socially segregated society an all-connecting, all-encompassing meaningful worldview no longer exists. Would not this be the place in which religious education with its hope in God and its articulated biased option for the others could become involved productively and interrupt the logic of our barter society? Human rights education in Catholic religious lessons can only be understood correctly, if it overcomes the concentration on the inner perspective, if in the interest of the Others it becomes involved in the struggle with other human rights concepts, which on their part are based on their own traditions, and if it also puts this into practice in society.

Form and contents have to correspond in this human rights education. It can only speak of freedom if it recognizes the Others as free and realizes the freedom it speaks of—the freedom given by God. Those are the requirements it has to meet!

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Prof. Dr. Bernhard Grümme is Professor of Religious Education and Catechetics at the University of Bochum, Germany.

Human Rights Education in the Context of a “Culture of Remembrance”

Reinhold Boschki

Abstract The formulation of the universal human rights has to be seen in the context of the horror scenarios of the twentieth century. Therefore, the ethical impulse for the proclamation and implementation of human rights originated in historical remembrance. The negation of inhumanity was and still is the decisive force for the realization of humanity. In terms of educational theory this means that the confrontation with historical events (situations of suffering in general, the extreme of the Holocaust in particular) can cause a sensibility for injustice, unfairness and violation of human dignity in the learning individual and in a learning community, which can develop into a sensibility for human dignity. This paper elaborates on the theoretical framework of a “Culture of Remembrance” and discusses the possibilities of a human rights education inspired by remembrance, which is also highly relevant for religious education.

1 The “Legend” of Human Rights

It is a nice story which we democratically educated teachers, university teachers, politicians, journalists, even philosophers and historians like to tell ourselves and each other. A story we also like to tell our pupils, students and all learners in the field of political, ethical, social and last but not least religious education: the story of the origin and development of human rights. I would like to provocatively call this story a “legend”, the legend of the gradual implementation of human rights on the basis of a philosophical “idea”. Our standard story states that the “idea” of human rights developed in the wake of the philosophical Enlightenment and originated from the argumentation of Natural Justice in the seventeenth and eighteenth century in Europe, the basis of which had admittedly been philosophical reflexions dominated by reason, but which eventually can be traced back to the

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R. Boschki (✉)

Faculty of Catholic Theology, Eberhard-Karls-University Tübingen, Tübingen, Germany

e-mail: relpaed@kath-theologie.uni-tuebingen.de

Jewish-Christian tradition of seeing humanity as made in the image of God. This philosophical “idea” was then, so the “legend” goes on, from the mid-eighteenth century onwards and especially due to the historical developments in the United States of America and in France translated into a political and judicial reality. Eventually, it is said, the “idea” of human *dignity* and the ensuing formulation of human *rights* were finally translated into internationally valid legal systems, whose most important representative are the United Nations. The starting point of all those legal concretions is the “Universal Declaration of Human Rights” of the UNO in 1948.

So far the “legend”.

However, is it really true that an “idea” in history asserts itself in such a slow-moving fashion?

The philosophers *Christoph Menke* and *Arnd Pollmann*, whose argumentation I follow here, critically pose the question in their “Philosophy of Human Rights”: “Would it not be copiously eccentric idealism to interpret the historical struggle for human rights as the mere implementation of pre-phrased philosophical ideas?” (Menke & Pollmann, 2008, p. 14). The issue of human rights is much more complicated; it has been developed in numerous and very diverse historic and political contexts and has manifested itself in variable ways in history and jurisdiction. Even in more recent history, this topic has not been developed further by tying together the philosophical idea of universal human rights and its concretions in politics and administration (*ibid.*, p. 16). Such an idealising and harmonising view is simply wrong, is only a “legend”. The formulation of universal human rights can only be comprehended correctly, if it is interpreted from the “experience of a political and ethical catastrophe” (*ibid.*), a catastrophe shaking the history of humanity to its very foundations and challenging all ideals of human rights and democracy in a radical way. We are talking about the catastrophe of totalitarianism, National Socialism and its terrible climax of human *undignity*, the Holocaust, which registered as the major break in modern human history.

Therefore, the formulation of universal human rights by no means results from the assertion of philosophical “ideas” and the gradual realization of truth and goodness by humanity, but is the answer to the barbarianism of the twentieth century. When after 1945 the shock about what had happened slowly spread out, the newly founded UNO announced the “Universal Declaration of Human Rights”, one of its first forward-looking acts of worldwide significance. The remembrance of Auschwitz, the remembrance of the terrors under Nazi leadership and war crimes in general took humanity to a common and irrevocable “point of no return”. Therefore, this declaration has a significant anamnestic basis as well as a resulting appeal: Auschwitz—and the same is certainly true for Hiroshima and all other crimes against humanity of the last century—must never happen again. This historic answer to the human disaster of Auschwitz first resulted during the following decades in the formulation of supranational and international law and was then incorporated into national jurisdiction (for example into the Constitution of the Federal Republic of Germany) and the jurisdiction of national federations (for

example, though much later, the declaration of the basic law of the European Union in 2000).

In fact, says philosopher *Rolf Zimmermann*, the unprecedented events of Auschwitz have to be seen as a “generic breach” and “generic failure” (Zimmermann, 2005, p. 32), in the same way as the historian *Dan Diner* talked about a “civilization breach” in the 1980s (Diner, 1988). Racial anti-Semitism, the exclusion of the Jews from the human species, which was the leading idea of the Holocaust, resulted in a moral breach because it was the embodiment of complete inhumanity. Humanity, says *Zimmermann*, can only be retrieved through the radical negation of this inhumanity (Zimmermann, 2005, p. 87). The proclamation and eventual propagation of general human rights is a negation of this experience of inhumanity through Auschwitz and the world war. Therefore, human dignity and human rights result *ex negativo* from a historic experience (of suffering), that is from *remembrance*.

2 Remembrance as the Guiding Idea of Human Rights Education

The empirically comprehensible justification of human rights is to be found in the ability of humankind to remember not only as an individual but also as a collective and in a community. Remembering the terrors of the past, especially concrete victims of history, makes us struggle over and over again for more humanity. Not only the proclamation and international aspects of human rights are guided by remembrance, the justification of human dignity in itself is anamnesticly motivated. An “ethics of memory” (Margalit, 2002) is based on recalling concrete historic events. Remembering the agonies of the past, *memoria passionis* in Latin, results in an awareness of human dignity, an ability to distinguish between ignobility and dignity, an ethic sensitization which would remain in a vacuum without remembrance (Metz, 2006). Remembrance of inhumanity activates humanity.

In doing so it is fundamental to remember particularly the sufferings of *the others*, not only those of one’s own ethnic group or nation. If a nation only remembers its own agonies and sacrifices, it is at risk to transform these memories into feelings of hate and revenge against the descendants of those who once humiliated them.

In terms of educational theory, this means that the confrontation with historical events (situations of suffering in general and the extreme of the holocaust in particular) can raise the awareness of and sensibility for the wrong, for injustice and the neglect of human rights in the learning individual or in a learning community, which can develop—if you want to say it in a positive way—into a sensibility for human dignity and the already phrased human rights.

Generally said: The human being is a being who remembers. The human being is human because it has the ability to remember. “We are Remembrance” is the

German title of a book by the American social-psychologist Daniel L. Schacter, which is a very good description of the facts (Schacter, 1996). For example, individual and social identity, friendship and human culture are only possible for beings who can remember.

Also the religions of the world have to be seen as remembering communities and memorizing brain collectives (Jahrbuch für biblische Theologie, 2007; Petzel & Reck, 2003). They provide a space for remembrance. For example, religions remember their dead in a special way by giving their memory a liturgical and in most cases also a tangible space (like cemeteries). Remembering the dead opens a space for humanity, where the human being is not degraded into a disposable product, but is rooted in the memory of fellow humans and God. The word “human” stems from the Latin “humare”—to inhume, to bury.

The liturgical act of remembering the dead wrests them away from the grave of oblivion. Even those who have apparently already been forgotten, the people of the past, the victims and the beaten of history, have—according to the religions—not just disappeared, but they are with God or “preserved” in the divine. God, this is the hope of all monotheistic religions, does not forget anybody who has ever lived, and especially not those who are no longer remembered by anybody today. A virtually secular form of remembering the victims is to be found in memorial stones, memorial places and historic sites, which “give a name” to those who have vanished (Yad Vashem: “a memory and a name”; see Isaiah 56,5).

Remembrance can act as a medium of humanity (a “remedium” or remedy according to Manemann, 2009) against the inhumanity of a society. Human rights are not a “cloudy idea”, but a perspective for the future of humankind evolving from the memory of suffering. The same is true for the learning of humanity and human rights education.

3 A Critical Reflection on the Discourse of “Culture of Remembrance”

The cultural scientist *Aleida Assmann* has subjected the term “culture of remembrance”, which has been widely used since the turn of the century, to a critical analysis and revision (Assmann, 2013). In Germany, a dramatic change has taken place during the last 2 decades: The remembrance of the Holocaust has meanwhile been firmly institutionalized in German society. The character of this culture of remembrance is extensively affirmative, be it politically staged (on commemoration days, with the help of ritualized acts), expressed in cultural terms (e.g. monuments, stumbling blocks, art, theatre, songs), communicated in the media or put into practice in the educational sector (e.g. school activities on November 9th, the day of the destruction of the synagogues by the hand of the Nazis, or January 27th, the day of the liberation of death camp Auschwitz). The danger here is that the disturbing momentum of these memories, their unsettling

and arousing elements, get lost due to the mere ritualization of this culture of remembrance. The Holocaust, as *Zygmunt Bauman* has put it in his sociological analysis of the extermination of the Jews by the Nazis, nowadays appears “like a framed picture on the wall, which is clearly separated from its surroundings and has nothing to do with the rest of the furniture” (Bauman, 1989, p. 7). Everything is in a comfortable order: The social activities (in the “living room”, in the “kitchen” etc.) are going smoothly; the Holocaust has been “enclosed” in the picture on the wall, which is indeed present in a ritualized form of remembrance, but has nothing to do with everyday life. It almost looks as if “we are finished remembering” (Assmann, 2013, p. 71). The culture of remembrance is in the danger of being fixed in the past, of being ritualized, of becoming the victim of political correctness and gradual habituation and boredom. This culture of remembrance puts to sleep, but does not awaken, it tranquilizes, but does not disturb.

As opposed to that, we have to develop the “potential of transformation” and the critical dynamics (especially with regard to society) of remembrance and a culture of remembrance (ibid., p. 75). Remembrance is the opposite of fixation in the past, it is “realization of the past” (ibid., p. 205) and has an ethical framework asking for an orientation towards actions in present-day life when confronted with inhumanity, group-specific hostility, racism and new forms of anti-Semitism, Islamophobia etc. Insofar, the “discourse of remembrance” can be interpreted “as a chance for critical self-reflection” (ibid., p. 209).

The educational potential of remembrance surfaces in this transitory potential, because change in a society is only possible if the individuals living in this society are willing to change, and this presupposes a process of formation and education (Boschki and Gerhards 2010). The ethical orientation of remembrance and critical self-reflection require teaching-learning-processes which labor hard when looking into the past, which make possible historical awareness and sensitize for present problems and experiences of suffering. Fighting all forms of indifference for the fate of other human beings—be it in the past or in the present—is essential for this process of “human rights education”.

4 The Human Being as Spectator? Criticism of Indifference

As an example we will use a picture, a photo, which shows one of the many scenes of war, injustice or poverty. While we look at this picture, we will possibly see victims as well as offenders. At the moment of looking at the picture, we are neither one nor the other. But when we change the perspective and imagine that the people on the photo are watching us, the question is: Where is our standpoint—on the side of the victims or on the side of the offenders? Neither, nor? Apart from the scene, on the edge? In any case, at this moment we are spectators: We are watching the injustice and the misery and cannot back out of the situation of looking on. I think

that it is increasingly important to become aware of this basic state of the human being, the state of an onlooker in the face of human dignity and human rights or their violation. The role of onlooker does not allow neutrality. The pictures of other human beings, which we can see for example in the media, challenge us to state our opinion. We are neither victims nor executioners, but spectators or onlookers; even if we avert our eyes, close the newspaper or switch off TV and computer, we linger in this role imposed on us. This theme can already be found in the writings of *Albert Camus*, who postulated an existence of the human being beyond that of victim or executioner (Camus, 1946/1965).

The survivor of Auschwitz *Elie Wiesel* dedicates himself in a very intensive way to this topic. His work represents the realization of a “Culture of Remembrance”, because from remembering absolute inhumanity it develops the power to live a radical form of humanity in solidarity with those suffering today. *Wiesel* does not tire of stressing that at the time when European Jews were ostracized, sent to concentration camps, deported and killed, there were too many spectators who thought they could practice neutrality (*Wiesel*, 1958/2006). A very impressive scene from one of *Wiesel*’s early novels, which is also an autobiographic replica, demonstrates the inevitability of adopting the role of a spectator (*Wiesel*, 1962/1982, pp. 149–151):

I can still see him, that Saturday. Jews were filling the courtyard. On their backs they carried whatever they had saved of a lifetime of work. Knapsacks into which the old had stuffed their past, the children their future, the rabbis their faith, the sick their exhaustion. The wandering Jew was about to set out again, the exile’s staff in his hand. The wandering Jew was headed toward the physical liquidation of his difficulties: toward the ‘final solution’. At last the world was to be relieved of the great problem that had haunted it for two thousand years! Now at last it would be able to breathe!

No one in the crowd was crying. No one wailed or even spoke. Ghosts, thronging up from the depths of history. Fearful, silent ghosts. They awaited the order to move out. Hungarian police, black feathers in their hats, came and went, rifles at the ready, bludgeons poised.

My parents and I stood close to the fence: on the other side were life and liberty, or what men call life and liberty. A few passers-by; they averted their faces; the more sensitive bowed their heads.

It was then that I saw him. A face in the window across the way. The curtains hid the rest of him; only his head was visible. It was like a balloon. Bald, flat nose, wide empty eyes. A bland face, banal, bored: no passion ruffled it. I watched it for a long time. It was gazing out, reflecting no pity, no pleasure, no shock, not even anger or interest. Impassive, cold, impersonal. The face was indifferent to the spectacle. What? Men are going to die? That’s not my fault, is it? I didn’t make the decision. The face is neither Jewish nor anti-Jewish; a simple spectator, that’s what it is.

For seven days the great courtyard of the synagogue filled and emptied. He, standing behind the curtains, watched. The police beat women and children; he did not stir. It was no concern of his. He was neither victim nor executioner; a spectator, that’s what he was. He wanted to live in peace and quiet.

His face, empty of all expression, haunted me for long years. I have forgotten many others; not his. The Hungarian police were cruel. Of them my memory has retained only a vision of detached figures: a mustache, a rifle butt, a gleam of animal joy. And so it is with the Germans: I remember their gestures, their raucous shouts, their icy and methodical brutality. But the only face that my memory has retained intact is his.

I felt neither hate nor anger toward him: simply curiosity. I did not understand him. How can anyone remain a spectator indefinitely? How can anyone continue to embrace the woman he loves, to pray to God with fervor if not faith, to dream of a better tomorrow – after having seen *that*? After having glimpsed the precise line dividing life from death and good from evil?

In Germany I thought of him: what is he doing? Does he sleep well, deeply? Does he eat when he is hungry? Does he remember?

The others, all the others, were he. The third in the triangle. Between victims and executioners there is a mysterious bond; they belong to the same universe; one is the negation of the other. The Germans’ logic was clear, comprehensible to the victims. Even evil and madness show a stunted intelligence.

But this is not true of that Other. The spectator is entirely beyond us. He sees without being seen. He is there but unnoticed. The footlights hide him. He neither applauds nor hisses; his presence is evasive, and commits him less than his absence might. He says neither yes nor no, and not even maybe. He says nothing. He is there, but he acts as if he were not. Worse: he acts as if the rest of us were not.”

This story, told by *Wiesel* in a novel many years after the eviction, procrastination and murder of his family and community, initially puts the reader into the perspective of the victim, but in fact we who are listening to the story are not on the side of the victims, but we are standing upstairs at a window—we are spectators. To become aware of this role, to reflect upon it and to draw consequences, these are the main elements of an educational culture of remembrance which can open out into human rights education. Fighting disinterest in situations of suffering in our times has its origin in being sensitized for situations of suffering in the past.

Out of this motivation and based on his own experiences at Auschwitz, *Elie Wiesel* has shown a very strong dedication to human rights in different parts of the world. To give only some examples: 30 years ago, he provided needy people in Cambodia with food and medicine, and during the time when Nelson Mandela was still imprisoned, he protested against Apartheid and racism in South Africa. In Mexico, he called the world public’s attention to the oppression of the Miskito Indians, he publicly denounced the eradication of the Arché Indians in Paraguay, he demanded observation of human rights in the former Soviet Union, and in the 1990s he traveled to former Yugoslavia to manifest his solidarity with the victims and his disgust for the war criminals. Finally he became special emissary of the UNO for human rights questions in the Kosovo conflict. Indifference, according to *Wiesel*, gives executioners and offenders rear cover for their actions. The only help for victims in situations of conflict is to show solidarity and to raise one’s voice on their behalf.

The writings of *Emanuel Lévinas* also reflect this non-indifference, when the look into the face of another human being, a look which can never be neutral and indifferent, becomes the centerpiece of his ethical philosophy (in summary: Lévinas, 1946/1987). This non-indifference is for both the novelist *Wiesel* and the philosopher Lévinas fed by remembering the horrors of the Shoah.

5 Humanity Resulting from Remembrance: An Impulse for Human Rights Education as Part of Religious Education

The above-mentioned “non-indifference” becomes the decisive focus for education in general and for human rights education and religious education in particular. Up to today, the discourse about human rights education (Benedek, 2006; Dangl & Schrei, 2010; Lenhart, 2003; Lohrenscheit, 2010; Mahler & Mihr, 2004) has thoroughly been conducted only in a few cases concerning the significance of *historical* remembrance and *historical* learning (Borries, 2011; Schwendemann & Oeftering, 2011). Learning through remembrance can initiate the process of reflecting one’s own role of spectator—both backwards into the past as well as with a view to present events (e.g. the fate of refugees). Thus, anamnestic learning would mean to understand the mechanism of discrimination and group-specific hostility, of ostracism and deportation, to show solidarity with the victims and to raise one’s voice on their behalf.

It is an important task of religious education to act in accordance with such a historical sensitization in support of an education towards humanity. Nowadays, religious education can no longer be understood only as integration into a specific religious tradition, although this aspect is still relevant for many acts of religious education. However, in a plural society religious education has to be contextualized and conceptualized in the wider horizon of individualism, society and religious community. Here—according to *Karl Ernst Nipkow*—five dimensions of religious education are of significance (Nipkow, 1992, pp. 32–36; Boschki, 2011):

- the dimension of the subject and the individual;
- the dimension of politics and society;
- the dimension of tradition;
- the dimension of dialogue;
- the prophetic, utopian dimension of the future.

All five dimensions are of the same importance and significance. When they are worked through for the topic of human rights education based on a culture of remembrance, this results in educational tasks and motives on all five levels: On the individual level, human rights education is equivalent to a sensitization for concrete, individual situations of suffering in the past, for example in the confrontation with testimonials and individual biographies from the time of the Shoah, resulting in a personal solidarity with the victims (see also Koerrenz, 2013). On the political level, the distribution of power, situations of oppression, political mechanisms of injustice and their causes can be explored and brought to awareness (critical, elaborate and politically aware contemporariness of religious education). The traditional level is looked upon by using interpretation patterns from a religious historical tradition, which have developed a woe-sensitive language for situations of suffering in e. g. biblical times and which are able to inscribe through the mode of lament historical suffering into the relationship with God. The dialogical level of

religious education commits both teachers and learners on the basis of their own religious tradition to constantly engage in a respectful dialogue with other religious traditions, which can lead to a deepened understanding of the remembrance of suffering humans belonging to other religions. Finally, the prophetic, utopian and forward-looking level of religious education plays a decisive role for the horizon of remembrance: It does neither stand still in the past nor even in the present, but draws attention to the future of human cohabitation on the basis of a sensitization for history. Here, the dimension of (religious) hope provides a guiding perspective giving an inner orientation to historical-political events and resulting actions.

Through the negation of inhumanity, religious education on this level develops visions and concretions for a humane living together of individuals, cultures and religions, which are first of all directed towards two goals: First, preventing a repetition of this kind of inhumanity by all means, and second, fighting all forms of indifference to the fate of other people. *Religious education has a potential to become an “education against indifference”, which means education to sensibility, solidarity and humanity.*

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Prof. Dr. Reinhold Boschki is Professor of Religious Education at the Faculty of Catholic Theology at the Eberhard-Karls-University Tübingen, Germany.

Educating for Human Rights from the Jewish Perspective: Principles and Methods

Zehavit Gross

Abstract The objective of this article is to analyze the significance of the human rights concept in Judaism and its implications in religious education. To begin with we will explain the nature of the concept according to the Jewish perspective, and then demonstrate how we can educate for human rights in the framework of Jewish education, through the case-study of the obligation to remember the Exodus of the Jews from Egypt, and its practical implications as reflected in the Seder—the ceremony conducted during the feast of Passover. Employing Feuerstein’s mediating learning theory will enable us to broaden understanding human rights research and education.

Religion’s role in the context of human rights is an ambivalent one; on one hand, the religions themselves emphasize the need for a discourse of rights as a prerequisite for upholding their religious commandments, yet on the other hand religion itself is frequently perceived, in various nations and different cultural contexts, as a source of human rights’ violations. This is particularly the case in the way in which anti-humanist contents are disseminated by religious entities and in the often problematic manner in which religious establishments conduct themselves. The question arises then, if there is a problem in religion itself, or in its interpretation—in the manipulative use that people make of religion, in religion’s name. An in-depth discussion of the question concerning Judaism requires us to return to the Jewish textual sources themselves, and to identify and extricate the substantial humanist and educational potential found there as an educational source for teaching equality, freedom, and upholding human rights.

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Z. Gross (✉)

School of Education, Bar Ilan University, Ramat Gan, Israel

e-mail: grossz@biu.ac.il

1 Human Rights and the Torah

Human rights are a fundamental value in Judaism and appear in the Torah (The Pentateuch, also termed the Five Books of Moses, which constitutes Judaism's founding legal and ethical religious text) in the context of two constitutive events: the Creation, and the Exodus from Egypt. In its descriptions of the Creation, the Torah indicates that man was created in the image of God, a situation granting human beings advantages over other creatures. In connection with this, the demand is made to uphold the rights of others, because injuring a person's basic rights as a human being implies injuring God. The story of the Creation in Genesis presents matters explicitly: 'So God created man in his own image, in the image of God created he him: male and female created he them' (Genesis 1:27). The Mishnah (redactions of Jewish oral traditions) relates to these verses in terms of man's uniqueness, and his primacy over other creatures: 'Therefore, humans were created singly, to teach you that whoever destroys a single soul [of Israel], Scripture accounts it as if he had destroyed a full world; and whoever saves one soul of Israel, Scripture accounts it as if she had saved a full world' (Mishnah, Sanhedrin 4:5). The basis of equality between humans derives from the fact that human beings are God's creation because each one is singular and distinctive: the world was created for them. Human rights reflect the primacy of humans over other creatures. At a later stage, this important statement constituted the basis for drawing up the United Nation's Declaration of the Rights of Man, as a collection of natural rights of people which are not conditional on the qualities, origin, race, and sex of the person or any other designated group, but solely in connection with their belonging to a group defined as human beings who were created in God's image (see Geiger, 1999, and also Brandes, 2013).

In Jewish perspective, the story of the Creation is the very foundation of the fundamental human values. Rabbi Yehuda Brandes (2013) contends that from the point of origin, the Creation of Adam in God's image, stem the values fundamental to human life—human dignity, equality, freedom, family, and property. These fundamental values are not abstract and are not presented in the Torah as recommendations, or to glorify the Sages, but they have binding validity in the *Halacha* (Jewish law). In order that human beings meticulously adhere to those fundamental values which are the underpinnings of upholding human rights, the Torah sets forth in a binding manner a series of positive and negative commandments. Brandeis maintains that the value of life derives from the commandments "Thou shalt not kill" and "Thou shalt not profit by the blood of your neighbor"; from the value of dignity derives the prohibition of slander, gossip, and hypocrisy, as well as the obligation to tend people appropriately after their deaths—that is, the commandments of eulogizing and burial. From the attitudes and respect given to the dead in the Jewish perception we can understand the importance and consideration given to human dignity in life and that it stems from the fact that man is made in God's image. Brandeis also argues that the civil law, the prohibition of theft and extortion, the laws of property, land, and commerce all derive from the value of property.

Deriving from the values of equality and freedom are the commandments addressing the laws of labor relations, dealing with an employer's duty towards his employees (when and how their wages should be paid). Further, he argues that from the description of the creation of Adam and Eve, mankind learned the value of the family, the value of couple-hood, and the duty to procreate. Deriving from these biblical descriptions are commandments that institutionalize relationships within the nuclear family between a man and his wife, parents and children, and also in the family's wider circle. The Torah moulds the behaviors and relationships between human beings that derive from the natural human rights accruing to people, but anchors them through structured lawmaking that awards them binding validity according to the *Halacha*. One of the most central events in the Jewish people's chronicles, the Exodus and many commandments deriving from it are fundamental to upholding human rights.

2 The Exodus and Human Rights

The flight from Egypt is described extensively in the book of Exodus. According to the biblical story, Egypt's ruling Pharaoh (whom some assert was Ramses II) enslaved the children of Israel. Moses, the Jews' leader, and the emissary of God beseeches Pharaoh to free the Jews from slavery but Pharaoh refuses: "And the Lord said unto Moses, Pharaoh's heart is hardened, he refuses to let the people go" (Exodus, 7:14). God then inflicts ten terrible plagues on Egypt until—with the final plague, the killing of the firstborn—, Pharaoh asks Moses to take the Children of Israel to the Sinai Desert.

Three days later he changes his mind and the Egyptian army pursues the fleeing Children of Israel. The Red Sea miraculously splits into two halves, allowing the Children of Israel to cross over on dry land, while the Egyptian army drowns before their eyes. The Passover holiday marks the Exodus from Egypt, and the Passover Haggadah (the text that sets out the order of the Seder meal held on Passover eve) is a constitutive text for Judaism that also commemorates the historical event. The Exodus from Egypt turned out to be remembered as an event in which the Jews were transformed from a bunch of slaves into a national entity—a nation. Remembering the Exodus is one of Judaism's central religious commandments. The transition from slavery to freedom is stressed in many of its religious commandments and the obligation to remember is embedded in numerous religious rituals and occasions. The Exodus from Egypt is a substantive case-study providing a historical and moral foundation which demonstrates the outcome of violating human rights. This is the reason that there is a commandment in Judaism stating: "And thou shalt tell thy son in that day, saying: It is because of that which the Lord did for me when I came forth out of Egypt" (Exodus 13:8)—meaning it is the father's duty to regularly tell his children about that historical event when the basic human rights of the Jewish people were violated, and when the Egyptian tyrant Pharaoh attempted to systematically commit genocide.

According to the Jewish outlook, without understanding the nature of enslavement one cannot grasp the significance of freedom, or the importance of legislating and complying with human rights. As noted previously, according to the Torah the Children of Israel became slaves in Pharaoh's Egypt, and their situation is described in detail in the Book of Exodus: "Therefore they did set over them taskmasters to afflict them with their burdens. And they built for Pharaoh Treasure cities" (Exodus 1:11). In addition to building cities for Pharaoh, they had to pay huge amounts in taxes. The Torah describes the labor they had to perform as "hard bondage". Here, the Torah which generally avoids using unnecessary details, emphasizes the fact that the Egyptians made their lives bitter with harsh labor, accompanied by torture and gratuitous sadism, stating "And they made their lives bitter with hard bondage, in mortar and in brick and in all manner of service in the field: all their service, wherein they made them serve, was with rigor" (Exodus 1:14). Midrashic interpretations describe how the Jews would return to their homes after their day of harsh labor like broken vessels and human dust. The lowest point of those barbaric acts finds expression in Pharaoh's decision to murder the Jewish people, with his explicit order 'Every son that is born ye shall cast into the river' (Exodus 1:22).

It is a human tendency to forget traumatic events, as part of a self-protective mechanism. The Torah demands that the memory of slavery be remembered and preserved, so that people will understand the nature and importance of freedom, and particularly the need to preserve and protect the freedom and human rights of others. This is why the Ten Commandments begin with the words "I am the Lord your God, who brought you out of the land of Egypt, out of the house of slavery" (Exodus 20: 1-17). In other words, because you left Egypt—where you lived as slaves and were deprived of your freedom, which was later restored to you—you must fulfill several fundamental human obligations, such as "Thou shalt not kill", "Thou shalt not commit adultery . . . steal . . . covet" and so on. There are fundamental urges and drives that can motivate human beings to take away from others their fundamental right to life, dignity, and property. The Ten Commandments also explicitly prohibit such behavior, stemming from the basic divine injunction "I am the Lord thy God" which is intended to obligate mankind, rather than leaving matters to the goodness of people's hearts or a moral decision, and to remind them of the Exodus from Egypt and their liberation from slavery. The religious injunction in a moral context stems from humanity's being created in God's image, which requires human rights to be preserved—and accordingly, injuring others is an injury to God.

The Torah does not talk about human rights but rather about obligations. One of the characteristics of the Jewish world is creating an affinity between freedom and obligations. Freedom is not an abstract concept but a concept that entails obligations, and in fact the undertaking to preserve human rights stems from it. Consequently, religious education preserves human rights not only as the outcome of human understanding and agreement between human beings; it is chiefly the outcome of an inner religious moral undertaking from which in turn other religious commandments stem (see also Gross, 2010).

3 Between Freedom and Obligation

The Exodus from slavery in Egypt to freedom was a constituting event in the life of the Jewish people, and in fact for the lives of mankind. That basic freedom derives from a series of concrete religious obligations, and so Judaism created a direct connection between freedom and obligations. The Seder night is celebrated on the 15th day of the month of Nissan and opens the holiday of Passover which lasts for 7 days. It is a religious-national ceremony of commemoration during which adult participants discuss with the younger ones the ties between freedom and obligations, since from the obligation to remember bondage in Egypt derives an extensive collection of religious commandments and obligations that “recall the Exodus from Egypt”. Among them is the commandment to protect the weak in society: “Also thou shalt not oppress a stranger: for ye know the heart of a stranger, seeing ye were strangers in the land of Egypt” (Exodus 23:9) and “When thou gatherest the grapes of thy vineyard, thou shalt not glean it afterward: it shall be for the stranger, for the fatherless, and for the widow. And thou shalt remember that thou wast a bondman in the land of Egypt: therefore I command thee to do this thing” (Deuteronomy 24:21-22). The Torah notes explicitly that because the Children of Israel were slaves in Egypt and were deprived of their fundamental rights, they understand the importance of ensuring the basic rights to others. But the Torah does not leave that undertaking to the goodness of individual hearts, and anchors it in a religious injunction, awarding *Halachic* validity to the obligation to ensure human rights. Therefore the collective memory of slavery in Egypt must always be in peoples’ minds and they are obligated to preserve the rights of others. In the Jewish perception, that obligation imbues freedom with meaning, and transforms the abstract concept of freedom into one with concrete significance. In the Jewish perspective, the ostensible spiritual subjection of people to God liberates them and grants them true freedom. Rabbi Yehuda Halevy distinguishes between slaves of time—people who are enslaved by material pleasures—and the slaves of the Lord, who grants man inner autonomy and significance. Halevy phrased his interpretation in the verse:

The slaves of Time are the slaves of a slave | Only the slave of the Lord is free.!

Therefore, while other men seek their portion | ‘The Lord is my portion’ says my soul.
(source: a traditional song)

This is why the Jewish sages said that “only one who studies Torah is free because anyone who studies Torah becomes elevated” (Mishnah, Pirkei Avot 6:2). Engaging in studies of Torah and spirituality is perceived as liberating people and awarding them true freedom. It is noteworthy that the Jewish perception maintains that first the Children of Israel left Egypt and slavery, and only later chronologically they were given—at Mount Sinai—the Torah and a set of laws central to which are the values of human dignity, upholding human rights, and freedom. The dialectic between a reality that lacks both freedom and obligations creates four possible situations, shown in Table 1.

Table 1 Types of relationships between freedom and obligation

	Freedom exists	Freedom does not exist
Obligation exists	Autonomy	Slavery
Obligation does not exist	Anarchy/lawlessness	Subjection

Source: Own table

The table presents the four types of affinity created in the encounter between liberty and commitment:

- Autonomy exists where there is freedom and obligation.
- Where there is freedom but no obligation, there is solely “freedom from . . .” which frequently leads to anarchy.
- Where there is no freedom but there is obligation, there is frequently a situation of slavery.
- Where there is no freedom and no obligation, there is frequently a situation of subjection.

The Seder night ceremony and all it entails engages with education for autonomy in the profound spiritual sense—not technical autonomy in the abstract meaning of “freedom from . . .” but turning the mind towards the sublime spiritual aspects of life.

Contemporary liberal humanism strongly emphasizes the rights of the individual: “Human rights are natural rights and the rights awarded to individuals who are human beings by virtue of their nature and human dignity, independent of the power of any authority, since rights, according to these theories, are not granted by human authorities, for there is no such authority entitled to grant them” (Gavison, 1985, p. 42). Contrasting with that approach is the religious approach which primarily presents individuals’ duties with an affinity to individuals’ obligations to preserve the rights of others (see also Ariel, 1997). Religious education is focused on education for obligations, and the dialectic between freedom and obligations is at its very heart. Religious obligation builds a world of rights and liberty. Rabbi Jonathan Sacks distinguishes between freedom and liberty in the Jewish perception. He argues that “liberty means stepping out of slavery [. . .] Liberty is the ability to do what I want to [. . .] Freedom is the decision to do what I must do [. . .] Freedom is a moral and religious matter and without freedom there is no liberty” (Sacks, 1996, p. 6). We can summarize Rabbi Sacks’ words through concepts which Erich Fromm (1965) coined in his book *Escape from freedom*, where he draws a distinction between “freedom from . . .” which means the individual frees himself to do as he wants, and “freedom to . . .” meaning the freedom to choose to do what he is obliged to do.

4 The Passover Seder as a Case-Study of an Educational Ceremony Engaging with Education for Human Rights

The Passover Seder is an educational ceremony revolving around education for freedom and human rights. As the ceremony unfolds, the participants learn about the nature, substance, and the bitter taste of bondage, and the sublime value of freedom which is the foundation for redemption.

Historically, the memory of the Exodus from Egypt was commemorated through Passover sacrifices conducted in the Temple of Jerusalem. Following the destruction of the Second Temple, the Jewish Sages created a ceremony and the Haggadah—the pivotal text of the Seder in which every year those participating in the ceremony introduce innovations and new interpretations. The duty to remember the Exodus from Egypt and the obligation to “tell your son” are eternal obligations. The Seder ceremony is conducted on the first night of Passover in order to institutionalize memory in a formal ceremony which is repeated regularly each year. The Seder’s pivotal pedagogic-educational approach is pedocentric, placing at the center the youngest child and the questions he asks during the ceremony, which are anchored in the religious obligation of the commandments in the Haggadah. The ceremony begins with four questions that the youngest child asks; all of them are related to the first question: “Why is this night different from all other nights?” The whole of the text that follows in the Haggadah replies to that basic question asked by the child.

The traditional Haggadah is a canonical constitutive text which is primarily concerned with freedom, in its universal and religious sense, and with human rights. To avoid the discourse of freedom being over-abstract, the Seder ceremony is accompanied by a series of tangible and symbolic actions that reinforce the message of freedom, and elicit discussions of its actual and practical expressions. During the Seder ceremony all participants must pour themselves four glasses of wine; they are commanded to eat and drink so they can feel like the children of kings. The sense of release is reflected in other palpable means, like the custom of reclining on pillows and couches draped with beautiful covers to create an atmosphere of freedom. There is a custom to serve diners with bowls for hand-washing, as is the custom when royalty and nobles dine, so that the participants will not have to take the trouble of washing their hands in the sink. There is a special Seder platter, on which the head of the family has arranged special foods which are symbolically related to the themes of freedom and slavery, and each of them provides answers to the four basic questions the child asks at the start of the ceremony. The ceremony of reading the Haggadah begins with the story of slavery, proceeds to a description of freedom, and ends with songs about spiritual and human redemption. The text includes verses from the Bible, texts from the Gemarah (rabbinical analysis of, and commentary on, the Mishnah) and legends, as well as songs sung in Hebrew and Aramaic. A central injunction in the Seder ceremony is that “In every generation a person is obligated to regard himself as if he had come out of Egypt, as it is said: ‘You shall tell your child on that day, it is because of this

that the Lord did for me when I left Egypt” (Passover Haggadah). Through their actions and by structuring the messages of the Seder, the participants are able to sense the experience of freedom unmediated. In the context of the Seder, memory is perceived as a certain version and variation of reality, since when the participants read the canonical texts they must interpret the words in a contemporary manner, adding to them new textual aspects and dimensions. All of this is aimed at teaching children in an unmediated way about the meaning of freedom, and the significance of the Exodus from Egypt in their own generation. In that contemporary spirit, the Zionist activist Yitzhak Tabenkin (1888–1971) discussed the Passover festival: “On Passover every Jew is obligated to ask him- or herself: When was I born? Where was I born? What historical memory do I carry with me? I look at my identity card and read the invisible script: ‘My parents were born as slaves in Egypt when Pharaoh the king of Egypt ordered the first genocide in history’. I too was there!”¹ The awareness and knowledge about those who departed from Egypt is not only a historical memory that existed in the past, but is also an immanent part of the collective and personal identity of every Israeli in the present. It is an integral part of his individual biography and identity card, and offers him resilience and the sense of ‘sameness and continuity’ in the words of Erikson (1963).

At the center of the Seder are three principal signs—three words about which the Sages said that anyone who fails to speak them has not complied with the commandment—“*Pessach, matza, maror*” (Passover, unleavened bread, bitter herbs). The bitter herbs signify the harshness of slavery, and the participants eat bitter greenery (some Jews eat horseradish or lettuce to tangibly and symbolically recall the bitter taste of slavery) and to the question in the Haggadah “Why do we eat maror?” The answer is “Because the Egyptians embittered the life of our forefathers in Egypt, as it is said”. The bitter herbs must be eaten with *haroset*—a sticky mixture of dates, almonds and apples signifying the mortar with which the Jews constructed buildings in Egypt. The matza symbolizes freedom. It is a mixture of flour and water that must be prepared very rapidly to ensure that the dough does not rise, and is baked at an extremely high temperature. The Haggadah asks “This Matzah . . . We eat for what reason? Because the dough of our fathers did not have time to become leavened before the King of the Kings, the Holy One, blessed be He, revealed Himself to them and redeemed them. Thus it is said: ‘They baked Matzah-bread from the dough that they had brought out from Egypt, because it was not leavened; for they had been driven out of Egypt and could not delay their departure, and they had also not prepared any [other] provisions’”. The Seder replaces the Passover sacrifice. Of this, the Haggadah says: “Passover – the Passover-lamb which our fathers ate during the time of the *Beit Hamikdash* [the Temple] – for what reason [did they do so]? Because the Omnipresent passed over our fathers’ houses in Egypt, as it is said: ‘You shall say, It is a Passover-offering to the Lord, because He passed over the houses of the children of Israel in Egypt when He struck the Egyptians with a plague, and He saved our houses. And the people bowed and

¹ <http://judaicseminar.org/tabletalk/bo5762.htm>.

prostrated themselves”’. The Passover sacrifice symbolizes a special combination of freedom and obligation since it denotes the freedom of leaving Egypt, yet on the other hand it is performed because of the injunction and the obligation to make the sacrifice that God ordered.

Rabbi Kook maintains that Jewish existence encompasses within three main forces: “orthodoxy. Which raises the banner of sacredness [...]? The second is the new nationalism [...] the third is liberalism [...] Who requires general human content of education, culture and morality? It is clear that in a healthy situation all three forces are necessary and we must always seek to attain that healthy situation . . .” (Kook, 1993, pp. 71–72). And indeed, discernible in the three components of the holiday (*Pessach, matza, maror*) are expressions of those forces that are needed for the healthy existence of the Jewish people. The unleavened matza represents the liberal idea of liberty and freedom. It is the bread of affliction that was hastily prepared on the way to freedom. The bitter herbs represent the national aspect since bondage implies transforming people into slaves, people who shaped their national entity within that terrible subjection, and in the process of the flight towards freedom. And Pessach, which is a sacrifice, represents the religious aspect that has national and liberal foundations. The ceremony on the night of the Seder has particularistic distinctive Jewish aspects but also universal dimensions dealing with spring, growth, blooming, renewal and freedom. The whole essence of the Seder is the mediating of freedom.

5 Educating and Mediating for Human Rights and Commitment: Implications for Religious Education

Education for human rights in the framework of religious education and the obligation that Jewish fathers must fulfill. In accordance with Torah’s teaching “And thou shalt tell thy son” to remember the years of slavery in Egypt, religious education must include two basic components—the theoretical and the actual. In the Jewish perception, which is tangibly reflected in the Seder ceremony, learning in general and learning in religious education more particularly occurs in two ways—directly and experientially by means of objects, and through mediated learning. The commandment of teaching one’s offspring is carried out both through active experiential education with the five senses as we saw above (hearing, vision, taste, smell and touch) that enable a methodical process of concretizing the abstract commandments required of individuals, but chiefly via what Feuerstein (1990) calls mediated learning which I believe constitutes the quintessence of religious education in general and education for human rights more particularly. I enlarge on this question below.

Mediated learning (Feuerstein, Rand, & Hoffman, 1979) is defined as a quality of human-environment interactions. The quality is created as a result of changes caused by the human mediator who is situated midway between the stimulus and

the learning organism. The mediator chooses and organizes the materials, allocates time, and determines the intensity and importance of the stimulus (Feuerstein, Klein, Abraham, & Tannenbaum, 1999). In this approach, the educational process is not a random one but methodical, guided and planned. Feuerstein indicates three major criteria which determine the quality of interaction in learning:

- (1) *Intentionality and reciprocity.* The interaction between an adult and a child is considered a mediated act only if the adult has the intention to mediate and if he/she projects her intention to the child. The mediating act takes place only if the child responds to the adult's invitation and internalizes it, thus creating reciprocity which is a condition for learning. In the Jewish tradition, the principal commandment at the heart of the Passover Seder text concerns interaction with children. If the children are uninterested in the interaction or do not participate in it, there is no ceremony and no Seder. In other words, parents must find creative ways of maintaining the children's interest in listening to the adult's obligation of telling "thy son". And indeed many families tend to give the children sweets, and let them prepare games and dramas to encourage them to participate, with the mediation of adults, so they can fulfill the commandment of the Torah and the main thrust of the Seder ceremony—"thou shalt tell thy son".
- (2) *Transcendence.* Mediation must be guided towards matters located beyond the actual stimulus; that is, the mediation process should cause a broadening of the child's system of needs. The mediating act has to impart to the learning child something that transcends the stimulus itself. That is, if we show children the unleavened bread (matza) they must understand that this is not just a food made of water and flour, but also a food signifying freedom. If the child engages only with the technical and visual sides of the illustrations and the experience of eating matza, the learning process will not generate much. Mediation's objective is to bring children to understand the significance of the unleavened bread in a broader, loftier sense. This understanding can only be achieved in a gradual, planned and guided process performed by the mediator. The mediator's role is to broaden the learners' repertoire of knowledge beyond the initial objectives, by creating generalizations and setting more remote goals. Thus the canonical text of the Passover Haggadah, the songs, stories, and illustrations, the different foods that I have described, all help the adult mediate the theme of freedom to the children.
- (3) *Mediating meaning.* The mediator imparts the stimulus and the reciprocal activity with a significance that is not part of objective entities. She charges the stimuli with emotions-values and this inculcates in the recipients a system of values in moral, cultural, and socio-political spheres. The direct result is that an orientation towards meaning is created within the children. Meaning is mediated in various ways such as the mediator's choice of material, emphases, the tone of voice used, the interaction's duration and so on. The whole essence of the Seder ceremony is mediating the meaning and understanding of what freedom consists, what its power is, and the appalling nature of slavery. The stimuli that the adult discloses lack meaning unless the mediator clarifies their

meaning. Disclosure alone, even the experiencing of eating and drinking during the ceremony, does not impart a sense of freedom, and it is only by explicitly clarifying the meaning that children can truly grasp the meaning underlying the experience of freedom.

To sum up, educating for freedom and human rights according to the Jewish perspective entails educating for religious obligations—it has a liberating potential, since it takes the child from the concrete and simple to the abstract and allows spiritual release and dedication to values that are not instrumental or interest-driven. Applying Feuerstein’s mediated learning principles is likely to provide a significant opening towards developing a broader theory for human rights education in the framework of religious education, and this should be examined in further theoretical and empirical studies.

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Prof. Dr. Zehavit Gross is Professor at the School of Education at Bar Ilan University, Israel, and holder of the UNESCO Chair in Human Rights, Peace, Democracy and Tolerance.

Part IV
Human Rights Education
and Religious Education:
International Perspectives

Collision of Contexts? Human Rights Education and Interreligious Learning in a Globalized World

Henrik Simojoki

Abstract If teens think about human rights and religion today, their point of view is increasingly influenced by factors, ideas and images that are fed from afar. This article intends to make the conflict-laden globalization of religion understandable in a social-sciences context and reflects on the challenges this poses both to human rights education and to religious education. The focus is on the question: How can religious education contribute to human rights education that takes into consideration the “new contextuality” of religion in the globalized world? The article answers this question in four main perspectives that present outlines of a “glocalizing” approach. These perspectives are continually illustrated in the area of interreligious learning, which is particularly important for human rights education.

1 When Contexts Collide: A Case in Point

I begin my article in a location that may be surprising in light of the title: instead of the large global stage, I start with confirmation training in a small town parish in Middle Franconia, Germany. The teens are visibly excited before this lesson—it’s no wonder: a bishop is a rare guest after all; and even more so if he usually works more than 7000 km away in Bangladesh. The ice seems to break quickly, though. The bishop tells exciting stories about the life and beliefs of Christian parishes in this fourth-largest Islamic country in the world. He ends his small lecture with an emphatic plea for a peaceful coexistence of the religions. Then the confirmands get to ask questions. After some hesitation, the first one wants to speak—with a statement that most likely no one expected. Freedom of religion has a nice sound to it, the 14-year-old says, but she increasingly feels that it is all just a one-way road. While Islam has been able to spread freely in Germany, Christians haven’t even

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H. Simojoki (✉)
University of Bamberg, Bamberg, Germany
e-mail: henrik.simojoki@uni-bamberg.de

been allowed to build churches in countries such as Saudi-Arabia. She thinks this is unfair and therefore cannot share the bishop's flowery point of view. What could have been a vivid exchange is replaced by awkward silence at first.

What was meant to be a relatively unproblematic process of ecumenical and intercultural learning turns into an interreligious dissonance based on the subject of freedom of religion, which the bishop had not even dealt with directly. Those who know the current human rights debate may be less surprised by this outcome than I was at the time: the classic human right of freedom of religion that had long been considered established has recently become subject to increased pressure for justification. As the sequence just described shows, the new demand for legitimization in public and scientific discussion is also essentially due to the increased social presence of Islam (cf. Bielefeldt, 2012).

I chose this example not only because of these convergences with the current discussion, but because a dimension that is hardly considered in current concepts of human rights education is compacted into it, i.e. that of space. Unrolling the communicative dynamics in this parish hall in a spatial perspective, the described conflict can be understood as a collision of contexts. The description of the multi-religious reality in Bangladesh causes the confirmand from Middle Franconia to question interreligious coexistence in her own home country. She does not base her objection to freedom of religion on the religious situation of her direct environment, but rather on the religious policy in faraway Saudi-Arabia, which she perceives as regressive.

This bundle of contextual references is a good reason to think in more detail about the effect the pervasive globalization of religion (more on this: Simojoki, 2012) has on human rights education of today's young people. I will proceed in four steps: First, some general considerations on the relationship of human rights education, contextuality and religion are offered, then a deeper look at the "new" contextuality of religion in today's global society is taken. Next I will inquire into the consequences of this new presence of religious topics in human rights education. In all that, I will limit myself to the currently intensely discussed field of the tasks of interreligious learning. Finally, I will continually try to keep an eye on the initial example, which in the end will bring this essay back to its beginning.

2 Human Rights Education in Context—Or: Why Human Rights Education Without Reference to Religion Remains Too Abstract

The question of contextuality of human rights requires some basic clarifications. It needs to be answered differently depending on whether the level of justification or the level of execution is involved. Careful distinction between these levels is particularly important with regard to the topic addressed in this article, since the relationship of religion and human rights differs on the two levels. On the level of

justification human rights are literally general: they are owned by every human being and therefore must not be made dependent on a particular worldview. Therefore, the attempts of a Christian, Islamic or other religion-based derivation of human rights, which reach all the way to our times, are not only historically inaccurate, but also generally illegitimate, because they undermine the necessary universality of human rights (cf. Graf, 2004, pp. 210–225; Bielefeldt, 2004). To put it shortly, human rights may be religiously validated, and even should be; however, they cannot be religiously constituted. On the level of justification, human rights are not a context phenomenon.

This is a little different on the execution or realization level, which is relevant for human rights education. As the UN-declaration passed in 2011 says, human rights education aims at the promotion of a “universal culture of human rights” (United Nations Declaration on Human Rights Education and Training, Article 4). For such culture, which includes knowledge acquisition and formation of consciousness, as well as cultivation of behavior, the opposite of what I just stated is true: In this regard, human rights do not exist generally; they do not exist away from the social, cultural and religious context in which they are embedded.

This insight is highly consequential for the determination of the relationship of religion and human rights education: it would thus only be possible to ignore religion in human rights education if religion were given a low or at least reduced cultural importance. As became clear in our initial example however, this is all the less possible, the more closely religious spaces move together in today’s globalized world. The previously dominant models of secularization or individualization of religion rapidly lose in explanatory power, once one looks beyond European Christianity. Instead of slowly dying or at least disappearing from the public area, religions around the world are noticeably vivid.

As a side note, the traditional world religions show this vitality most strongly, rather than, as Western religious research has long forecasted, privatized or newer forms of religion. Speaking of a “renaissance” or of a “return of the religions” (Riesebrodt, 2000) can lead to misunderstandings, since it may convey the impression that the religions had been about to fail or had even somehow “disappeared” in recent times. This is not the case—but increased mobility and media revolutions of the last decades have led to a clear growth of awareness of the continued importance of religion in current global society. Referring to the situation described initially, this means: not the restrictive religious policy of Saudi-Arabia is new as compared to the past, but rather its presence in the human-rights-related attitudes of a German confirmand.

3 The New Contextuality: “Glocal” Constellations of Interreligious Coexistence in the Global Society

How can the concept of globalization contribute to decrypting this ambivalent proximity of the remote in religious global society? First, it puts the question of the transformation of religion, which is usually discussed rather topically, into a spatial perspective. British globalization researcher Roland Robertson, who placed this topic on the agenda of sociology, considers the mutual penetration of global and local aspects the key moment of cultural globalization (Robertson, 1994). He illustrates his thesis using a popular example: Since Georg Ritzer’s global bestseller on the “McDonaldization of Society”, the fast food chain with the two golden arches has been deemed *the* symbol of global homogenization (cf. Ritzer, 1995). From this point of view, globalization appears to be the great equalizer of culture that overlays and displaces local particularities. However, for Robertson, who refers to empirical findings here (cf. Watson, 1997), McDonald’s serves as a prime example of the global being locally constructed and specifically adapted, even in its most commercialized forms. If one orders a Big Mac at the Nürnberg Hauptmarkt, one will experience fast food differently than if one does so—staying within the constellation of our starting example—in Bangladesh or Saudi-Arabia. In contrast to the horror scenario of a culturally assimilated world, local aspects are not dissolved in globalization processes. However, they don’t remain unchanged either. Instead: “contemporary locality is largely produced in something like global terms” (Robertson, 1994, p. 39). Robertson characterizes this interaction between global and local aspects with the catchy neologism “glocalization”.

What he means by this can be illustrated in our starting example: Here too, communication on site mixes with ideas that are fed from afar. However, this occurs in the same pattern of interpenetration that Robertson refers to. Of course, that confirmand had never been in Riad before. Rather, it’s the mass media images from her own environment that shape her attitudes. As a consequence, her statement on freedom of religion reflects both: the happenings afar and their interpretative processing on site. The theologian Robert Schreier speaks of a “new contextuality” of the religious in today’s world, which differs from past forms of such contextuality by being shaped and refashioned between the global and the local (Schreier, 1997, 1999).

In his opus magnum “Religions in Global Society”, the Canadian sociologist of religion Peter Beyer tries to get even closer to the globalization dynamics in the religious field (Beyer, 2006). Striving to understand the global differentiation and tension-laden coexistence of religions in today’s global society appropriately, Beyer’s basic thesis is: at present, religions operate in a shared frame of global reference. They develop, change and define themselves with continuous reference to each other. The manner of this interaction is decisive: in global society, religions do not interact as isolated and contextless entities, but only in specific, “glocally” determined constellations. This insight entails a pedagogical indication with a direct connection to the conflict situation of our initial example: whenever religion

is targeted in the context of human rights education, a specifying further question is needed: religion(s) in which “glocal” constellation?

4 The Decisive Question of Where. Incentives for Topographic Sharpening of the Educational Perspective on Human Rights and Religion

It follows from the foregoing paragraph that the global perspective on religion and human rights education leads to the necessity of localizing didactics. In addition to the classic questions of the “who”, the “what”, the “why”, the “what for” and the “how” of learning, the contextualizing question of the “where” is gaining in importance under globalized conditions. My previous considerations suggest aligning human rights education with the context-related constellations of multi-religious coexistence more strongly than before. Several interrelated levels of such constellations can be distinguished, all of which refer to primary challenges of a religion-sensitive human rights education. Below, I want to note four tasks that I believe to be of primary importance. The starting point for this is the relationship between Christianity and Islam, which turned virulent in our initial example.

4.1 Making the Most of Dialogue Potentials on Site and Not Avoiding Controversial Topics

The question of interreligious dialogue and understanding is mostly encountered “on site” by today’s students: They meet up with the Islamic religion in their direct proximity, albeit in regionally different intensity. They have a growing number of Muslim fellow students, neighbors, acquaintances and friends. In light of this, it is only logical that more recent concepts of interreligious learning have turned towards the religious everyday world of the students more strongly. The most ambitious attempt of religious education consistently aligned with the living environment of today’s youth was started at the University of Warwick, where Robert Jackson and his team presented an ethnographically founded model of religious learning (cf. Jackson, 1997). In this model, religions are no longer primarily studied dogmatically, but explored on site, as they are lived and experienced in their own context. This approach has found a wide echo in Europe; it has also influenced the conceptual debate on Religious Education in Germany, right up to concrete lesson materials for Christian-Islamic learning (for a particularly successful example, cf. Meyer, 2006). The focus lies mainly on the every-day religious life of identification figures of the same age. On their trail, students follow the call to prayer, learn about the local mosque, observe the believers there praying etc.

Looking more closely, however, it appears that the gain of local specification in this approach comes with a certain loss of discursiveness. The multi-religious life on site is developed on a phenomenal level, but not equally in what raises questions or is disputed. However, issues that are not consensual and matters of conflict in interreligious coexistence require contextualizing approaches too. I am certain that my confirmand would have phrased her question to the bishop differently, had she first had the opportunity to discuss her troubling question on freedom of religion with a Muslim dialogue partner.

Thus, human rights education at school should be a prominent field of interreligious cooperative learning for which the Christian Religious Education of both the Protestant and the Catholic confessions and the Islamic Religious Education that is slowly establishing itself in Germany should be jointly responsible, and this should occur on a discursive basis. Just as context-sensitive human rights didactics cannot avoid dealing with the subject of religion, interreligious education remains incomplete if it does not include the controversial question of human rights.

4.2 (Self-)Critically Assessing Presentations of Religion in Public Media

Nevertheless, religion-sensitive human rights education cannot be limited to the local realm. This is because the contacts with Islam reach further. Especially media reporting and the transnational communication channels of the internet, but also partially the students' own experience abroad, bring them more and more into contact with distant representations of the Islamic world religion as well. The images, impressions and valuations conveyed to them are often considerably different from their experience on site. Especially where there is little opportunity for direct encounters with Islam, the attitudes towards this religion can be strongly influenced by the conflict-determined presentations of modern information media (cf. Pirner & Lähnemann, 2013; Schulz, 2007).

Particularly in the context of human rights education, young people need to be able to deal critically with media presentation and representations of religion. Analytic approaches to reviewing classic and digital media formats for how and why they deal with a specific religion are only a first step in this direction. Additionally, as Dieter Baacke emphasizes, a media-critical self-reflexivity is needed (Baacke, 1997, p. 98). In consequence, media-critical approaches must be combined with learning forms that give the students the opportunity for self-assessment—especially with regard to the question of how the often conflict-determined media images and presentations shape and possibly distort their own perception of the other religion.

4.3 Cultivating the Ability to Distinguish Between Religious and Political Aspects in Human Rights Education

However, the multiple spatial references of globalized religion not only affect external perception of Islam in Germany. They characterize the situation and life-orientations of Muslims living here as well. In his book “Pädagogik der Menschenrechte” (Pedagogy of Human Rights), German educational scientist Volker Lenhard describes a situation in which these multiple references lead to conflict (Lenhard, 2006, pp. 91ff.). In a seminar on human rights education a devout Iranian Muslim student was confronted with the persecution of members of the Bahai religion in his home country. The student justified the repressive religious policy with the rules of Sharia, which he considered as indisputable, even if they were contrary to the human right of freedom of religion. There was a heated discussion, the focus of which slowly moved into the theological area. The Iranian student insisted on his point of view that everyone who did not follow Islam would be damned—which caused one fellow student to ask him how he felt among people, whom he had to assume would all go to hell in the end.

Against the conceptual background presented above, this sequence appears as a conflict in which the new contextuality of religion in today’s world emerges with a power that poses considerable challenges to all participants: the Iranian student experiences that the religious policy of his home country, which he believes to be legitimate, is regarded as a blatant violation of human rights in the cultural context of the place where he now lives. The German students feel challenged by a religious position that not only restricts the freedom of the individual, which is essential in their eyes, but also excludes them as non-believers from participation in salvation. The question of the German student clearly reflects hurting feelings involved in this. But it also includes a moment of intolerance, signalling: That is no way to think!

Once more, it becomes evident how the comprehensive globalization of religion exerts considerable demands on young people. In this specific constellation, the competence to distinguish between the political and religious levels of this religiously charged human rights conflict is of particular importance. In the case of the Iranian student, such ability would manifest itself in the insight that the criticism of the human rights violation in his home country is not raised against his basic Islamic conviction, but against its violent enforcement by the Iranian state. For his German fellow students, this conflict situation also contains productive learning opportunities: while they rightfully cite freedom of religion when opposing the religious legitimation of the Bahai persecution, this is not equally the case when they reject the dualist eschatology of the Iranian student. A culture of freedom of religion means permitting and tolerating points of view that one does not share or may even reject with indignation.

4.4 Developing Sensitivity for the “Multi-Referentiality” of Juvenile Identity Formation

I can only touch on the surface of a last aspect: the collision of contexts that was previously mainly dealt with in regard to interreligious conflict situations also has a subjective side. It is mirrored in diverse ways in the self-concepts and worldviews of today’s adolescents. This aspect has been thoroughly assessed in current empirical youth and migration research. In the relevant studies, it becomes clear that cultural self-localization and identity development processes young migrants cannot simply be derived from the allegedly homogenous cultures of origin or of the immigrant countries. Instead, cultural fragments from different spatial-biographic contexts are combined into individual mixtures that are often marked by considerable tensions. In the current social sciences debate such processes are conceptually addressed as “hybridization” (cf. Nederveen Pieterse, 2004), with a growing sensitivity for the fragile moments of this kind of identity work (cf. Bucakli & Reuter, 2004).

What may sound abstract at first takes a more concrete shape in an ethnographic field study on media-based identity construction that was conducted between 2003 and 2006 in Zurich (cf. Bonfadelli et al., 2008; Moser, 2007). For a period of a year and a half, eight families with Turkish or Turkish-Kurdish background were visited several times. In addition to qualitative interviews with the adolescents, their parents and friends, visual methods were also used to acquire insights into the identity constructions and cultural orientation of the youths.

One of the images presented in this study shows the room of Ulas, a 12-year-old boy with a Kurdish-Turkish background (Bonfadelli et al., 2008, pp. 234, 259). Above his desk, there is a poster of exiled Kurdish singer Şivan Perwer, while the CD rack at the edge is full of international pop music and his bookshelf is dominated by German copies of the Harry Potter book series. Many things could be addressed in a conversation about human rights with Ulas: The symbolically present experience of oppression in his country of origin, pop cultural individualism and even identity-relevant influences of the worldwide bestseller by Joanne K. Rowling, which essentially deals with the unimpeachable and always endangered right to be different. A complicated mixture appears here, which vividly shows the multiple references and complexity of processes of identity development under globalized conditions (cf. Simojoki, 2013).

5 Conclusion: Contextualization as a Way to Avoid Collision

And now—the last change of location. At the end of my article, I return to where my elaborations started. How did that conflict end? The bishop took up the girl’s question and answered it in a manner from which, I believe, a lot can be learned.

Neither did he reject her objection, nor did he lecture her about the importance of tolerance and freedom of religion. Instead, he introduced her to the specific religious constellation of his home country. There, freedom of religion was anchored in the constitution, and in spite of the increasing influence of Islamic movements, people's piety was still largely characterized by a peaceful brand of Sufism. As a bishop, he currently had more problems with the partially aggressive methods of evangelical missionaries in his country, because they based their missionary success too much on the number of conversions and showed too little consideration for individual sensitivities. His contextualizing approach to the girl's objection cannot be attributed to the perspective I have laid out here, but it can be better understood by drawing back to it. After all, it shows that the question of human rights today is not primarily different from religion to religion, but from context to context.

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Prof. Dr. Henrik Simojoki is Professor of Protestant Theology and Religious Education at the University of Bamberg, Germany.

The First Amendment and the “3 Rs” of Religious Liberty: A U.S. Approach to Religion Education and Human Rights

Bruce Grelle

Abstract This chapter first identifies an emerging international framework for thinking about religion education and human rights. It then describes an approach to teaching about religion in American public schools that is based on the First Amendment to the US Constitution and the “3 Rs” of religious liberty—rights, responsibility, and respect. While acknowledging both strengths and limitations, the chapter argues that this approach promotes respect for basic human rights while providing education about religion that is both constitutionally permissible and academically sound.

1 Introduction

Among the most significant challenges facing pluralistic societies in the age of globalization is an educational one, namely, learning how to live with deep religious, philosophical, moral, and cultural differences rather than being torn apart by them. It is in this context that the topic of religion and human rights education in public schools has taken on growing urgency. This chapter will outline a framework for thinking about the rationale and guidelines for a non-devotional, academic approach to teaching about religions and beliefs in public schools. This framework rests on several assumptions and arguments about the relationship between religion education and human rights, a relationship that sets the ethical, legal, and pedagogical context for teaching and learning about religion in public school settings.¹

¹ Although the distinction between “public” and “private” schools varies from country to country, in the present discussion “public schools” are those “whose organization, financing and management are primarily the responsibility of, or under the primary oversight of, a public body (state, regional, municipal, etc.). A ‘private school’ is a school in which, irrespective of whether it may receive degrees of support (including financial support) from public sources, matters of organization, financing and management are primarily the responsibility of the school itself, or of a non-public sponsoring body” (OSCE, 2007, p. 20. Major sections of this chapter are drawn from Grelle, 2013, 2015).

B. Grelle (✉)
California State University, Chico, CA, USA
e-mail: bgrelle@csuchico.edu

2 Religion Education and Human Rights: An Emerging International Framework

The United Nations Charter (1945) and the Universal Declaration of Human Rights (1948), along with any number of subsequent UN covenants, conventions, and declarations, make reference to “the right to freedom of thought, conscience and religion” (UDHR Article 18) and to the role of education in promoting respect for this right (UDHR Article 26.2).² In 2000 UNESCO published its “Dakar Framework for Action - Education for All,” which emphasized the role of schools in promoting understanding among religious groups and the need for governmental institutions to develop partnerships with religious groups in educational contexts. UNESCO’s Inter-religious Dialogue Programme has correspondingly aimed to promote understanding between religions or beliefs and publishes pedagogical material supporting education in the field of inter-religious dialogue.

The topic of religion education *per se* was the focus of the International Consultative Conference on School Education in relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination, which took place in Madrid in November, 2001. This conference was organized by the UN High Commissioner for Human Rights on the occasion of the twentieth anniversary of the General Assembly’s 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The “Final Document” of the Madrid conference underlined “the urgent need to promote, through education, the protection and the respect for freedom of religion or belief in order to strengthen peace, understanding and tolerance among individuals, groups and nations, and with a view to developing a respect for pluralism” (OSCE, 2007, p. 112).³ It asserted that each State “should promote and respect educational policies aimed at strengthening the promotion and protection of human rights, eradicating prejudices and conceptions incompatible with freedom of religion or belief, and ensuring respect for and acceptance of pluralism and diversity in the field of religion or belief as well as the right not to receive religious instruction inconsistent with his or her conviction” (Ibid., p. 113). It understood that “freedom of religion or belief includes theistic,

² See also the International Covenant on Civil and Political Rights (Article 18), the International Covenant on Economic, Social and Cultural Rights (Article 13), the Convention on the Rights of the Child (Articles 14 and 28), and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief.

³ The Madrid “Final Document” is included as Appendix IV in the *Toledo Principles*, pp. 109–116. An outcome of the Madrid conference was the organization of the Teaching for Tolerance project of the Oslo Coalition on Freedom of Religion or Belief, an international network of representatives from religious and other life-stance communities, NGOs, international organizations and research institutes. See <https://www.jus.uio.no/smr/english/about/programmes/oslocoalition/tolerance/index.html>, accessed 1/12/15.

non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief” (Ibid., p. 110).

In 2005 the UN launched the Alliance of Civilizations initiative. The Alliance was designed to counter the narrative of a “clash of civilizations” and the widespread influence that this idea has had on public attitudes and discourse in international policy. One of the projects of this initiative was the development of an online Clearinghouse on Education about Religions and Beliefs. Working through a network of partner organizations including universities, civil society organizations, and other UN and intergovernmental organizations, the clearinghouse has aimed to provide an international forum for discussions of religious education as well as such practical resources as teaching tools and syllabi, curricula, evaluations of curricular outcomes, and consensus guidelines that have been drawn up at various national and international levels (<http://aocerb.org/index.php>).

As outlined in Peter Schreiner’s chapter in this book, the Council of Europe (CoE) has long been engaged with the topic of intercultural education and dialogue, and it has organized conferences, produced reference works, and made recommendations to member states dealing with the religious dimension of intercultural education. Schreiner also discusses the *Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools* (2007). Prepared by the Office of Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE), the *Toledo Guiding Principles* are grounded on two basic assumptions: “First, that there is positive value in teaching that emphasizes respect for *everyone’s* right to freedom of religion and belief, and second, that teaching *about* religions and beliefs can reduce harmful misunderstandings and stereotypes” (OSCE, 2007, pp. 11–12). The *Toledo Guiding Principles* address issues of curricula and pedagogy, teacher education, and policies for implementing religion education programs that respect the rights of students and parents and that are consistent with international human rights law.

One noteworthy example of how a human rights-based academic approach to religion education has been translated into a specific curriculum is the mandatory course on “Ethics and Religious Culture” (ERC) developed for the primary and secondary schools in Quebec. The implementation of the ERC program in 2008 was part of Quebec’s shift away from a long history of confessional public schools to a non-denominational school system now identified linguistically as either French or English. Previously, students chose a course in either Catholic or Protestant moral and religious education or a course in secular moral education (Morris, 2011, pp. 188–211; Boudreau, 2011, pp. 212–223). Social and intellectual changes associated with globalization and increasing pluralism were among the justifications offered in support of replacing this denominationally-based system of religion education with a common ERC program.

The two main objectives of the ERC program are “recognition of others” and “pursuit of the common good (Ministère de l’Éducation, du Loisir et du Sport,

2006, p. 296)."⁴ The ERC program aims to help students grasp the multiple dimensions of religion—historical, doctrinal, moral, ritual, artistic, etc. The historical and cultural importance of Catholicism and Protestantism to Quebec’s religious heritage are highlighted, but attention is also given to the influence of Judaism and Native spirituality, to other religions that are today a part of Quebec’s culture, and to secular expressions and representations of human beings and the world (Ibid., p. 296). “Respecting the fundamental right to the freedom of conscience and religion is the basis of all ethics and religious education” (Ministère de l’Éducation, du Loisir et du Sport, 2005, p. 6).

In 2010 the American Academy of Religion, a US-based international association of religion scholars, produced a comprehensive statement regarding the fitting role of education about religion in public schools. The AAR *Guidelines for Teaching about Religion in K-12 Public Schools in the United States* were based on three premises: (1) illiteracy regarding religion is widespread; (2) it fuels prejudice and antagonism; and (3) it can be diminished by teaching about religions in public schools using a non-devotional, academic perspective called *religious studies* (AAR, 2010).

The AAR *Guidelines* were formulated against the backdrop of developments reaching back to the 1980s, when a movement toward greater inclusion of religion in the curriculum of US public schools began to emerge. During this time, both the National Council for the Social Studies and the Association for Supervision and Curriculum Development issued statements calling for more attention to be given to religion (National Council for the Social Studies, 1984; Association for Supervision and Curriculum Development, 1988). Subsequently, a series of consensus guidelines based on First Amendment principles and emphasizing the distinction between *academic* and *devotional* approaches have been developed, and several of these have been distributed to every public school in the nation by the United States Department of Education.⁵ It is to a more detailed consideration of this First Amendment consensus approach to religion education in US public schools that we now turn.

⁴ These objectives are presented as interdependent and common to both the ethics and the religious culture components of the program. In this context, “ethics” is understood as critical reflection on the meaning of conduct and on the values and norms that the members of a given society or group adopt in order to guide or regulate their conduct. Instruction in “religious culture” promotes an understanding of religions that is “built on the exploration of the sociocultural contexts in which they take root and continue to develop”, p. 295.

⁵ The term “consensus” is not meant to imply that this approach is universal or without controversy. Rather, it suggests that there is an increasingly widespread agreement about the type of religion education that is appropriate in US public schools and that this agreement has emerged through efforts at consensus building involving various stakeholders. See Haynes (2009a, 2009b), pp. 154–159; 449–451. Many of the First Amendment consensus documents can be found in Haynes and Thomas (2007).

3 The First Amendment and the “3 Rs” of Religious Liberty

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

— The “establishment” and “free exercise” clauses of the First Amendment of the United States Constitution

Contemporary America is characterized by ongoing disagreements about the proper role of religion in politics and public life generally, and about the role of religion in public education more particularly. However, beginning in the 1980s, coalitions of civic, educational, and religious groups began to promote the idea that the religion clauses of the First Amendment to the US Constitution provide the guiding principles on which Americans from diverse backgrounds can find common ground on issues related to religion in public schools. Foremost among these principles are the “3 Rs” of religious liberty—rights, responsibility, and respect.

Rights

Religious liberty, or freedom of conscience, is a basic and inalienable right founded on the inviolable dignity of each person.

Responsibility

Freedom of conscience is not only a universal right, but it depends upon a universal responsibility to respect that right for others.

Respect

Debate and disagreement are natural elements of democracy. Yet, if we are to *live* with our differences, not only *what* we debate, but *how* we debate is critical. A strong democracy and strong schools rest on a commitment by people of differing convictions to treat one another with civility.⁶

The idea of the 3 Rs of religious liberty as the “golden rule for civic life” originated with the *Williamsburg Charter*, a public declaration reaffirming America’s commitment to religious liberty released in 1988 on the occasion of the 200th anniversary of Virginia’s call for a Bill of Rights.⁷ The Charter had four main aims:

- 1) To celebrate the uniqueness of the First Amendment.
- 2) To reaffirm freedom of conscience or religious liberty for citizens of all faiths or of none.
- 3) To articulate the legitimate and proper place of religion in public life.
- 4) To set forth the guiding principles by which people with strong differences can contend with each other in a robust but civil manner (Haynes and Thomas, 2007, p. 285).

⁶ These definitions are given on the California 3 Rs Project website <http://ca3rsproject.org/pages/principle.html>. The California 3 Rs Project is a non-profit, non-partisan teacher and community education program sponsored by the Constitutional Rights Foundation, the California County Superintendents Educational Services Association (CCSESA), and the Religious Freedom Education Project at the Newseum Institute.

⁷ The Williamsburg Charter is reprinted in Haynes and Thomas (2007), pp. 283–308.

Arguing that the religious liberty principles of the First Amendment provide the common ground on which people who disagree can meet to negotiate their differences with civility and respect, the Charter was signed by representatives of many faiths and by approximately 200 other national leaders representing government, business, labor, education, public policy, media, etc.

Building on the spirit of the *Williamsburg Charter*, coalitions of civil liberties, religious, and educational groups began to develop a series of “common ground documents” regarding religion and public education (Haynes, 2009a, pp. 154–159). The first of these statements, “Religion in the Public School Curriculum: Questions and Answers” (1988), stressed that teaching *about* religion in public schools is not only constitutionally permissible but also makes important contributions to cultural and civic literacy and to promoting respect for religious liberty.

Because religion plays a significant role in history and society, study about religion is essential to understanding both the nation and the world. Omission of facts about religion can give students the false impression that the religious life of humankind is insignificant or unimportant. Failure to understand even the basic symbols, practices and concepts of the various religions makes much of history, literature, art and contemporary life unintelligible. Study about religion is also important if students are to value religious liberty, the first freedom guaranteed in the Bill of Rights. Moreover, knowledge of the roles of religion in the past and present promotes cross-cultural understanding essential to democracy and world peace (Haynes and Thomas, 2007, p. 98).⁸

This initial consensus document was endorsed by a range of national organizations including such religious groups as the National Association of Evangelicals, the American Jewish Congress, the Christian Legal Society, the Islamic Society of North America, the National Council of Churches, and the Church of Jesus Christ of Latter-day Saints along with educational groups such as the National School Boards Association, the American Association of School Administrators, the National Council for the Social Studies, and the American Academy of Religion.

This and subsequent consensus documents have set forth guidelines for distinguishing between teaching *about* religion on the one hand, and the promotion of religion or religious indoctrination on the other hand.

The school’s approach to religion is *academic*, not *devotional*.

The school may strive for student *awareness* of religions, but should not press for student *acceptance* of any religion.

The school may sponsor *study* about religion, but may not sponsor the *practice* of religion.

The school may *expose* students to a diversity of religious views, but may not *impose* any particular view.

The school may *educate* about all religions, but may not *promote* or *denigrate* any religion.

The school may *inform* the student about various beliefs; but should not seek to *conform* him or her to any particular belief (Ibid.).⁹

⁸“Religion in the Public School Curriculum” is reprinted in Haynes and Thomas (2007), pp. 95–110.

⁹For slight variation in the wording, see also “A Teachers Guide to Religion in the Public Schools,” another consensus statement reprinted in Haynes and Thomas (2007), pp. 39–56.

Subsequent documents endorsed by a similarly diverse coalition of organizations have addressed religious holidays, Bible courses, student religious clubs, and various legal issues, and they have included teachers’ and parents’ guides to religion in public schools.

According to its proponents, the First Amendment consensus approach moves us beyond two failed models of religion and public education. On one end of the spectrum are those who advocate a “sacred public school,” arguing that school policies and practices should prefer and transmit their own version of America’s religious heritage. Their opponents in America’s “culture wars”—militant separationists and secularists of various stripes—have advocated a “naked public school” where religion is relegated to the private sphere and entirely excluded from public life in the name of the constitutional separation of church and state. As Charles C. Haynes has argued, both of these models are unfair to the diversity of religious and non-religious worldviews found among students and families in the US public school system. Moreover, the first model is an unconstitutional violation of the establishment clause of the First Amendment, and the second is unconstitutional if it leads to violations of students’ rights of religious expression (Ibid., p. 5).

The alternative to the “sacred” and the “naked” public school is a “civil public school,” which respects the religious liberty of students and includes religious perspectives in the curriculum while simultaneously rejecting government endorsement or promotion of religion (Ibid., p. 6). As stated in “Religious Liberty, Public Education, and the Future of American Democracy: A Statement of Principles,” a common ground document endorsed by twenty-four major religious and educational organizations in 1995,

Public schools may not inculcate nor inhibit religion. They must be places where religion and religious conviction are treated with fairness and respect.

Public schools uphold the First Amendment when they protect the religious liberty rights of students of all faiths or none. Schools demonstrate fairness when they ensure that the curriculum includes study *about* religion, where appropriate, as an important part of a complete education (Ibid., pp. 6 & 12).

During the 1990s, local school districts in parts of Georgia, Maryland, New York, Oklahoma, Pennsylvania, and Texas began to promote the 3 Rs approach to issues related to religion and public schools with varying degrees of success. In two states, California and Utah, 3 Rs Projects were organized on a statewide basis. Teachers, administrators, and community representatives were recruited to attend leadership workshops on the First Amendment and the history of US Supreme Court decisions regarding religion and public education. Along with presentations on legal issues by experts in constitutional law, 3 Rs Projects have also organized presentations by university-based religion scholars regarding what and how to teach about world religions.

It is impossible to gauge how widely the 3 Rs approach has actually been implemented in US public schools. In 2000 an analysis of national and state social studies standards documented that nearly all 50 states included the topic of religion in some fashion or another (Douglass, 2000). Yet because of the decentralized nature of public education in the US, there are significant differences between

states, and between local school districts within states, and it is very hard to determine exactly what the present state of religion education is in US schools.

However, where the First Amendment consensus approach has been implemented, it appears to have an impact. The only large scale empirical study of this approach to religion education focused on Modesto, CA, the first public school district in the US to require all secondary school students to take a course on world religions. Surveys and interviews of students showed statistically significant increases not only in students' knowledge about other religions but also in their levels of passive tolerance (willingness to refrain from discrimination) and active tolerance (willingness to act to counter discrimination). Among the study's other findings were that Modesto's course had a positive impact on students' respect for religious liberty; students left the course with an increased appreciation for the similarities between major religions; and students emerged from the course more supportive of basic First Amendment rights and political rights in general (Lester & Roberts, 2006, pp. 6–7).¹⁰

4 Theoretical and Practical Issues

Questions and concerns have been raised about several features of the 3 Rs approach to religion in public schools. Among the most significant of these are questions about neutrality in the study of religion, about the accuracy with which religions and beliefs are represented in teaching and curricula, and about the adequacy of teacher preparation.

We have seen that a key feature of the First Amendment approach is a distinction between “devotional” and “academic” perspectives on religion—between faith-based *religious instruction* on the one hand, and non-religious *education about* religions and beliefs on the other hand. US public schools are governed by secular laws and values; in this context, the term “secular” means “a constitutionally defined approach to the teaching of religion that neither privileges nor rejects any particular religious tradition or expression” (AAR, 2010, p. 4). In order to remain consistent with First Amendment principles, public school curricula and policies regarding religion must be neutral or impartial between religions and between religion and non-religion. The aim of education about religion is to enhance cultural, historical, and civic literacy.

Nonetheless, some critics have charged that the 3 Rs approach to applying the First Amendment actually exhibits a pro-religion bias rather than a genuinely neutral attitude toward the subject matter. There is a concern that in the pursuit of its civic agenda, this approach too often errs in the direction of shielding religion from critical scrutiny, privileging the perspectives of religious insiders, and

¹⁰ See also Lester and Roberts (2009), pp. 187–200; Lester (2011).

allowing too much involvement by religious stakeholders in the determination of school policies and curricula regarding religion (Swomley, 1990, p. 171).¹¹

At the same time, however, others have argued that a non-devotional academic approach to teaching about religion amounts to a form of secular indoctrination. It assumes the legitimacy of multiple religious and non-religious perspectives and regards them as worthy of attention. Rather than offering a neutral alternative to particular religious perspectives, it is alleged that this approach ends up promoting a secular ideology and inculcating such core liberal values as autonomy, equality, and rationality as the only legitimate foundations of public life. Not only may these values be interpreted differently by various religious and secular communities, they may conflict with the values of authority, hierarchy, and revelation that are upheld by some religious communities.¹²

I think we must acknowledge that a *methodologically* neutral or impartial academic approach to teaching about religion is not neutral with regard to values. On the contrary, it is rooted in intellectual values such as free and open inquiry, respect for multiple perspectives, and evidence based argumentation. It is rooted in ethical-political values such as respect for religious liberty or freedom of conscience and the promotion of tolerance. Consequently, this approach is not compatible with a worldview or polity (whether religious or non-religious) that denies respect for basic human rights. However, it is in principle, if not always in practice, neutral between religious and secular worldviews. It neither privileges nor dis-privileges religious or secular perspectives as such, because the above mentioned values are shared by many religious and non-religious traditions themselves. While diverse religious and secular traditions may use different idioms to describe these values, while they may have arrived at these values by different routes, and while they will invoke different justifications in their support, there is considerable overlap between worldviews when it comes to the values that undergird support for basic human rights (see Norman, 2012, pp. 518–519; Grelle, 2005, pp. 133–135; Küng & Kuschel, 1995).

If public school teaching does exhibit a bias for or against religion, it probably has less to do with the ideal of school neutrality toward religion than it does with the way that religions and beliefs are sometimes represented in actual classroom practice due to limitations of curricular materials and to inadequate teacher preparation. Teaching about religion in American public schools has by and large been confined to describing the main ideas and practices of the world’s major religions (AAR, 2010, pp. 9–10). There is a tendency to portray religions as whole, discrete, and relatively stable systems of belief rather than as internally diverse, fluid, and historically dynamic traditions. Students are often given no more than a snapshot of a religion in a particular time and place—usually a long time ago—with little sense

¹¹ Similar criticisms have been directed toward the *Toledo Guiding Principles*. See Jensen (2008), pp. 123–150.

¹² See for example Pike (2008), pp. 113–122; Moulin (2009), pp. 153–165; Van Arragon (2015), pp. 34–58.

of how religions change over time nor of their complex manifestations in the present. Curriculum frameworks, standards, and textbooks tend to concentrate on the origins and basic tenets of religions and largely neglect their historical and cultural variations, especially as these are evident in the lives of contemporary religious communities.

There is also a tendency to overstate similarities between religions and to avoid controversial topics, thereby leading to an overly “warm and fuzzy” presentation of religion (Lester & Roberts, 2006, p. 53; Lester, 2013, pp. 111–128). Little attention is paid to the relation between religion, power, and conflict in society nor to the ways that race, class, gender and other factors influence how some religious beliefs and expressions become culturally and politically prominent, while others become cultural and politically marginalized (AAR, 2010, p. 10). Neither is there much attention to the self-reflexive dimensions of knowledge and education; there is little explicit recognition of how teachers, students, and those whom they study are all actively engaged in the process of interpretation and the production of meaning. Moreover, the degree to which our interpretations and knowledge are shaped by our own conscious and unconscious assumptions about religions often goes unexplored (AAR, 2010, p. 10; see also Moore, 2007, pp. 78–85). Such static and uncritical portrayals risk leaving students with the impression that religions are relics of ancient history rather than vital parts of contemporary life for millions of people around the world.

Of course education about religion is not the only public school subject that has been charged with superficiality and lack of critical perspective. Self-reflective and critical inquiries regarding history, society, and politics (not to mention health and sex education) are often viewed as fraught with controversy and perhaps better left to families or postponed until university level education. It should probably come as no surprise that, rightly or wrongly, critical inquiries regarding religion fall into the same category.

If we are to move beyond superficial and uncritical discussions of religion, there are a number of obstacles that will have to be addressed. Among the most significant of these is the issue of teacher education. In parts of Europe, religion is a well-established subject matter in the curriculum and an area of professional specialization for which teachers can become certified. In the US however, despite the rare elective courses on world religions or the Bible as literature, public school teaching about religion typically occurs in the context of history-social studies or literature classes rather than in stand-alone religion classes, and most teachers in these fields have had minimal or no specialized training in the academic study of religion as part of their professional preparation. Even in the context of multicultural education, religious diversity is typically given far less attention than diversity in the areas of language, race, ethnicity, gender, and class (Moore, 2007, pp. 71–78). Combined with the emphasis on high stakes testing that gives pride of place to math and reading skills, it appears that less attention than ever is being given to history-

social studies and the civic mission of schools, let alone to the question of promoting religious literacy among teachers and students.

The 2010 publication of the American Academy of Religion’s *Guidelines for Teaching about Religion in K-12 Public Schools in the United States* is a constructive attempt to address these issues. Building on the First Amendment framework that we have been discussing, the AAR *Guidelines* recognize that “the treatment of religion by unprepared teachers may fall short of constitutional guidelines in approach or accuracy in regard to content” (p. 18). They identify *content* and *pedagogical* competencies for those who teach about religion in the contexts of world and US history, art, and literature, and they outline appropriate “attitudes” and “postures” that are consistent with respect for students’ and parents’ rights and professional standards for teachers. Acknowledging that textbooks and curricula in local school districts employ diverse approaches—historical, literary, traditions-based, and cultural studies—the *Guidelines* aim to help teachers move beyond overly superficial and uncritical understandings of religion by elaborating on the “three basic premises” of academic religious studies, namely that (1) religions are internally diverse; (2) religions are dynamic and changing rather than static and fixed; and (3) religions are embedded in culture and are *influenced by* cultures while also *influencing* cultures (pp. 12–15). The *Guidelines* illustrate these premises with examples of instructional practice at various grade levels in history-social science and English-language arts classrooms. There is also attention to frequently asked classroom questions and examples of how teachers can address them while taking the three premises into account (Hill, 2010, p. 2). All of this may still fall short of the more thoroughgoing sort of critical inquiry that some scholars, teachers, and parents would prefer, and it may still be too critical for what others might prefer. As we have acknowledged above, the academic approach to religious studies is not without controversy.

Looking forward, it is apparent that there is much more that needs to be done. Familiarity with First Amendment guidelines is still not as widespread as it should be among educators and the general public, and consequently there are ongoing confusions and controversies in local schools regarding the religious liberty rights of public school students and teachers and regarding exactly how and how not to teach about religion in the classroom. The need for greater attention to religion in the education of future teachers persists, and the need for initiatives such as 3 Rs Projects to assist teachers who are already in the classroom is as pressing as ever, even though it is increasingly difficult to find reliable sources of funding for this work.

Even so, when it comes to clarifying the place of religion in US public education, much progress has been made since the 1980s. This is thanks largely to the work of scholars, educators, and civic leaders who have worked to promote the First Amendment consensus approach to teaching about religion and the 3 Rs of religious liberty.

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Prof. Dr. Bruce Grelle is Professor of Religious Studies at California State University, Chico, CA, USA.

Religious Freedom and Civic Education in American Public Schools

Erik Owens

Abstract Religious diversity presents unique challenges to the American ideal of *e pluribus unum* (“Out of many, one”), in part because of the explicit yet ambiguous protection that religion receives in the First Amendment of the U.S. Constitution. Broad cultural and legal changes in recent decades (including the Supreme Court’s accommodationist and federalist shifts) mean that citizens and their legislative representatives (rather than judges) are more responsible than ever for protecting religious freedom in this country. Fulfilling this civic duty—not to mention getting along with fellow citizens in an increasingly pluralistic society—will require much more knowledge of religion than is presently conveyed to students in public schools. This essay explains why American public schools should teach about religions, how this serves to protect religious freedom, and why it is a positive and proper civic endeavor.

1 Introduction

Americans have long struggled to reconcile the national ideal of *e pluribus unum* with the reality of conflict and distrust that often accompanies diversity. Today the United States is more diverse—in terms of race, ethnicity and religion, among other characteristics—than ever before, and the pace of this diversification is accelerating. Forging “the one from the many” is now more difficult than ever, in part because of the unique challenges presented by *religious* diversity, especially in the context of what is often called “public life.” Religious faith is understood by many to be *comprehensive*, meaning that it sets the terms by which all other aspects of life are to be assessed. In a pluralistic democracy many religious traditions co-exist, each offering different assessments of how and why its adherents should interact with others in the public sphere. This creates obvious challenges to communication and cooperation among citizens in their daily lives. Religion is not only a

E. Owens (✉)
Boston College, Chestnut Hill, MA, USA
e-mail: erik.owens@bc.edu

fundamental source of identity and meaning; it also—at least in the monotheistic traditions which dominate the American religious landscape—explicitly trumps all other allegiances, including those to the state. In an era of nation-states that claim unsurpassable allegiance to their core interests, this creates a profound tension between “the sacred and the sovereign.” (Carlson & Owens, 2003; see also Griffiths, 2003).

Religious diversity is also uniquely challenging in the United States because of its explicit yet ambiguous protection by the First Amendment to the Constitution: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...” Determining the contextual meaning of religious “establishment” and “free exercise,” the implications of their prohibition/protection, and the scope of the Amendment’s authority, has vexed legislators, jurists, and ordinary citizens alike for two centuries, but never more so than it does today. American courts are in the midst of reversing two major staples of mid-twentieth century jurisprudence: strict separation of church and state, and federal sovereignty vis-à-vis the states. As the jurisprudential pendulum continues to swing toward greater accommodationism and federalism, the legal boundaries of religious liberty are in flux in many areas of public life.

This shift has been inspired by, even as it has inspired, an expansion of the influence of religion in public life.¹ Judges, politicians and policymakers at the federal, state and local levels have expanded the nature and scope of religious accommodation in schools, the workplace, and the public square. Popular culture increasingly explores religious themes in books, music, movies and television programs. Colleges have scaled up their religious studies programs to accommodate new interest in Islam. The effects of these broader cultural events have also spilled over into the public primary and secondary schools.

Periods of such flux are not unprecedented in American history. From the eighteenth century colonists’ worries over religious decline, to the nineteenth century expansion of evangelicalism and the twentieth century struggles over modernism and fundamentalism, periods of flux—and the contentious public debates that accompany them—are an ongoing feature of American life. Indeed, they are a manifestation of the religious freedom that both unites and divides this country. The present trend is neither fixed nor foreordained (nor is the opposite trend²), and the pendulum may very well swing back toward a more secular or

¹ As Jeffrey Rosen and others have noted, the Supreme Court’s decisions generally *trail* public opinion rather than lead it, despite its reputation as being a counter-majoritarian institution. This is true of the European high courts as well (see Rosen, 2004). Indeed, many political scientists argue that the Court was *designed* to follow settled popular opinion, rather than lead it (Sisk, Heise, & Morriss, 2004, p. 491).

² To the extent that proponents of the “secularization thesis” link the differentiation of religious and nonreligious institutions to the decline of religion in the modern world, they were clearly wrong. Societal differentiation has indeed challenged religious traditions to recontextualize their claims, but not to the detriment of their relevance or authority in public life. See Asad (1999), pp. 178–196 and Casanova (1994).

separationist approach to religion in public life. But this may take a very long time; current legal, cultural and political trends suggest that this is a generation-length cycle that has yet to reach its peak.

For policymakers in education and other fields, the proper response is not so much to resist this shift toward more religion in public life as it is to channel it toward positive civic ends. This essay argues for one particular means of doing just that, namely by teaching about religion in American public schools. I argue that in light of the shifting legal and cultural context, citizens and their legislative representatives (rather than judges) are now more responsible than ever for protecting religious freedom in this country. Fulfilling this civic duty—not to mention getting along with fellow citizens in an increasingly pluralistic society—will require much more knowledge of religion than is presently conveyed to students in public schools. In the sections that follow, I present what I see to be compelling reasons why students need to learn about religion, what exactly that entails, why it serves to protect religious freedom, and why it is a properly civic endeavor. We begin with a discussion of the American legal context, since it not only illustrates the shifting tides of religion and education but also reveals the heavy civic responsibility that falls upon all citizens as a result.

2 Religion and Education in the Supreme Court

The United States constitution protects religious freedom in this country primarily through two pithy clauses in its First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .” Together, these clauses institutionalize the American conception of religious freedom by prohibiting the government from discriminating on the basis of religious belief or practice. The free exercise clause outlaws government *proscription* of religious belief or practice (meaning the state cannot disfavor an activity simply because it is religious), while the establishment clause outlaws government *pre-scription* of belief or practice (meaning the state cannot favor an activity simply because it is religious or religious in a certain way) (Perry, 1997, pp. 13, 15). Though the religion clauses are closely related and inextricably joined, they nevertheless remain separate instantiations of religious freedom. In fact they are in constant tension with one another, and an expansive interpretation of one clause often requires a restrained interpretation of the other.³

³ As Justice Lewis Powell noted in 1973, “[T]his Court repeatedly has recognized that tension inevitably exists between the free exercise and the establishment clauses. . . and that it may often not be possible to promote the former without offending the latter.” *Committee for Public Education and Religious Liberty (CPERL) v. Nyquist*, 413 U.S. 756, 788 (1973). For example, those who are especially adamant that the government not favor one or more religions (meaning they take an expansive view of the establishment clause) are often on opposite sides of issues as those who are especially adamant that government not disfavor one or more religions (meaning

It is widely noted that the Supreme Court's interpretation of the religion clauses has shifted dramatically in the last half-century from a strict separationist position in the 1960s and 1970s to an accommodationist stance in the last two decades. The shift has affected many areas of the law, generating ongoing debate over such issues as federal funding of "faith-based" social services, religious exemptions to federal healthcare legislation, and federal jurisdiction over local zoning laws that affect religious institutions. The accommodationist shift has also been prominent and controversial in the realm of public education. Schools are filled through the compulsory attendance of young and impressionable students who follow a curriculum that is highly regulated by state authorities. More than 90% of America's 55 million school-aged children attend primary or secondary schools funded by the government, and though only a quarter of American voters currently have school-aged children, everyone is connected in some way to the public school system: taxpayers finance it, employers hire its graduates, and more importantly, its effectiveness is widely understood to be a key measure of social and economic justice.⁴ When the balance of church and state is seen to be shifting in such an important area of society—and a key site of cultural transmission and civic education—the process is bound to be controversial.⁵ A brief examination of recent decisions dealing with religion and education will illustrate the Court's shifts.

Since the early 1980s the Court has systematically expanded the permissible areas of church-state interaction governed by the establishment clause. Reversing a number of earlier decisions, the Court has ruled that proper interpretation of the establishment clause allows states, for example: to offer parents tuition vouchers to

they take an expansive view of the free exercise clause). This latter position is commonly called "accommodationism," because its proponents would have the state specially accommodate religious believers whose practices are burdened by otherwise neutral state laws. The former position is known as "neutrality" when its proponents argue that the state must be neutral in its posture toward religion, favoring neither religion or nonreligion as such, nor one religion over other religions. "Separationists" also tend to favor an expansive view of the establishment clause, though in seeking to separate religion from the state as much as possible, they are often accused of favoring nonreligion over religion. There are also accommodationist and separationist readings of each religion clause. For example, separationists interpret the establishment clause as prohibiting discrimination in favor of both religion over non-religion, and one religion over other religions. In other words, they seek to separate religion from the state as much as possible without unduly burdening free exercise rights. Accommodationists, on the other hand, interpret the establishment clause as prohibiting only discrimination in favor of one religion over other religions; they argue that strict separation amounts to discrimination against religion as such, in favor of non-religion.

⁴Total enrollment in U.S. public elementary and secondary schools was 54.8 million in fall 2011, and is projected to reach 57.0 million in 2023. The percentage of students in private elementary and secondary schools declined from 11.7% in fall 2001 to 9.6% in fall 2011, when an estimated 5.1 million students were enrolled in private schools at the elementary and secondary levels. U.S. Department of Education, [National Center for Education Statistics](#). (2015). *Digest of Education Statistics 2013* (NCES 2015-011), Chapter 1.

⁵On schools as "intermediate spaces of social reproduction," see Walzer (1983), p. 197; as sites of "democratic deliberation," see Gutmann (1987).

pay for religious education in lieu of public schooling⁶; to loan computers and other equipment to religious schools⁷; to send public school teachers to provide remedial education for students at religious schools⁸; to pay for sign language interpreters and other services to students at parochial schools and colleges⁹; and to offer tax deductions to parents who pay private school tuition and other educational expenses.¹⁰ In each case the state program in question was deemed to provide a benefit or service that was neutral with respect to religion, because it was provided to a broad class of citizens defined without reference to religion.¹¹ Though in *effect* these laws provide benefits to religious persons or institutions—at times, almost exclusively so—the court’s accommodationist majority found that their *intent* was not discriminatory, and thus the benefits passed constitutional muster.

These changes were paralleled by an equally important transformation of free exercise jurisprudence since 1990. Over the preceding century (roughly 1878–1990), the Supreme Court had gradually asserted more authority to review federal and state laws impinging upon free exercise of religion.¹² But in 1990 (in *Employment Division v. Smith*) the Court reversed course and returned to an extremely lenient standard of review, meaning that it would not strike down laws which only incidentally burdened religion.¹³ Led by Justice Antonin Scalia, the *Smith* Court ruled that a state employee who ingested peyote as part of religious

⁶ *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002).

⁷ *Mitchell v. Helms*, 530 U.S. 793 (2000), overruling *Meek v. Pittenger*, 421 U.S. 349 (1975) and *Wolman v. Walter*, 433 U.S. 229 (1977).

⁸ *Agostini v. Felton* 521 U.S. 203 (1997), overruling *Aguilar v. Felton*, 473 U.S. 402 (1985).

⁹ *Zobrest v. Catalina Foothills School District*, 509 U.S. 1 (1993); *Witters v. Washington Department of Social Services*, 474 U.S. 481 (1986).

¹⁰ *Mueller v. Allen*, 463 U.S. 388 (1983).

¹¹ Programs that single out religious groups or institutions for special benefit or harm are still prohibited as discriminatory. It is noteworthy that a single principle of “separation of church and state” dominated mid-twentieth century establishment clause rulings, but since the mid-1980s individual justices have brought to bear differing principles of religious equality (including “endorsement,” “coercion,” and “equal treatment”), which the court is “struggling mightily to integrate.” (Witte & Nichols, 2011, pp. 173–186) *Zelman* marked a point of some integration on the concept of neutrality as equal treatment of religion and nonreligion, but *Locke v. Davey* (2004) pulled away from its logical conclusion.

¹² The Court applied increasingly strict scrutiny tests during this period. In *Reynolds v. United States*, 98 U.S. 145 (1878), the Court applied a lenient “rational basis test” that deferred a great deal of authority to legislatures. By this standard, if a law is properly “authorized,” “reasonable,” and “general,” and it meets a legitimate interest in restricting the action in question, it is likely to be upheld. This standard prevailed until the “intermediate scrutiny test” of *Cantwell v. Connecticut*, 310 U.S. 296 (1940), which protected certain areas of non-criminal religious activity from government interference. The standard of review was tightened further in *Sherbert v. Verner*, 374 U.S. 398 (1963), namesake of the *Sherbert* Test by which a state must demonstrate a “compelling interest” in limiting a person or group’s free exercise of religion and prove that the law in question was the least intrusive means of achieving that interest. This strict standard prevailed until 1990. (Witte & Nichols, 2011, pp. 132–140)

¹³ *Employment Division, Dep’t of Human Res. v. Smith* (1990) 494 U.S. 872.

ritual was not exempt from Oregon's drug laws, and thus his firing (for that drug use) and subsequent loss of unemployment benefits did not violate his free exercise rights. The landmark decision made it nearly impossible for religious minorities to win a judicial exemption from generally applicable laws; they are now forced to seek redress in the legislatures, not the courts.¹⁴

The Court maintained its deference toward legislative authority in the important 2004 case *Locke v. Davey*.¹⁵ In a 7-2 majority opinion written by Chief Justice William Rehnquist, the Court held that when a state provides college scholarships for secular instruction, the federal free exercise clause does not require it to fund religious instruction—what I will call “teaching religion”—as well. Many observers had speculated that the Court would go the other way, mandating a broad interpretation of free exercise rights by the states that would eliminate the last major obstacles to funding private school vouchers and “faith-based” social service initiatives. Instead, by rejecting the argument that states *must* treat religious and secular education equally in this respect, the Court cleared a space for what legal scholars have called “permissive accommodation,” an area of state action permitted by the establishment clause but not required by the free exercise clause.¹⁶ “If any room exists between the two Religion Clauses, it must be here,” wrote Rehnquist. “This case involves that ‘play in the joints’” between the Establishment and Free Exercise clauses.¹⁷

Like the proverbial elephant in the room, federalism is never explicitly mentioned in *Locke v. Davey*, despite it being a central issue in the case. Federalism is the division of sovereignty between a central government and state or provincial governments; in contemporary parlance, “federalists” support greater autonomy for states in areas of the law not expressly claimed in the federal constitution. The conservatives on the Rehnquist Court tended to be ardent federalists,¹⁸ so it was

¹⁴ Wexler (2002), p. 1211; Witte & Nichols (2011), pp. 159–160. It also bears mention that the Court often (unfortunately) defends religious liberty through the use of the free speech clause of the First Amendment, rather than the religion clauses.

¹⁵ *Locke v. Davey*, 540 US 712 (2004).

¹⁶ The *Locke* decision presented the justices the opportunity to define the outer limits of an integrated jurisprudence of neutrality as equal treatment of religion. Its seven-member majority balked at the idea of following the concept of equal treatment to its logical conclusion, which would have required states to fund religious education if they funded any education at all. This conclusion seemed to depart dramatically from the constitutional protection of religious liberty, not to mention states' rights, and the Court was unwilling to take things that far. This kind of conservatism (in the apolitical meaning of the term) is normal for the Supreme Court; see note 1. At any rate, the implications of affirming the lower court ruling in *Locke* were great enough to scare Rehnquist, O'Connor and Kennedy from their usual accommodationist perch. [Frederick Mark Gedicks called this the “Establishment clause gag reflex.”]

¹⁷ *Locke v. Davey*, 540 US at 725 and 718, citing *Walz v. Tax Comm'n of City of New York*, 397 U. S. 664, 669 (1970).

¹⁸ The Rehnquist Court limited the federal government's power over the states in part by reducing the ability of lower courts to review state laws under the First and Fourteenth Amendments to the U.S. Constitution, as noted above. Equally important is the Court's narrow interpretation of the

surprising that its *most* conservative members, Scalia and Thomas, were the only dissenters from a majority opinion in *Locke v. Davey* that furthered federalist ends (by granting more leeway to state legislators).

Taking a step back, then, we can see two trends at work in the Supreme Court. First, its establishment clause decisions have substantially expanded the areas in which the government may accommodate religion in the context of education.¹⁹ Second, its free exercise rulings provide more discretion to the states to determine how much of that expanded area they wish to occupy. Put another way, the Court has baked a bigger (*i.e.* more accommodating) pie, and has given the states more choice as to the size of the piece they want to eat.

The important civic upshot of these legal trends is that more of the details of church-state relations will be set by citizens and their state representatives, rather than the courts.²⁰ Some might argue that, as a result, our precious right to religious liberty will be dangerously dependent on the whims of mercurial state legislators; others might invoke the Constitution's preamble to say that "We the People" (rather than a few judges) will finally, and rightly, control the process once again. Whatever the merits of these views, it is clear that all citizens need to be prepared to shoulder the added burden of responsibility for protecting religious freedom.²¹ That

Constitution's "commerce clause" (Art. I, §8, cl.3) in *U.S. v. Lopez* (1995) and *U.S. v. Morrison* (2000), which have considerably restricted Congressional authority to regulate actions in the states not directly related to interstate commerce.

¹⁹ Put another way, the majority opinions in *Mitchell*, *Zelman* and *Locke* show an increasingly consistent constitutional justification—*viz.* neutrality as equal treatment of religion and non-religion—for greater accommodation of religion in American public life. For nearly 20 years the Court has labored to integrate the multiple principles (including "endorsement," "coercion," and "equal treatment") that its individual justices used to adjudicate religion cases. (See Witte & Nichols, 2011, pp. 173–186.) Though there were still some disputes among the majority in *Mitchell* (as well as vigorous objections from the dissenters, of course), in *Zelman* they largely coalesced around the concept of neutrality as "equal treatment" for religion and non-religion. Establishment clause jurisprudence was, by most accounts, a complete mess in the 1980s and into the 1990s. (Leonard Levy marveled in 1986 that "the Court has managed to unite those who stand at polar opposites on the results that the Court reaches; a strict separationist and a zealous accommodationist are likely to agree that the Court would not recognize establishment of religion if it took life and bit the Justices." [Quoted in Witte & Nichols, 2011, p. 237]) By 2004, the systematic effort by Rehnquist and his conservative colleagues to streamline the Court's reasoning seemed to be having its effect, and some commentators suggested that *Zelman* would prove to be the watershed case that provides stability to the Court's future religion clause jurisprudence.

²⁰ The courts, of course, will always play a role—and rightfully so. As Stephen Macedo writes, "To leave accommodations and exceptions to the democratic branches is virtually to insure that complaints advanced by minority religious communities will often be slighted, so the courts must play a role" (Macedo, 1995, p. 487).

²¹ Citizens will of course disagree about the nature and extent of these rights and liberties; the point is that citizens now have wider range of options as to how they choose to promote or protect those rights at the state level. For the purposes of this paper, I do not address the metaphysical question of whether we are free to choose our religious beliefs, or whether the fact of religious plurality has any meaning for the truth of one or another religious tradition. Rather, my focus is on the lived experience of religion within a diverse polity.

requires a kind of civic education for religious freedom that is notably absent in our nation's public schools.

3 Religious Freedom, Religious Studies, and Civic Education

Religious freedom is the political principle by which an indeterminate plurality of religions is legitimated in a civil polity.²² In the United States, religious freedom is instantiated in the First Amendment and protected through the broad range of liberties and rights that flow from it by tradition and by jurisprudential interpretation. Whatever else it does, religious freedom protects the active engagement of religion in the public life of our society.²³ As such, it is an integral component of the common good of a pluralistic polity because it protects the full and free discourse *about* the common good.

Though I will elaborate upon this point in the next section, it bears mention at the outset that “teaching *about* religion” is to be distinguished from “teaching religion,” an activity otherwise known in the United States as “religious education” or, uncharitably, as “indoctrination.” (The locution is often reversed in English-speaking Europe, where “religious education” or “RE” is understood to be the non-indoctrinating critical study of religion (see, e.g. Jackson, 2004). This distinction—between a critical/descriptive approach and a confessional approach—is pivotal in the context of primary and secondary public education. It was also the centerpiece of the Washington law upheld in *Locke v. Davey*, which allowed the state to fund students majoring in religious studies (where professors teach *about* religion) but not devotional theology or pastoral ministry (where professors teach religion).²⁴

How, then, would teaching about religion serve to protect religious freedom? It does so by training citizens who can effectively participate in a pluralistic society in which religious reasons are given as justification in public life. We shall return to the matter of religious and public justification, and begin instead by sketching what “teaching about religion” might actually look like, and how it functions as civic education.

Broadly understood, civic education is the formation of future citizens. More specifically, it can be defined as the inculcation of knowledge, skills and

²² This definition is adapted from Gamwell (1995), p. 10.

²³ The right to free exercise (within limits) is deeply ingrained in the American political and cultural consciousness, notwithstanding the challenges that have been made to the concept of religious freedom as a coherent philosophical, legal or theological principle.

²⁴ That the distinction between education and religious indoctrination is blurred in this case (because the plaintiff attended an evangelical “Bible college”) does not imply a similar blurring in the context of public education at the primary and secondary levels.

dispositions necessary for effective participation in and commitment to the political community. Each of these three capacities requires further explication.

First, teaching about religion confers many kinds of *knowledge* relevant to good citizenship. Citizens need adequate education to be effective in the public sphere of our liberal democracy (as decades of empirical research has made abundantly clear²⁵), and an adequate liberal education simply cannot ignore the contributions and influence of religious traditions, ideas, people and institutions. As Martin Marty has noted, religion is too important an aspect of the human experience—and especially the American circumstance—to be left out of public education: “In a culture that is anything but secular,” he writes, “religion belongs in the curriculum.” (Marty & Moore, 2000, p. 64) Indeed it is shocking to contemplate the vast gap between the importance that Americans collectively place upon religion in their public and personal lives, and the near absence of the study of religion in primary and secondary school curricula. Americans routinely profess in polls that they are faithful and active religious believers, yet with few exceptions, “the [public school] curriculum all but ignores religion” either as a separate field of study or as an important influence on other topics or fields of study (Nord & Haynes, 1998, p. 2).²⁶

But in what part of the curriculum does religion belong? This is of course a matter of much debate, but a classroom discussion about any of the following topics would be appropriate: religious meanings in art and literature; religious views in the debate over economic priorities, cosmic origins, genetic engineering, environmental regulation and other scientific issues; the global context of religion and religious plurality, including a comparative study of world religions and sacred scriptures; and “the Bible as literature, in literature, as history, in history, and as scripture.” (Wexler, 2002, pp. 1168–69)²⁷

Education about religion should also provide more specific knowledge about the American political context. In order to make fully informed decisions about the merits of laws affecting religion, citizens must understand such things as the role of religion in shaping public debate and decision making, the civil rights afforded them by state and federal constitutions and laws, and the history—including the ongoing conflict over interpretations of the First Amendment—that brought these to pass (Wexler, 2002, pp. 1203–13). This is true of any laws affecting religion, whether they regulate school voucher programs, land use, drug use or anything else; the Supreme Court developments outlined in the first section of this paper only make this kind of knowledge more important. Citizens and state legislators ought

²⁵ “The notion that formal educational attainment is the primary mechanism behind citizenship characteristics is basically uncontested. A half-century of empirical evidence in American politics points to the consistent and overwhelming influence of ‘the education variable’ on various aspects of democratic citizenship,” including civic knowledge, tolerance, and activity such as voting. Nie, Junn, and Stehlik-Barry (1996), p. 2.

²⁶ A useful bibliography of surveys that document the inadequacy of education about religion in public schools can be found in Wexler (2002), pp. 1164–66, notes 23–27.

²⁷ For additional specific curricular recommendations, see Moore (2007), chapter 7; Prothero (2007), chapter 5; Lester (2011), chapters 2,4,5; Nord (1995), chapters 6, 9, and 10; and Nord and Haynes (1998), entire.

not be turned loose to “play in the joints” of the First Amendment’s Religion Clauses without some education in the subject matter.

Teaching about religion can also enhance the second component of civic education, the teaching of *skills* relevant to citizenship. The fundamental skill-sets of active citizenship include literacy, numeracy, and reflective judgment; the civically-educated citizen has the ability to consider and articulate the knowledge needed for participation in democratic society. Religious studies can offer unique training in this area. To engage or reckon with religious claims to truth, for example, requires openness to new ideas, critical distance, skills of comparative and constructive criticism, and some measure of epistemological inquiry—all of which contribute to civic education as well as facilitating an understanding of religion in society (Jackson, 2004, p. 141; Nord, 1995, pp. 220–25). (Like all aspects of education, of course, the level of critical engagement with religion ought to be contingent upon age and intellectual development.)

Finally, teaching about religion can also contribute to the inculcation of particular civic *dispositions*. Civic dispositions are those *virtues* or habits of character that incline one toward full participation in and support of civil society and government. There are many civic virtues (e.g. civility, patriotism, tolerance, and trust), each of which are emphasized more or less than others in a given political theory, depending upon the kind of *civitas* one seeks to sustain or achieve. One can also speak of civic virtue (singular), as the general inclination to seek the common good. Depending on the specific situation, teaching about religion could influence the development of civic virtue and the various civic virtues in different ways. At one level, simply learning about the history, theology, holidays and rituals of other religious traditions can help to dispel students’ prejudice and fear, and lead to more tolerance—even if tolerance itself is not taught as a virtue. Classroom discussion about such important and controversial issues should model the kind of civility students will eventually need to deliberate in the public square as full citizens. As Christopher Eisgruber has noted, the liberal state teaches values mainly—and most effectively—by example (Eisgruber, 2002, p. 75). In this case, students internalize the virtues of tolerance and civility by both learning about different religious traditions and viewpoints, and by discussing the topic in a respectful manner.

There is no guarantee, of course, that tolerance and civility will be the upshot of the study of religion. Even a cursory introduction to the history of religion and religious thought should provide examples (and perhaps extended study) of aggressive and violent intolerance; quietism and withdrawal from public life; fundamental challenges to the concept of state sovereignty as well as to patriotism, tolerance, and mutual respect. As Charles Taylor has noted, religion has been a “poisoned chalice” in human history, and coming to terms with the possible tensions between religious and political life will have an uncertain impact (Taylor, 1989, p. 519).

But this kind of discussion, about the relationship between religious and political life, is happening all around us in the public culture, and teaching about religion is one of the best ways to prepare students to enter that discussion. To some degree religious studies classes in schools could model the discursive

practices of religious freedom by fostering the capacity to hold informed, respectful discourse across ethical and religious divides. This kind of classroom discussion about deep-seated ethical norms is what educational philosopher Robert Kunzman calls “ethical dialogue.” It is premised on the notion that genuine respect for persons requires exploration of and engagement with competing moral visions. “The civic virtue that ethical dialogue seeks to foster,” he writes, “cannot be detached from the study of religion or other important ethical frameworks.” (Kunzman, 2006, p. 83).

Here we can return to the question of justification in public discourse. I stipulated earlier that teaching about religion serves to protect religious freedom by training citizens who can effectively participate in a pluralistic society in which religious reasons are given as justification in public life. While John Rawls and many other “justificatory liberals” are quick to admit that that religious reasons are indeed offered in public discourse all the time (e.g. when citizens or legislators argue for poverty relief on the basis of Christian charity, or for the death penalty as an instrument of divine justice on earth), they believe such reasons are inherently inaccessible to those who do not share those religious principles. Therefore, citizens should speak in the public realm, or on public issues, or on matters requiring coercive legal action, using secular, public reasons. The logic of public reason is compelling—to find a language all can agree upon, out of respect for others—and it is accurate that religious justifications are not universally accessible. But as Charles Mathewes has noted, it misses the fact that there is no such neutral language, no moral and political Esperanto that can serve the ends of public reason. All language combines both the particular and the universal, so the search for a purely public language is a fruitless endeavor (Mathewes, 2007, p. 139).

Rather than attempt to circumvent this fact, we ought instead to recognize that religious believers can be good citizens in a liberal democracy. They can, as Christopher Eberle has argued, express themselves and support legislation based solely on religious reasons, though they should believe that any such legislation conduces to the common good, and they should try to articulate a plausible secular rationale. This is a process he calls “conscientious engagement” (2002, p. 104). The principle of conscientious justification extends into the classroom: students need to be prepared to engage with others who do not share their beliefs, and who do not deign to follow a Rawlsian prescription for public justification. One of the biggest challenges of life in a deeply pluralistic society is that we lose the ability to talk to one another about the things that matter to us most. These are, not coincidentally, also the source of our deepest differences.

Although teaching about religion is an important form of civic education that can serve to protect religious freedom, doing so in public schools presents special challenges, to which we now turn.

4 Teaching About Religion in Public Schools

One may accept the argument that teaching about religion is an important aspect of civic education, and still ask why it must be undertaken in public schools rather than, say, religious communities or homes. At least three responses to this question can be made. First, the state—meaning, in this case, the government and the nation as a whole—has an interest in forming good citizens that may differ from that of individual parents or religious leaders. Eamonn Callan frames this point by arguing that children must be respected as having equal value in the family as parents, and therefore the society has an obligation to protect the prospective rights of children to personal sovereignty. This entails the right to avoid the “ethical servility” that could be inculcated by insufficient exposure to diverse moral perspectives (Callan, 1997, p. 152). This argument, and others like it based on autonomy as a fundamental goal of education, go a long way toward justifying a civic educational mission in schools.

Second, irrespective of its *civic* educational value, religion is a proper part of the academic curriculum that has been consciously ignored for many decades in the United States (though not in many other nations). We essentially *have* left it up to parents and religious leaders, and the resulting collective knowledge about religion is unimpressive; we can do better.²⁸ Third, a more practical, if prosaic, response is that public schools are where the kids are: if we want every citizen to be well-informed about religion and able to effectively navigate the discursive practices of a religiously plural society, it makes sense to provide this education in the place where nine of ten American schoolchildren spend more than a decade of their lives.

Once we begin to consider the details of teaching about religion in public schools, however, a number of further objections come into play, which may be broadly clustered into three groups: constitutional, philosophical and pedagogical. Constitutional concerns are often among the first to be raised—wouldn’t teaching about religion in public schools invariably mingle church with state?—but they are the easiest to answer. Although the Supreme Court has never directly addressed this question, several Justices have written commentary about the topic amidst discussion of another case, and these dicta clearly authorize public education about religion under certain circumstances. In *Abington School District v. Schempp* (which in 1963 struck down a Pennsylvania law requiring teachers to lead daily Bible-reading exercises in public schools), three separate opinions noted that teaching about religion in the public schools was not only permissible but *advisable*. “It might well be said,” wrote Justice Tom Clark for the Court, that “one’s education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. . . . Nothing we have

²⁸ Americans are poorly informed about many of the topics discussed in this paper, including the legal grounds and extent of religious freedom itself in the United States (Nord, 1995, p. 206). The so-called “culture wars” of the 1980s and the post-9/11 national discussion of Islam are other examples of times when broader public education about religion would have helped considerably.

said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment.”²⁹ The view was reaffirmed by Justice Powell in 1987, and “it has never been challenged by a Justice in any opinion of the Court.”³⁰

So long as religion is “presented objectively as part of a secular program of education,” the endeavor is clearly permissible under the Constitution. But therein lies the philosophical rub: can religion ever be presented objectively? If so, what would be the theological implications? Many parents worry that in an attempt to portray all religions as worthy of study, teachers will inculcate relativism instead of respect. Whether that relativism is inculcated directly (by teaching that religious claims cannot be adjudicated, that all religions “are essentially the same” or that “are all equally true”) or indirectly (by teaching about all religious traditions with equal respect, thereby implying that all are equal), these parents claim the outcome is the same: their children leave school with values opposed to the religious teachings delivered in their homes and houses of worship. Combine this fear—that teaching about religion inculcates relativism—with the oft-stated complaint that not teaching about religion inculcates secularism, and it seems we are destined to mistreat religion whatever we do. It is obvious why school administrators often run for cover when the topic is broached.

Thankfully the situation is not so grim, because relativism is not a necessary upshot of teaching about religion. It is certainly true that exposure to religious and intellectual diversity raises questions that students might not face if they were home-schooled or if they attended homogeneous schools that did not teach about religion. (But as Eamonn Callan has argued, this is an important step in the movement from moral innocence to moral virtue.) It is also the case that every aspect of schooling—from the curriculum to the classroom dynamics to the school administration—transmits values of some sort to students. Education is inherently value-laden, so it would be foolish to suggest that students can learn about religion without absorbing some value or perspective in the process. Total neutrality as to competing conceptions of the good life—precisely the sort of stance that is likely to lead to relativism—is inimical to liberal education; some views (such as racism) are inimical to liberal democracy and will be cast in a negative light. In fact, neither pedagogical fairness nor the First Amendment requires us to embrace relativism when teaching about religion.

To suggest that well-informed and conscientious teachers can avoid relativizing students’ religious beliefs raises a third set of concerns and objections, namely those related to specific curricular and pedagogical strategies. The curricular difficulty is easily stated: when and where should public school students learn about religion? Should they be required (or encouraged) to take a single religious studies course that covers a wide range of topics? Or should they learn about religion as it impacts

²⁹ *Abington School District v. Schempp*, 374 U.S. 203, 225 (1963).

³⁰ *Edwards v. Aguillard*, 482 U.S. 578 (1987) (Powell, J., concurring); Wexler (2002), pp. 1172–75.

the subjects they study in other classes?³¹ Neither approach is self-evidently better than the other. Creating a separate religious studies course would allow more time to take on complex issues, but it would require at least one qualified teacher in each of the nation's 24,000 public secondary schools,³² not to mention a shuffling of the curriculum. Some other class would be lost as a result; what should it be? On the other hand, teaching about religion in courses such as history, geography, biology, economics, literature, civics, etc. would properly illustrate the historical and contemporary influence of religion, but this approach would require nearly every teacher to address the subject, despite it being outside their realm of expertise.

Given the vast amount of teacher training that apparently needs to occur, pedagogical concerns must take center stage when considering how to teach about religion in public schools. Indeed, these concerns led the representatives of 17 prominent religious and educational organizations to meet under the auspices of the First Amendment Foundation in 1997 to develop a joint set of pedagogical principles.³³ Following the Supreme Court's (albeit indirect) guidance, and informed by their disparate theological and philosophical values, the educational principles they agreed upon distinguished between the objective study of religion (*i.e.*, teaching *about* religion) and the subjective teaching *of* religion (*i.e.*, religious education). Teaching about religion in public schools is welcome, they wrote, when:

1. The school's approach to religion is *academic*, not *devotional*.
2. The school strives for student *awareness* of religions, but does not press for student *acceptance* of any religion.
3. The school sponsors *study* about religion, not the *practice* of religion.
4. The school may *expose* students to a diversity of religious views, but may not *impose* any particular view.
5. The school *educates* about all religions; it does not *promote* or *denigrate* religion.
6. The school *informs* students about various beliefs; it does not seek to *conform* students to any particular belief.³⁴

³¹ This strategy is sometimes called "natural inclusion" because it takes up religion whenever it "naturally" relates to understanding the subject at hand. Nord (1995), pp. 203 ff., p. 316. This way of making the point—to use speak of religion as a "natural" key to understanding—is more problematic than the curricular issue itself, so I have avoided the term.

³² In 2012 there were more than 98,000 public elementary and secondary schools in the United States, including about 24,000 high schools. U.S. Department of Education, [National Center for Education Statistics](#). (2015). *Digest of Education Statistics 2013* (NCES 2015-011), Chapter 2.

³³ Participating groups included the American Academy of Religion, American Federation of Teachers, American Jewish Congress, Baptist Joint Committee on Public Affairs, Islamic Society of North America, National Association of Evangelicals, National School Boards Association, among others. This is not a group of organizations often found in the same room.

³⁴ These guidelines are published in Haynes and Thomas (2001), pp. 75–6.

As difficult as it was for the group to agree upon these guidelines, they are even more difficult to follow in the classroom. The line between *informing* and *conforming* students is razor thin, if it exists at all, and teachers may not recognize (or care) when they have crossed the line. Most educators were not trained to teach about religion, and most textbooks ignore the subject—often at the request of state school boards. Yet avoiding the topic of religion is no way to “solve” the issue or avoid controversy. The result of avoidance is not simply the subtle conformation of students to the belief that religion was and is irrelevant in history, politics, literature, and science. It is also a crippling of future citizens’ capacities to participate in the full and free discourse about the common good.

Indeed the civic costs of *not* teaching about religion will continue to rise until changes are made in the way teachers are trained, curricula are developed, and textbooks are written. These are not easy solutions, but the civic health of our country demands no less.

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Prof. Dr. Erik Owens is Associate Professor of the Practice in Theology and International Studies, and Associate Director of the Boisi Center for Religion and American Public Life, Boston College, Chestnut Hill, MA, USA.

European Institutions, Human Rights and Interreligious Education

Peter Schreiner

Abstract This article introduces—in an exemplary way—positions and arguments of European institutions in the context of human rights that are open towards issues of (inter-)religious education.

The relevance of these developments can be seen in the fact that institutions that see themselves primarily as secular, are acknowledging and embracing the positive value of religion and religious education for the development of a positive way of coexistence. Religious education can make an important contribution to human rights education when both areas are related in a critical and constructive way. My aim is to discuss and critically develop this perspective with regard to recent developments of European institutions.

1 Introduction

The way that European institutions perceive religion and education seems to be more differentiated now than some years ago. Furthermore, the dialogue with religious communities is more intense now. This is true for the Council of Europe, the European Union, as well as the Organization for Security and Cooperation in Europe (OSCE).

The increasing interest in religion and education within the framework of these institutions is mainly based on two reasons:

1. Religion has become a public issue after the terrorist attacks on September 11, 2001. These attacks served as a wake up call for the Council of Europe to no longer neglect religion, e.g. as a dimension of intercultural dialogue. For the OSCE religion is relevant in the context of security and human rights.

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P. Schreiner (✉)

Comenius Institute, Protestant Centre for Research and Development in Education, Münster, Germany

e-mail: schreiner@comenius.de

2. Education about religion and non-religious worldviews is seen as a contribution to social cohesion and to the promotion of democratic citizenship. Therefore, a “religious dimension” has become an ever-increasing issue within projects of intercultural education, education for democratic citizenship and human rights education.

These reasons can be criticized, because they seem to be extrinsically motivated (reason 1). Furthermore, the engagement with religion and education is functionalized to serve the purposes and aims of the institutions (reason 2).

In this article, documents of the Council of Europe and the OSCE will be introduced and discussed. Compared to these organizations, the connection between religion and education is less explicit in the work of the European Union. However, religious communities are acknowledged as a particularly active part of civil society, and regular dialogue is guaranteed by the particular treaties (cf. Schreiner, 2012, p. 49). Furthermore, the *Program of the Alliance of Civilizations* has to be mentioned here: It creates impulses for education about religions and worldviews within the framework of the United Nations (www.unaoc.org/actions/online-oplatforms/erb/; cf. McGrady, 2007). This program, however, will not be further discussed in this article because the emphasis here is on European developments.

First of all, the protection of human rights as a central aim of European institutions will be presented. Then, selective projects and documents of the Council of Europe and the OSCE will be introduced. After the presentation and analysis of the documents, a short résumé will be added. First, however, a remark has to be made concerning key terms such as “religious education” or “inter-religious education”: They are rarely mentioned in documents of European institutions. Robert Jackson (2014) assumes that a reason for this is the institutions’ understanding of “religious education” as a non-critical introduction to a single religious tradition rather than as a transmission of neutral, objective knowledge about different religions and worldviews, as is called for in documents of the Council of Europe.

In my opinion, however, this perspective neglects the fact that especially in the English context the term “religious education” is not at all understood in a confessional way. Furthermore, it shows that the variety of existing concepts of RE in Europe, even in the field of confessional RE, is not properly recognized (cf. Lähnemann & Schreiner, 2009).

2 The Protection of Human Rights as a Central Concern of European Institutions

Religious freedom, related to freedom of thought and speech, is often dealt with in the context of religious education. However, even though it is a central right, it is not related exclusively to religion, but to the idea that every human being has the right to belong, or not belong to a religion, and to also confess this religion in the field of education. Therefore, it is a human right, not a religious right (cf. Bielefeldt, 2012).

On a European level—with nearly the same wording—freedom of religion is guaranteed by Article 9 of the *European Convention of Human Rights (ECHR)* and by Article 10 of the *Charter of Fundamental Rights of the European Union*. The latter reads:

Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change one's religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.

For the *Council of Europe*, human rights are, besides democracy and the rule of law, one of the basic pillars of its collaboration among the European countries. The *European Court of Human Rights* focuses on the protection of human rights, with the Commissioner for Human Rights supervising the compliance of the convention (ECHR).

In its jurisdiction the ECHR explores options between the basic right of religious freedom and the right of parents to educate their children in a way that is in accordance with their own religious or philosophical beliefs. Popular examples are cases in which national regulations of the profile and the practice of religious education have been accused of being illegal from the perspective of human rights (e.g. Folgerø and Leirvåg against Norway, cf. Schreiner, 2012, pp. 203–213), or the question of how much importance religious symbols should have in classrooms of public schools (e.g. Lautsi against Italy, cf. Schreiner, 2012, pp. 209–201; Lied, 2009; Wiater, 2010).

The task of the Commissioner for Human Rights (2012–2018 the Latvian Nils Muižnieks) is to critically observe the situation of human rights in the 47 member states of the Council of Europe, as well as organize talks and produce statements on current affairs. The first office holder, the Spaniard Alvaro Gil-Robles (1999–2006), but also his successor, the Swede Thomas Hammarberg (2006–2012), have organized the dialogue with religious communities on issues of religious education, and have thereby tremendously supported the permanent dialogue between the Council of Europe and religious and non-religious communities.

In the context of the European Union, human dignity, freedom, democracy, equality, the rule of law and the respect for human rights are rooted in EU treaties. The EU-Charter, which was proclaimed in 2000 and became a legal document through the enactment of the Treaty of Lisbon in December 2009, combines all basic rights that are protected in the EU in one single document. All rights and freedoms are summarized in detail under the following six labels: dignity, freedoms, equality, solidarity, citizen rights and juridical rights.

The *Organization for Security and Cooperation in Europe (OSCE)* is a permanent conference of states for the purpose of peacekeeping. It came into existence on 1st of August 1975 through the final act of Helsinki that came out of the former Conference for Security and Cooperation in Europe (CSCE). The OSCE has 57 member states (all European states—including Turkey, but excluding

Kosovo—, Mongolia, the successor states of the Soviet Union as well as the USA and Canada). The aims of the OSCE are the protection of peace and post-conflict re-construction. It sees itself as a stabilizing factor in Europe. This includes the promotion of democracy and the protection of human rights. For this field the OSCE has established an *Office for Democratic Institutions and Human Rights (ODIHR)*, whose activities include, among other concerns, a better understanding of the role of religion in today's pluralistic world. With the "Toledo Guiding Principles on Teaching about Religions and Beliefs in Public schools" (OSCE/ODIHR, 2007), the OSCE has published a document that is also widely being discussed among specialists of religious education.

3 Human Rights and Inter-Religious Education at the Council of Europe and the OSCE

After the presentation of the general framework, the focus will now lie on the recommendations of the *Parliamentary Assembly* and the *Committee of Ministers of the Council of Europe*, on initiatives for intercultural dialogue and intercultural education, as well as on the "Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools" (TGP) of the OSCE.

3.1 Recommendations of the Parliamentary Assembly of the Council of Europe¹

In the *Recommendation on Religious Tolerance* (1993) the religious communities are encouraged to foster the issue of tolerance among them; the importance of knowledge about one's own religion is emphasized, and a differentiated presentation of religion in teaching materials and in the classroom is proposed.

In *Religion and Democracy* (1999) teaching about religions is called for within the framework of ethics and education for democratic citizenship. The recommendation *Education and Religion* (2005) sees it as self-evident that knowledge about religions is part of the knowledge about the human race and about cultures; in the recommendation *State, Religion, Secularity and Human Rights* (2007) it is added that each member state has the obligation to make the origin of religions subject to their teaching.

Considering this and the other recommendations of the Council of Europe between 1993 and 2007, in which aspects about the connection between religion and education are mentioned, one can find an ever more differentiated perspective. In sum, the following goals are being pursued:

¹ See Schreiner (2012) for more detailed analyses of the aforementioned documents.

1. Guaranteeing freedom of religion and conscience,
2. promoting education about religions,
3. promoting better relations between and within religions,
4. promoting the cultural and social expressions of religion, and
5. clarifying the relationship between politics and religion (cf. Schreiner, 2012, pp. 149).

The recommendations express a preference for the teaching *about* religion or religious studies. They state that comparative history of religions should be taught, with the dimension of knowledge being dominant. On the other hand, all forms of confessional teaching are met with a high degree of suspicion. Transmission of knowledge is thought to be sufficient for ethical, democratic and citizenship education.

3.2 *Intercultural Dialogue and the Religious Dimension*

Relationships of human rights and inter-religious education can also be found in the Council of Europe's initiatives for intercultural dialogue and intercultural education. In the framework of the project *The Challenge of Intercultural Education Today: Religious Diversity and Dialogue in Europe* (2002–2005), a handbook for schools was produced, "*Religious diversity and intercultural education: a reference book for schools*" (Keast, 2007). The concept of inter-religious education is not explicitly mentioned in the book, but is implicitly stressed by the concept of inter-religious education used in the book. It says: "[T]his type of education should ensure that it nurtures an understanding of the phenomena of both belief and non-belief and the ability to reflect on the different world-views to be found in pluralist societies." (Keast, 2007, p. 201).

Religion is also mentioned in the White Paper on Intercultural Dialogue, "Living together as equals in dignity", launched by the Council of Europe Ministers of Foreign Affairs (Council of Europe, 2008). In the paragraph about the "religious dimension" it is underlined that "Christianity, Judaism and Islam, with their inner range of interpretations have deeply influenced our continent" (p. 21) and that "there are considerable overlaps between the Council of Europe's agenda and the concerns of religious communities: human rights, democratic citizenship, the promotion of values, peace, dialogue, education and solidarity" (ibid.). In the context of education it is demanded that knowledge about all religions and world-views should be transmitted and that one should take into account the diversity of religions and worldviews, independent of the different systems of religious education already in existence.

To summarize the activities of the Council of Europe concerning intercultural education and religion since 2002, the following recommendation from 2008, directed towards the member states, can be mentioned: *Dimension of religions and non-religious convictions within intercultural education* (Recommendation CM/Rec[2008]12, Council of Europe, 2009). The aim of the document is "to

underline the fundamental importance of taking into account the religious dimension of intercultural education in order to promote mutual understanding, tolerance and a culture of ‘living together’” (ibid., p. 8).

The recognition of the “religious dimension” is meant to promote dialogue, tolerance and a culture of living together. The religious dimension is seen as a constitutive part of the culture and identity of many people (p. 18). Thematically, this view is closely related to the aims of religious and inter-religious education, even though the Council of Europe does not mention these connections. On the contrary, it distances itself from religious education by separating clearly between a “religious dimension” and “religious education”. “Accordingly, the term ‘religious dimension’ is not used to define a type of ‘religious education’. In attaching importance to the dimension of religions and non-religious convictions within intercultural education, the goal is to foster reciprocal awareness and respect, as well as to learn how to live together in order to promote social cohesion and civic participation.” (Ibid., p. 18).

It is demanded: “[R]egardless of the system of religious education in any particular state, children should have education that takes religious and philosophical diversity into account as part of their intercultural education, irrespective of how exactly this is included in the curriculum.” (Ibid., p. 16).

It becomes clear that the form of religious education that exists in nearly every European state is not of interest in this recommendation; neither is there a discussion about how intercultural education is embedded in the curriculum. Addressing religious and philosophical diversity, no matter where or how in the curriculum, seems to be the only requirement.

At least, religions and non-religious worldviews are seen as “cultural facts” by the document, although it is also stated that there are different personal and societal views on religion (cf. Council of Europe, 2009, 9 and 16). On the one hand, this is a wise definition, because who could deny that religion is a part of culture? On the other hand, however, this position includes the danger of reducing religion in a way that is not acceptable, at least not for religious believers. The use of the term “at least” implies that the Council of Europe knows of a broader definition of religion.

Two principles concerning the inclusion of religious and non-religious dimensions in intercultural education are mentioned, and they can be closely related to interreligious education:

an interdisciplinary approach to education in religious, moral and civic values should be encouraged in order to develop sensitivity to human rights (including gender equality), peace, democratic citizenship, dialogue and solidarity; Intercultural dialogue and its dimension of religions and non-religious convictions are an essential precondition for the development of tolerance and a culture of ‘living together’, as well as for the recognition of our different identities on the basis of human rights. (Ibid., p. 10).

An interdisciplinary approach is demanded, and religious, moral and citizenship-related values should be promoted in order to develop sensitivity for human rights, peace, democratic citizenship, dialogue and solidarity. Other aims are mentioned as well: tolerance and a “culture of living together”, as well as the acceptance of existing differing identities, all on the basis of human rights. “Human rights” are

mentioned in two different ways: as an area that needs conscious consideration and sensibility, and as a basis of recognizing different identities.

A close relation between a “religious dimension” and “interreligious education” can be implied, since the mentioned aims are valid for both fields. But the negligence and non-consideration of specific methods of teaching can be criticized. Demanding an “interdisciplinary approach” on the one hand and creating distance to religious education on the other hand must be seen as a contradiction. Religious education is, after all, a subject that exists in nearly every European state and provides (or is at least able to provide) room for a “religious dimension” as well as for the concerns of “interreligious learning”.

3.3 The OSCE Toledo Guiding Principles

As a further example, the *Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools (TGP)* are introduced (OSCE/ODIHR, 2007). What are the reasons for an organization with a concern for security and cooperation in Europe to deal with issues of religious education? The framework can be seen in the promotion of democratic institutions and human rights. Basic concerns of the OSCE are threatened: tolerance, non-discrimination and freedom of religion and belief. Therefore, in 2006 the Council of Ministers of the OSCE made the fight against intolerance and discrimination a top priority and asked for measures “(to) address the root causes of intolerance and discrimination by encouraging the development of comprehensive domestic education policies and strategies” and for awareness-building activities “(to) promote a greater understanding of a respect for different cultures, ethnicities, religions and beliefs” and “prevent intolerance and discrimination, including against Christians, Jews, Muslims and members of other religions.” (Ibid., p. 9).

On this basis the *Office of the OSCE for Democratic Institutions and Human Rights (ODIHR)* has seized the initiative to have the TGP worked out by a group of invited experts. What are the main aims of the Guiding Principles? “They offer practical guidance on preparing curricula for teaching about religions and beliefs, on preferred procedures for assuring fairness in the development of curricula, and standards of how they could be implemented.” (Ibid., p. 10).

In the publication of the OSCE the TGP are linked to other initiatives, e.g. by the Council of Europe and the EU; an overview about the general context of human rights as well as legal issues about the teaching of religions and worldviews is given, and approaches and concepts for teaching in the classroom are presented. Additionally, issues of teacher education and aspects of the practical use of human rights, as well as further legal issues are addressed as well.

The “Conclusions” underline the value of “knowledge about religions and beliefs” and emphasize that such a teaching could strengthen democratic citizenship and social cohesion, create an understanding for diversity in society, reduce conflicts, promote an understanding of history, literature and art and become

influential for a greater quality of education. For the context of this article the following conclusion is of importance:

4. Teaching about religions and beliefs is most effective when combined with efforts to instill respect for the rights of others, even when there is disagreement about religions or beliefs. The right to freedom of religion or belief is a universal right and carries with it an obligation to protect the rights of others, including respect for the dignity of all human beings. (Ibid., p. 14)

The Guidelines themselves refer to the character of teaching (fair, accurate and based on *sound scholarship*), to the environment of learning (respectful of human rights, fundamental freedoms and civic values), to the attitudes of teachers, the main responsibility of the school, which should include respect for the role of the family and the religious communities (*should not undermine or ignore the role of families and religious or belief organizations in transmitting values to successive generations*) and on advisory bodies.

A revision of existing curricula that lack objectivity, or a right to opt out in cases where objectivity cannot be maintained, is demanded. Quality and competencies of teaching staff are also an issue, as is an inclusive, fair and respectful stance towards religions and worldviews in the process of creating curricula and teaching books that follow professional standards. At last, curricula should take into account global and local contexts and do justice to the different local manifestations of religious and secular plurality.

Concerning the feedback and perception of the Guidelines, four perspectives can be mentioned: They are either actively disseminated in a supportive manner, relativized in their importance, uncritically adopted, or they are used as a frame of reference for one's own activities. An example for active dissemination and positive reception is Robert Jackson, who was also involved in the process of producing the TGP. For him ODIHR is a qualified place to promote dialogue between different religions and worldviews and to use educational recommendations for this purpose (cf. Jackson, 2009, pp. 18–19).

“The main impetus for these initiatives lies in a combination of expressing respect for human rights in the public sphere (through the development of tolerance and respect for freedom of religion or belief, for example) and in fostering social cohesion through combating ignorance and developing understanding and tolerance for difference.” (Jackson, 2009, p. 11).

Jackson underlines the two basic principles of the TGP: Every person's right to freedom of religion and the view that teaching about religions can contribute to overcoming painful misunderstandings and stereotypes. In contrast to Jackson, Friedrich Schweitzer deemed the TGP not very important:

It is not accidental that such ‘Guidelines’ so far have only an informal status and are presented by an expert group – with minor or at least no official impact and not (yet) origin out of European policy itself. (Schweitzer, 2008, p. 214)

Nowadays, Schweitzer sees the Guidelines as an example for the development of international standards for religious education, and states that the TGP recommend

a type of religious education that is centered on the knowledge about religion “as a minimum requirement for schools” (Schweitzer, 2013, p. 24).

The *European Forum for Teachers of Religious Education (EFTRE)* has confirmed the TGP and included them as an appendix to their statutes, without discussing them on the level of their content or commenting on them (cf. www.eftre.net).

The comparative European research project REDCo, which contributes to the research on inter-religious dialogue and inter-religious education, refers explicitly to the TGP. In the introduction to their policy recommendations, they refer to two documents: to the White Paper on Inter-religious Dialogue, which is also introduced in this article, and to the TGP. It is stated: “Both documents emphasize the importance of dialogue between people of different faiths and convictions in the context of intercultural teaching and learning. This is also the focus of REDCo (Religion in Education. A Contribution to Dialogue or a Factor of Conflict in Transforming Societies of European Countries), a comparative European project about the views and perspectives of young people on religion, religious diversity, the possibilities of dialogue and interactions in the classroom, as well as educational strategies and goals of teachers.” (Weiße, 2009, pp. 38–39) In this context, the TGP serve the purpose of promoting dialogue within the framework of intercultural learning and teaching.

By summarizing these perspectives, it can be seen as a success that such documents are recognized and made subject of controversial discussion. The Guidelines can be seen as an example of an international development in which the discourses on human rights and (inter-)religious education are converging and where commonalities and differences can be discovered.

4 Conclusion

The views and arguments of the Council of Europe and the OSCE, as presented in this article, demonstrate the fact that secularly oriented institutions are becoming more and more open to acknowledging the positive value of religion and religious education for peaceful coexistence, and to ‘utilize’ them. This provides a basis for connecting religious education and human rights education in a critical and constructive way. Resistance is needed when (religious) education is instrumentalized, even though ethical education has a special place in religious education and can therefore contribute to a culture of human rights (cf. Pirner, 2013). “In the long run human rights will have a safe basis, when they are supported in all three dimensions, when they are supported by our official institutions and promoted by NGOs, argued for in intellectual debates and incarnated in the practices of day to day life” (Joas, 2010, p. 50, my translation). The discourse in religious education should contribute to this view as well.

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Dr. Peter Schreiner is Director of the Comenius Institute, Protestant Centre for Research and Development in Education, in Münster, Germany.

Human Rights, Religious Education and the Challenge of Diversity: A British Perspective

L. Philip Barnes

Abstract The central aim of this paper is to analyse and illuminate the role of human rights in religious education and to consider the relevance of human rights to education in liberal democratic societies that are characterised by diversity, particularly ethnic, moral and religious diversity. Attention is given both to the immediate political and social context within which human rights have come to prominence in British education and to the wider philosophical context of political liberalism. It is argued that current pre-occupations with citizenship and human rights reveal the extent to which our contemporary moral situation, political practice and education system illustrate and express ongoing tensions within political liberalism. Despite this, a case will be made for the importance and relevance of human rights and citizenship to religious education. It is argued that religious convictions, or more particularly Christian convictions, provide a justification for human rights and that a consideration of human rights can make a valuable contribution to a more extensive programme of moral, social and religious education.

1 Recent Educational Policy and the Rise of Citizenship Education

Acquaintance with recent developments in British education over the last few decades reveals a growing interest in the subject of citizenship education, which was introduced, through the instrument of the Citizenship Order in 2000, as a statutory element within the National Curriculum of England (see Advisory Group, 1998; HMSO, 1990; National Curriculum Council, 1990; for commentary see Kerr, 1999). Citizenship education, as part of the National Curriculum, deals with 'topical political, spiritual, moral, social and cultural issues, problems and

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L.P. Barnes (✉)
King's College, London, UK
e-mail: philip.barnes@kcl.ac.uk

events'.¹ The introduction of citizenship into the curriculum, in which the concept of rights is central, represented a new departure for formal education in Britain, where traditionally the cultivation of civic virtue and support for a democratic system of government were regarded as implicit elements within the curriculum, to be achieved by the conscious pursuit of excellence across a range of liberal arts subjects. What explains the rise to prominence of citizenship and the language of rights within British education?

The first and obvious point is that citizenship education and a stress upon the importance of rights are intended as a response to the increasing disengagement of young people from civil society and public life. There is reliable evidence that the numbers of 18- to 24 years-olds voting in national and local elections is falling rapidly. Young people are cynical of the motives and policies pursued by government and critical of the "representative" nature of the political process (Jowell & Park, 1998; Kerr, Lines, Blenkinsop, & Schagen, 2002). Such political apathy challenges the democratic ideal of an effective and informed citizenry willing to participate in public debate and to place civic virtue over private interest; it also suggests that our present democratic society has been unable to convince an increasing number of its citizens of the importance and relevance of a democratic system of government in which they should actively participate. Second, there is some evidence to suggest that there is a connection between political apathy and anti-social behaviour and crime. Those who are disengaged politically are more likely to engage in negative forms of behaviour. Individuals who perceive themselves as having both no stake in society and no possibility of influencing society are much less committed to the rules and conventions by which society is ordered and governed. The hope expressed by politicians and educators is that re-engagement with political processes, which citizenship education and education about rights are intended to effect, will produce a more law-abiding and respectful citizenry. Finally, the ratification of the 1950 European Convention on Human Rights into British law in the 1998 Human Rights Act provided both a new context for the teaching of citizenship in schools and a new opportunity to reconfigure moral education in the vocabulary and philosophical commitments of human rights. At the time of the introduction of the legislation, the Home Office claimed that it would contribute to the development of "a modern society enriched by different cultures and faiths, given unity by a shared understanding of what is fundamentally right and wrong [. . .] where people understand that rights and duties are two sides of the same coin, recognise the duties citizens owe each other and the wider community, and are willing to fulfil them" (Home Office, 2000, pp. 1–2). This highlights the then Labour government's view that a focus on rights that are applicable to all and followed by all has the potential to enable groups and communities within wider society to relate positively to each other.

¹ Quotations from the New National Curriculum in this paragraph are taken from the then National Curriculum on Line, <http://www.nc.uk.net/home.html>, accessed on the 2nd June, 2003.

A number of prominent religious educators were quick to identify religious education as an ideal vehicle for the delivery of the learning outcomes specified for citizenship education and education about human rights. Liam Gearon, for example, identified religious education as ideally suited to the realization of the aims of citizenship education. He advanced the hope that a new form of political religious education, invigorated by its commitment to civic values and human rights has the potential “to bring real and enduring relevance to religious education” (Gearon, 2002, p. 148). Implicit in this view is recognition that many pupils do not find religious education particularly relevant to their interests or to their moral development; and there is empirical research that supports this negative assessment of the impact and relevance of religious education to pupils in England (see Barnes, 2009, pp. 22–25). Unfortunately, Gearon does not explore the issue: in his view religious education fails to connect with the “lifeworld” (*Lebenswelt*) of pupils, and the incorporation of citizenship education may provide some kind of answer to this disconnection.

I intend to look at the nature of this disconnection between the interests of pupils and religious education more closely and on the basis of this to provide *qualified* support for the view that citizenship and rights have a legitimate role to play within religious education and that a focus on them can play *some* part in reconnecting religious education with the interests and experiences of pupils and reaffirming the role of religious education in moral education. The nature of the qualifications will become clear as my argument develops, as is my deliberate referral in this context to both citizenship *and* rights.

2 The Travail of Modern Post-Confessional Religious Education

The disconnection of religious education from the interests and concerns of pupils in Britain is part of an education narrative, that is worth briefly exploring; and this in turn is part of a larger cultural, intellectual narrative still, to which reference will be made, but which in this context can receive only superficial treatment.

Modern religious education in Britain traces its origins to the late 1960s and the early 1970s. Historically, publication of *Working Paper 36: Religious Education in the Secondary School* (written under the direction of Professor Ninian Smart) initiated a shift from confessional religious education in state schools to non-confessional religious education—a “non-dogmatic phenomenological approach” was endorsed. Following *Working Paper 36* modern religious education also sharply distinguished religious education from moral education. The four-page section devoted to the subject tersely states that “moral philosophers argue that the study of ethics and the study of religion are separate and distinct academic disciplines or areas of study” (Schools Council, 1971, p. 67). The argument is rehearsed that morality is not derived from religion and religion does not (indeed cannot)

provide a foundation for morality. Accordingly, moral education is a secular undertaking, appealing (necessarily) to secular, non-religious norms of reason that govern behaviour, though religion may encourage people by promises of reward to obey these norms. The independence of moral education from religious education was reinforced by *Working Paper 36*'s support for phenomenological religious education, which interpreted the essence of religion as experience of the Holy (or the Sacred). As is well known the phenomenology of religion is a variation and development of the post-Enlightenment experiential turn in theology. Almost without exception the original founders and practitioners of the phenomenology of religion were liberal Protestants who looked to (inner) religious experience and not morality as the determining and justifying heart of religion. Rudolf Otto is typical of this position. He identified holiness as the essence of religion and rejected equating holiness with goodness, and consequently did not identify "the holy" with "the good"; and this not because God is not morally good and perfect, as the theistic religions teach, but because holiness and the holy "includes in addition, [...] a clear overplus [*sic*] of meaning" (Otto, 1950, p. 5), something above and beyond moral goodness. It is this 'overplus', which is manifest in experience, that Otto wishes to isolate and explicate, and which he believes gives to religion its distinctive nature.

Under the influence of *Working Paper 36*, English religious educators began both to focus on explicitly religious phenomena (to the neglect of the moral content of religion) and to conform what remained of the contribution of religious education to moral education to secular commitments and aspirations. I have traced the post-confessional history of the relationship of religious education to moral education in England in some detail elsewhere (see Barnes, 2014, pp. 219–229), so what is said here lacks the detail, qualification and support that are consistent with a fully convincing account of things.

The first secular form of moral education in post-confessional religious education in state schools that immediately succeeded confessional religious education can be characterised as *multicultural*, in that it aimed to acquaint pupils with the diversity of religions as a means to the development in them of tolerance, understanding and mutual respect for Britain's increasingly diverse cultural and religious population. The focus moved from prescribing specific forms of behaviour and advocating certain life-styles to commending acceptance of "the religious Other". In this way religious education believed itself to be challenging religious intolerance, lessening discrimination and contributing significantly to the creation of an inclusive society.

As is well documented, this approach was much less effective than anticipated and in response the role of spirituality and spiritual development gradually emerged as an important theme in religious education in the late 1980s and 1990s and can be regarded as the second secular form of moral education in British religious education. Identified associations between spirituality and positive attitudes and behaviour gave impetus to a concern with spiritual development in education. The advantage of the language of spirituality over traditional religious language in Britain is that the former admits a degree of ambiguity of usage and application

that is denied to the former; it is also a means of connecting moral development to those who are not religious (the irony being that the form of religious education that was intended to reconnect religious education with moral education was essentially secular). Critics, however, pointed out that educational interpretations of spiritual development effectively overlook the moral content of the different religions and that the language of spirituality along with definitions of spiritual and moral development are often vague and ambiguous; vagueness also attached to the outcomes, which are typically expressed in terms of broad positive values (quoting from the “Statement of values” produced by the National Forum for Values in Education and the Community, see SCAA, 1996), for example, “promote opportunities for all”, “work cooperatively with others” and “respect religious and cultural diversity”, but which leave unspecified which particular actions and forms of behaviour are enjoined or forbidden, and which are right and which wrong.

This short historical/genealogical account of the relationship of religious education to moral education connects to what has already been said about the emergence of interest in citizenship and rights in education generally and in religious education in particular during the first decade of the twenty-first century. The focus upon citizenship and rights is properly interpreted as a third civic form of secular moral education in post-confessional religious education. According to this conception, religious education should be positively concerned with the creation of good citizens. What matters is adherence to the law. The law, *per se*, is not concerned with personal morality (often disparagingly referred to as “private” morality) but with social morality. A “good” citizen obeys the laws of the land and respects the rights of others. This seems positive enough and it has already been concluded that there is a case for connecting religious education to the aims of citizenship and to acquaint pupils with the moral force of rights, yet there is a wider narrative that cautions against overoptimistic views of what can be attained in terms of civic outcomes and the allocation of too central a role to citizenship and rights within religious education. This wider story relates to the ideology of liberalism and the way it and ideas of autonomy and rights have evolved and developed since the Enlightenment.

3 From Moral Rights to Personal Autonomy: A Post-Enlightenment Narrative

The importance of autonomy, which is now increasingly stated in the language of rights, has a long, complicated and contested history in modern European thought: in essence it is the story of its expansion. The thought of John Locke is a defensible place to begin. According to Locke, human beings by virtue of their humanity enjoy certain fundamental rights—rights to life, liberty and property or “possessions”. These rights are natural for Locke in the twofold sense that they both are grounded in human nature and are morally prior to any social or contractual arrangement. Such natural rights for Locke constitute the basis both for a “contract of

commonwealth”, whereby individuals agree to compact together to form a civil society, and for a “contract of government”, whereby individuals consent to entrust specified powers to particular offices and institutions in order to carry out the functions of government. At the heart of Locke’s political thought is the priority of the individual over the social. His starting point is a pre-political state of nature in which people have natural rights conferred on them by the law of nature. The individual with her inalienable freedoms has priority over the realm of social and community relationships. Even apart from the controversial foundationalist thrust of the epistemology of Locke, it is argued by some that his focus upon the isolated, abstracted self cannot but tend to relegate the significance of the social world to that of secondary importance behind the quest for self-fulfilment (this point has been forcefully argued by Taylor, 1985, 1989, pp. 143–198). In defence, however, it may be maintained that the priority of the individual over society in the thought of Locke, does not lead to a radical divorce between the personal and the realm of social action and behaviour, as it did at a later stage in the philosophical development of liberalism. This is because, for him, both the individual and society are related to each other under the overarching canopy of God’s justice and concern. Both the individual and the community are ordered by justice according to God’s natural laws. God’s justice establishes a matrix of divine, natural and human laws, ordered towards the achievement of the human good. Both ruler and the ruled are responsible to the claims of God’s justice as expressed in natural law and accessible to all through the proper use of reason.² The powers and negative freedoms that humans enjoy are powers and freedoms directed to rational ends in keeping with *divine* intentions. But what if the existence of God is challenged, as it was in later Enlightenment thought? How is a proper balance between the realm of the personal and the realm of the social to be maintained? This question alerts us to tensions within Locke’s thought which sooner or later would come to be felt most keenly by his intellectual heirs.

The position of Kant marks a further important development in the trajectory of Western thinking about freedom and autonomy. Central to Kant’s account of autonomy is the notion of an objective moral law, which is revealed to reason and to which we owe an obligation (Hill, 1989, pp. 91–103). Individuals have a duty to obey the moral law and this in turn requires that they have the freedom both to choose to obey or disobey and the freedom to effect obedience by their own natural powers (this is what is meant by Kant’s dictum “ought implies can”). According to Kant, if individuals are conditioned by upbringing or impelled by circumstances and external forces to obey the deliverances of practical reason, then their obedience is not genuinely free and thus not genuinely moral. Kant designates as external any cause that belongs to the “causality of nature”—that is, any cause that is not founded on reason alone. An action that springs from desire, emotion or interest is therefore “heteronomous”. Autonomy is manifest only in obedience to reason and because reason must guide action through practical imperatives, autonomy is described as

² In the *Second Treatise of Government* Locke expressly refers to the ‘Law of Nature’ as the ‘Will of God’ (Locke, 1969, pp. 375–376).

“that property of [the will] whereby it is a law to itself” (Kant, 1959, p. 59). Autonomy, for Kant, is autonomy only when it conforms to the moral law of reason; thus the exercise of autonomy is necessarily moral. Interestingly, Kant retained the notion of God to allocate rewards and punishments in a post-mortem state and in this way the authority of the moral law over the individual was maintained.

The trajectory of freedom and rights after Kant is the shift from moral autonomy to that of personal autonomy, by which is meant that within limits (if no-one else is harmed) the individual has the right to live as he or she chooses in pursuit of his or her personal conception of “the good life”. Thus we arrive at the contemporary notion of rights as demarcating an area of untrammelled freedom of action and behaviour, an area often extended by commitment to the principles of inclusion and equality. The realm of personal rights and freedoms has been expanded, and conceived in this way creates the potential for rights to become assertions of the self and its interests over the interests of the community and others. According to J. L. Mackie, “Rights [by which he means the contemporary conception of rights] are pleasant. They allow us to make claims of others” (quoted in Pojman, 1992, p. 605).

4 Rights, Freedom and Morality

The distinctively modern problem is that the realm of rights is no longer identical with the realm of morality or as being consistent with conceptions of the “the common good”. Of course there are advantages in this, in that individuals enjoy greater personal freedom, but there are also disadvantages, and it is these disadvantages that caution against assigning too central a role to rights within education, including religious education. Let me illustrate the point.

There is a clear distinction between what is right or good for individuals and for society and the legal and moral rights that individuals enjoy in contemporary societies. For example, in Britain there is a right to suicide, by which is meant that those who attempt suicide will not be prosecuted by the law (as they once were until the 1961 Suicide Act decriminalised suicide). Yet most accept that suicide is not a good thing; some will say that it is straightforwardly wrong. A society that was identical in all other respects to our own but with fewer suicides would be a better society. A society in which everyone was extended courtesy and respect by others would be a better society than one in which this does not occur, yet the kind of courtesy and respect that most people would like to receive cannot be legally required. A society where parents did not divorce until the children of the union had reached emotional maturity would probably be a better society than our present society; given that statistics show the devastating effects on children of being brought up in a single parent household. Not all immoral acts and instances of bad behaviour are regarded as criminal offences. We choose, however, to enshrine some “goods” in legislation, say unfair dismissal from work or a right to education, and allow individuals to choose other goods for themselves, say the viewing of pornography or the right to smoke in one’s own home. We criminalize some activities in (British) society, say prostitution (which some other societies legalise

and regulate), but allow married individuals to pursue extra-marital sexual attachments if they so choose. The simple point is that the existence of a right may not necessarily mean that the right ought (morally) to be exercised. To have a right to divorce does not mean that divorce is a good thing or that it is always morally right to divorce. The realm of rights is not identical with the realm of morality and moral goodness (though there is overlap). The rights you enjoy as a citizen should not all be exercised and some certainly may be exercised in pursuits of dubious moral worth. If this is the case then an orientation to rights in schools is necessarily inadequate as a vehicle for creating a “good” society. A good society where individuals and communities are valued and respected is a society that requires the practice of a much “thicker” conception of morality and behaviour than that required by the observance of human rights.

The second problem focuses directly on the role of rights in education and on the issue of conceiving moral education chiefly or exclusively in terms of respecting the rights of others. What this orientation overlooks is that social and personal morality are closely connected. A plausible empirical case can be made for the view that those who are socially responsible are precisely the same people who adhere to high standards of personal morality. Personal behaviour and social responsibility are related, for morality is of a piece. Furthermore, it is the personal aspects of morality that provide the foundation for social morality: it is the commitments, values, beliefs and positive affective emotions that are cultivated and educated in the immediate and wider family, and subsequently reinforced in social situations and institutions that for the most part determine the character and practice of social responsibility. To ask schools to attend to social responsibility and to overlook its foundation in personal morality is to misconceive the nature of morality; and consequently to risk disappointment when the focus in schools on social “morality” alone fails to translate into increasing levels of social responsibility. To recast the social aims of religious education in terms of “respect” for human rights alone is effectively to undermine much of the potential religious education offers to the creation of a stable and respectful society.

5 An Educational Response

It would be easy to construe my argument, up to this point, in solely negative terms and perhaps even to surmise that rights and citizenship have little relevance to religious education. This is not the case. What has been said is intended to caution against re-conceiving the moral role of religious education exclusively or chiefly in terms of rights and citizenship. The cautionary point to make, is that educational concern with rights and citizenship has to be accommodated within the broader aims of religious education and within the broader moral aims of education—for example, to convey knowledge about religion and provide an understanding of the nature of religion, to provide pupils with the skills to evaluate religions and religious phenomena and also to develop the virtues of respect for others, toleration, and so on. Nevertheless, both citizenship and rights are relevant to religious

education and are important themes in religious education, for religious education has the potential to contribute to the creation of good citizens who both “respect” the rights of others and who contribute positively to society in ways that go beyond what the observance of rights and of the law require.

Religious education has the positive potential to reconnect the concept of rights with the broader concept of justice and to show how the discourse of rights, as originally conceived, gave expression to concerns about justice and the freedoms that people should enjoy by virtue of being “persons”. The real problem for non-religious proponents of rights and secular interpretations of rights in education is to show how they are justified without recourse to religious or metaphysical commitments. The thesis that individuals enjoy certain rights and freedoms by virtue of being human emerged among Christian thinkers who appealed to distinctively Christian beliefs. Christians (and others) speak of individuals bearing “the image of God”; it is this “stamp of the divine” that gives sanctity and dignity to the human person and which grounds belief in and commitment to those (human) rights that advance moral claims (and what we have concluded is that all rights do not advance moral claims and it is this that cautions against uncritical appeals to rights in society and in education).

Christianity (as does Judaism) affirms that the divine image in men and women carries moral implications about how we relate to each other in community. The God of Christianity is just and righteous and as bearers of his image Christians are challenged to be just and righteous in all their relationships and transactions. Right relationships and the pursuit of right relationships for Christians incorporate both personal and social morality. In fact the Christian concept of righteousness, if we follow the teaching of the Apostle Paul, embraces love alongside justice. For the Christian, what is right is equally an expression of Christian love. There are biblical injunctions to “to serve others”, “to go the extra mile” and “to love your enemies”. People who practise these injunctions make *good* citizens, in the most demanding and rigorous sense of that term. Such people respect others and this in turn provides the foundation both for service to others and for toleration of their viewpoints and lifestyles at points with which they disagree.

Alongside the contribution of religious education to the creation of good citizens there are other educational advantages in reconnecting religious education with the broader field of moral education (in so far as British religious education is concerned). It is widely appreciated that by neglecting moral issues, under the influence of the phenomenology of religion, the subject of religious education in Britain lost much of its relevance to young people. Familiarising young people with the content and form of religious moralities and with what these moralities have to say about contemporary moral issues has the potential to make connections in religious education with the *Lebenswelt* (life-world) of pupils, to contribute to their moral development and to give them a vision of the good life as religiously conceived. Religious education should not limit itself to endorsing secular interpretations of rights or to narrow conceptions of citizenship; instead it should inspire pupils to seek the good and do what is right. Within this wider orientation the role of rights and the nurturing of citizens have their place, even though religious education should not allow itself to be limited to such narrow concerns, which can so easily be conformed to the ideological agenda of the nation state, the religions or to secular worldviews.

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Dr. L. Philip Barnes is Emeritus Reader of Religious and Theological Education at King's College, London, UK.

Issues and Dilemmas in Religious Education and Human Rights: Perspectives on Applying the Toledo Guiding Principles to a Divided Society

Norman Richardson

Abstract In a divided society like Northern Ireland, where religious separation in education remains effective in relation to over 90 % of the school-going population, discussion often centres on significantly divergent approaches to the place and role of religion in schools. Human rights principles are frequently used to justify the existence of faith schools but also increasingly to emphasise the importance of intercultural learning, and the significance placed on one or other of these can be the source of intense disagreement and sharp conflict. Debate focuses on the educational purposes of RE, on “faith ethos”, the place of confessional preparation in publicly funded schools, school worship, requirements for faith-based qualifications for teachers, the ethical appropriateness of withdrawal from RE classes and the possibility of creating shared schools for pupils of all backgrounds together. Many of these issues have been discussed internationally from a human rights perspective in documents such as the Toledo Guiding Principles (OSCE, *Toledo guiding principles on teaching about religions and beliefs in public schools*, Warsaw: Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe, 2007) and statements from the Council of Europe. This contribution will examine some of the contentious issues in Northern Ireland by particular reference to the Toledo document and will consider possible future options for a more inclusive approach to RE, concluding with reference to similar debate in other divided societies.

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N. Richardson (✉)

Department of Teacher Education (Religious Studies), Stranmillis University College, Belfast BT8 7AJ, Northern Ireland, UK
e-mail: n.richardson@stran.ac.uk

1 Prologue

Is it possible to draw on the ideals and principles enshrined in human rights to help us develop good quality policies and practices in relation to the teaching of Religious Education (RE) in schools? Can the thinking around human rights help us to work through some of the more contentious and divisive issues associated with religion in schools?

To attempt to respond to those questions is the principal purpose of this paper; but it is also a response to a challenge that was initially made over a decade ago. In 2001 the Northern Ireland Inter-Faith Forum issued a brief document in relation to their campaign to have world religions included in the RE Core Syllabus that had been introduced in Northern Ireland some years earlier. At that time the Northern Ireland Syllabus was exclusively Christian in content and the Inter-Faith Forum had suggested that this was “contrary to the spirit of recent legislation in Northern Ireland relating to Equality and Human Rights” (NIIFF, 2001). This claim, perhaps over-simplistically expressed, was queried by Philip Barnes who, while not completely dismissing the suggestion that “multi-faith religious education” might have some role in the “Christian society” of Northern Ireland, concluded that “The appeal to recent legislation in Northern Ireland relating to recent Equality and Human Rights legislation (including European legislation) is without force, certainly legally and probably morally as well” (Barnes, 2002, p. 29). As one of the authors of that Inter-Faith document I have, over several years, attempted to respond by exploring and articulating a Human Rights dimension to my rationale for inclusive Religious Education in Northern Ireland. Thus in this short paper I want to reflect some of that thinking with particular reference to several contentious issues that have some relevance on a wider scale. In particular I will focus on the issue of the place of faith education within a public school system and the related issue of religious separation in schooling; also on school ethos; on conscience clauses and opt-outs; and on the overall purposes of RE.

2 A Human Rights Rationale for RE

To propose a human rights basis for the teaching of Religious Education is not to suggest that this is the only possible basis, but in a secularising society that is wary or dismissive of arguments from religious authority it offers a rationale that is based on more widely agreed values to which many religiously committed people can subscribe alongside those of secular belief. Like the beliefs and values *within* and *between* different religions, of course, human rights are capable of different interpretations and emphases and there will always be a need to work through clashing and contrasting principles, sometimes finding consensus, sometimes not. Of course, the existence of Declarations or Conventions on Human Rights no more guarantees philosophical or ethical agreement, even within a reasonably cohesive community, than does the existence of the Ten Commandments or *Sharia* Law.

In 1947, the year before the United Nations Universal Declaration of Human Rights (UDHR) was formally issued, UNESCO held a series of meetings leading towards a submission to the UN Human Rights Commission. The international participants included a number of prominent philosophers, political scientists and some theologians and they debated underlying questions about rights, their origins, their universality, their relation to culture, religion and morality and the issue of rights and duties. A recurring debate about the relationship between individual and collective rights led to a striking observation by Pierre Teilhard de Chardin:

It is not by self-isolation [. . .], but by proper association with all other human beings that the individual can hope to achieve full development of his person [. . .] since we cannot become completely reflexive, except by reflecting ourselves in, and taking reflections from other human beings (UNESCO, 1949, p. 105).

One of the contemporary critiques of human rights from various religious sources sometimes portrays arguments from human rights as self-centred, individualistic and egoistic, but as Francesca Klug has shown, other religious observers have emphasised inherent shared ethical values and a “perception of human rights as rooted in morality” (Klug, 2010, pp. 34–5). She also observes that the communitarian dimension of rights is reflected in Article 29 of the UDHR: “everyone has duties to the community in which alone the free and full development of his personality is possible” (ibid., p. 36). Recent discussion in the Church of Scotland has developed the concept of human rights in theological terms related to the Hebrew word “shalom”, which it portrays as “a vision of justice informed by God’s love” (Church of Scotland, 2013, p. 3).

Keeping these underlying principles in mind, in the internationally adopted human rights instruments and related consultations and legal rulings there are several clear indicators of an approach that is particularly helpful when it comes to the shaping of a rationale for religious education. The right to freedom of thought, conscience, belief and religion are, of course, affirmed in all of these documents, including the right of persons to “manifest” and to change their religion. This is also affirmed in relation to children in the 1989 Convention on the Rights of the Child, which further acknowledges children’s right to seek, receive and impart information and ideas of all kinds. Article 29 of the Convention indicates that education should teach children to respect their parents’, their own and others’ cultures and prepare them to live responsibly and peacefully in a free society

in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin (UN, 1989, Article 29[d]).

The importance of education to raise awareness and understanding of the benefits of cultural diversity was emphasised in the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance¹ (para.

¹ Available from the United Nations Documents website at <http://www.un-documents.net/durban-d.htm>.

59). One of the most interesting of UN consultations in relation to this issue was held in Madrid, also in 2001, on the theme of “School Education in relation with Freedom of Religion or Belief, Tolerance or Non-Discrimination”.² It encouraged states to “promote and respect educational policies aimed at [. . .] ensuring respect for and acceptance of pluralism and diversity in the field of religion and belief” (para. 4) and urged teachers to promote mutual understanding and provide themselves and their students with opportunities for “meetings and exchanges with their counterparts of different religions or belief” (para. 10d). Also often cited in this context is a 1976 ruling of the European Court of Human Rights in relation to a case taken against Denmark:

the State, in fulfilling the functions assumed by it in regard to education and teaching, must take care that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner. The State is forbidden to pursue an aim of indoctrination that might be considered as not respecting parents’ religious and philosophical convictions (ECtHR, 1976).

Over the past decade in particular, the work of two Human Rights-related bodies has given much greater focus to the teaching of religion in schools within a human rights context, though both bodies have made it clear that their concern is not at all with religious *instruction* but with education. The Council of Europe has acknowledged that: “Religion is a key dimension both of culture and of the personal development of young people, and one way or another all educational systems must find a way to deal with it properly” (CoE, 2004, p. 17). Subsequently the Council has consulted its member states, issued guidelines, policy statements and resource materials designed to emphasise the importance of education and educators in the processes of the religious dimensions of intercultural dialogue (CoE, 2008; Keast, 2007).

During the same period the Organisation for Security and Co-operation in Europe (OSCE), through its Office for Democratic Institutions and Human Rights, produced the *Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools*, in order to “offer criteria that should be considered when and whenever teaching about religions and beliefs takes place” (OSCE, 2007, p. 12). Prepared by a team of experts in disciplines including law, education, religion, sociology and human rights, the Toledo Guiding Principles (TGPs) offer a detailed rationale, guidance on pedagogical approaches and on the preparation of teachers, citing examples from some of the states or regions that were represented; the ten *Key Guiding Principles* (ibid., pp. 16–17) summarise the work of the group.³

Many interculturally-focused religious educators have welcomed the Toledo Principles, as have other organisations including some secular groups; of the 56 OSCE member states only one—the Holy See—has taken a negative position,

²This important but elusive document can be found on the website of the Oslo Coalition for Freedom of Religion or Belief: http://www.oslocoalition.org/html/project_school_education/final_document_madrid.html.

³The Toledo document can be accessed from <http://www.osce.org/odihr/29154>.

ostensibly on the grounds that they were not properly consulted but more likely because a set of objective and perceived “secular” guidelines about religious teaching in schools contrasts significantly with the official approach of the Catholic Church on this matter. (According to Mgr. Michael Banach (2007), the Holy See’s official representative at the OSCE: “The Document contains a reductive view of religion and a conception of the secular nature of States and their neutrality that obfuscates the positive role of religion, its specific nature and contribution to society”).

3 A Northern Ireland Context

In 2008 I was invited to take part in a seminar in Sarajevo where the thinking of the TGP was offered and applied to some of the complexities that religious educators from various Balkan countries were facing as part of the slow process of post-conflict reconstruction. It was my task to offer a case study from Northern Ireland and despite obvious differences I was struck by the many common factors that were evident between these two regions from opposite corners of Europe. Thus in the remainder of this paper I would like to offer my own case study and analysis of how the human rights ideals and principles discussed above—and particularly as drawn together in the Toledo Principles—might offer some insights and inspiration in the task of building an intercultural society in Northern Ireland, and perhaps elsewhere, assisted by an effective religious education that is committed to encouraging understanding and respect.

It is not possible to offer here a detailed account of the Northern Ireland context for RE, though various brief accounts are publicly available.⁴ The key issues may be summarised in six brief statements as follows:

- Northern Ireland is gradually and stumblingly emerging from decades—some would say centuries—of civil unrest and frequent violence fuelled by historical, cultural, territorial, colonial, economic and religious factors. The two dominant communities are usually described by the loose cultural-religious shorthand terminology of “Catholics and Protestants”.
- Many observers argue that the significant level of separate schooling, over 90 % effective along Catholic/Protestant lines, is a major contributor to community division. Others suggest that this is only a symptom, not a cause of division. Yet others suggest that cause and symptom have become inextricably bound together.

⁴See, for example, the website of the European Forum for Teachers of Religious Education (EFTRE), www.eftre.net, where an article on RE in Northern Ireland can be found in the “RE Across Europe” section by clicking on the interactive map.

- Virtually all schools in Northern Ireland are fully publicly funded, including Catholic schools. RE in Catholic schools is permitted to be denominational and confessional; in state controlled schools it must be non-denominational.
- As schooling is largely separate, so is Religious Education. Many Catholics and Protestants have never had opportunities to learn about, with and from each other and many people are wary of religious discussion.
- The Religious Education syllabus in Northern Ireland is controlled by the larger Christian denominations⁵ and is predominantly Christian in assumptions, tone and content.
- Religious and ethnic minorities are relatively small compared with other parts of Europe, but are growing. Many people in Northern Ireland, however, have little or no inter-religious awareness or understanding and until very recently schools have largely ignored this aspect of learning.

4 Applying Human Rights

Undoubtedly one of the most contentious of these issues, in which human rights may well be called upon by different sides, is that of denominational schools, which in Northern Ireland are almost all publicly funded Catholic schools. Catholic primary schools prepare children for the sacraments of Reconciliation, First Communion and Confirmation and the commitment to faith formation continues through post-primary education with a strong emphasis on “the Catholic ethos”. Teachers wishing to get employment in Catholic schools must have a Catholic Certificate of Religious Education which, up to the present time, has been almost impossible for non-Catholics to acquire.⁶ The Church also argues strongly in favour of continuing to make separate provision for Catholic teacher education.

This is a broader issue than just that of allowing some schools to cater specifically for families of a particular religious persuasion because approximately half of all schools in Northern Ireland are Catholic schools, and while approximately 7 % of children attend mixed or integrated schools and there is some other minor “cross-over”, still over 90 % of children attend the school that is perceived to represent their religious cultural community. This, of course, means that even those families that do not wish to choose separate schooling are obliged to accept this reality, and thus there is substantial community separation during the formative years of education. Community relations policies, voluntary cross-community schemes and sharing education programmes have all made some positive impact on this

⁵The Catholic Church in Ireland; the Presbyterian Church in Ireland; the Church of Ireland (Anglican); and the Methodist Church in Ireland.

⁶A public statement in April 2013 by the Northern Ireland Council for Catholic Maintained Schools indicated that the Catholic RE Certificate would in future be available to teachers of any background who are prepared to take the relevant course.

separation (Richardson & Gallagher, 2011), but many people still regard schooling as a significant factor in the failure of Northern Ireland to develop a shared and more cohesive community.

Many Catholic educators strongly defend the right to educate children in Catholic schools by recourse to Article 2 of Protocol No. 1 of the European Convention on Human Rights, which provides that:

No person shall be denied the right to education . . . the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions;

and also Article 5.2 of the *UN Declaration on the Elimination of all forms of Intolerance and Discrimination based on Religion and Belief* (1981) that parents have the right “to organise the life within the family in accordance with their religion or belief”; and in particular that:

every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents [...] and shall not be compelled to receive teaching on religion or belief against the wishes of his parents.

These statements clearly focus on the rights of parents and children and it may not be unreasonable to surmise that their origin relates to situations in some parts of the world, not least during the Cold War period, when some states made it very difficult for parents to bring up children in their own religion, especially in the case of religious minorities. The use of these statements to justify *separate schooling* for religious or cultural purposes, however, is surely a step beyond what was intended, a point that has also been noted by Barnes (2010, p. 73).

It may be argued that the principles associated with freedom of religion and belief should allow a place for faith schools to make a distinctive contribution to the upbringing of children, and such cases have been made eloquently by many writers, not least Manfred Pirner (2012) in Germany and the late Terence McLaughlin et al. (1996) in the United Kingdom. It seems clear to me, however, that the principal reason for the strong view taken by the Catholic Church in support of Catholic schools is fundamentally based in the 1983 Code of Canon Law which states that “The duty and right of educating belongs in a special way to the Church” (794 §1) and that “Parents are to entrust their children to those schools which provide a Catholic education” (798). In debates about the appropriateness of faith schools it is normally assumed that families have the choice—often to be paid for—of sending children to such schools if they wish; but this choice simply does not exist in the same way for most people in Northern Ireland, where the choice of school is to a significant degree culturally predetermined.

On the other side of this discussion, the various human rights statements, cited above, which quite clearly promote awareness and respect for cultural and religious diversity in education are often used by those who argue for common schooling—children of all cultures and faiths learning and sharing together. Dialogue—which involves mutuality—is only possible on the basis of encounter; personal identity is best understood and developed as we experience those whose identities are different from ours, as implied in the Teilhard de Chardin quotation referred to earlier.

Such learning is seldom sequential—it is unrealistic to think we can learn only about ourselves and “our culture/our faith” *before* we encounter difference; the process is most normally and naturally a parallel one. In developing and elaborating the Toledo Guiding Principles, the OSCE panel of experts did not make a case against faith schools, and wisely so, but it seems to me very clear that the essential focus of their advice assumes that most children are being educated *together* in public schools (or perhaps even in reasonably mixed faith-based schools), as pertains in most parts of Europe, and that the encounter with diversity is thus an everyday, natural opportunity. The Toledo document encourages interactive pedagogical approaches that involve “discussion, debate, research, group work, project work, drama and presentation” (OSCE, 2007, p. 45) within a context of reflection, empathy and the creation of “safe space” whereby different viewpoints can be articulated. Interpretive and dialogical approaches are outlined. If children and young people are separated for the teaching of religion some discussion can of course still take place, but it will lack the dimension of interpersonal meeting and intercultural exchange that gives life to different theoretical positions and interpretations and may all too easily lead to the unintentional stereotyping that particularly neglects the recognition of internal diversity within traditions.

In various statements and documents the Catholic Bishops and school authorities in Northern Ireland have stressed the commitment of Catholic education to “peace, understanding, healing and reconciliation” (Catholic Bishops, 2001) and have emphasised the importance of diversity and inclusion and their openness to accommodating pupils from any religious background (CCMS, 2006). The sincerity of this commitment cannot be doubted, but it remains the case that in a still-divided society only an average of about 2% of non-Catholic pupils is in attendance at Catholic schools. Educational separation remains extremely robust and this has led the Human Rights Council of the UN General Assembly, through the reporting of the former Special Rapporteur on freedom of religion and belief, Asma Jahangir, to express concern that “the educational structure of Northern Ireland continues to be heavily segregated on the basis of religion, despite the increased demand for integrated schools” (UN General Assembly, 2008: para. 63). A similar point had also been made in an earlier 2002 report. While such observations (including remarks made by President Barack Obama on his visit to Belfast in June 2013) tend to evoke very defensive responses from the Catholic Church, some Irish Catholic educators do appear to be looking beyond the traditional boundaries in a way that reflects broader human rights principles. Thus Anne Hession in the Republic of Ireland has echoed the Council of Europe documents and the TGPs and has implied some critique of a catechetical system that relies on separate religious teaching in suggesting that “The pluralistic context of children’s development today requires competencies in religion that go beyond the goals of religious nurture or catechesis” (Hession, 2013, p. 166).

In making the case for Catholic education (as in relation to other kinds of faith schools) one of the most frequent arguments focuses on the importance of a Catholic ethos. In the context of human rights a concept such as “ethos” may at first appear vague and elusive, yet a closer glance suggests otherwise. When Article

29 of the Convention on the Rights of the Child indicates that education should teach children to respect their own and others' cultures and prepare them to live responsibly and peacefully in a free society "*in the spirit of understanding, peace, tolerance, equality of sexes, and friendship* [...]" (UN, 1989; present author's emphasis), this is in effect a statement about ethos. Similarly when the TGPs encourage reflection and empathy in RE they are going well beyond merely "learning *about* religion"—the simple imparting of information and knowledge about what people believe and practice—by highlighting the complimentary concept of "learning *from* religion" (OSCE, 2007, pp. 45–46). In fact the TGPs are quite specific, suggesting that all pedagogical approaches "require a school ethos in which difference is respected and human rights principles are upheld" (ibid, p. 47; present author's italics). *Every school and every classroom has an ethos—good, bad or indifferent—and teachers and school leaders have the important task of ensuring that the ethos is a positive one. Religious faith may well support and strengthen some teachers' commitment to creating a positive ethos, but is there any significant difference in the experience of learners between a positive ethos based on a particular Christian or other religious tradition and one based on mutual respect and inclusivity? While the foundational beliefs may be significantly different, surely the educational outcomes should be essentially the same.*

Significant sensitivities also surround the issue of parents' or pupils' rights *not to take part* in Religious Education. This issue is implicit in the major human rights instruments but has been very explicitly discussed in case-law and in the Toledo document, and it was also the subject of a significant research project based in Northern Ireland (Mawhinney, Niens, Richardson, & Chiba, 2010). Many countries provide in law an "opt-out" clause which permits parents (and in a few cases, older pupils themselves, though not in Northern Ireland) the right of withdrawal from RE and the practice has generally come to be regarded as a means of protecting freedom of thought, conscience and religion; the presence or absence of such provisions have frequently been taken as significant in cases brought before the European Court of Human Rights. In their discussion of this issue the Toledo authors make a careful distinction between the teaching *of* religions or beliefs in the sense of instruction and the teaching *about* religions and beliefs in an objective manner (although they recognise the reality that teaching on any subject can never be absolutely "neutral or objective" [OSCE, 2007, p. 69]). They accept that non-neutral or confessional religious instruction "is permissible if there are adequate opt-out provisions", though they note that where teaching does not seek to influence beliefs or support any particular religious or other world view "the need for opt-outs may be minimal or non-existent" (ibid., p. 70). While there seems to be a somewhat reluctant acceptance of the need for opt-out rights in the TGP document, the general conclusion is that "where a compulsory programme is not sufficiently objective, recognising appropriate opt-out rights may be a satisfactory solution for parents and pupils, unless or until the neutrality of the system is properly achieved" (ibid., p. 70). The Northern Ireland research, which focused on the experiences of young people and their parents from minority belief backgrounds, found that there were significant difficulties with the practice of opt-outs.

Some schools failed to notify parents of their rights in this regard and some even denied that such rights existed. Some pupils reported reluctance to be regarded by their peers as “different” if they were withdrawn from RE classes, and some recorded awkward or inadequate alternative provision. The decision whether or not to request withdrawal from RE was often a difficult balance within families in relation to some of these issues (Mawhinney et al., 2010, p. 41 ff.). Earlier research in the Republic of Ireland (Mawhinney, 2007) had highlighted the particular difficulty in Catholic schools for members of minority communities when there was such a strong emphasis on sacramental teaching and when the concept of “the Catholic ethos”, expressed doctrinally and confessionally, was intentionally pervasive throughout the school day; in such circumstances it was suggested that conscience clauses were completely inadequate. One of the strongest findings in the Northern Ireland research was that most minority parents agreed that they had no objections when teaching in RE was open-ended, promoted critical thought and included teaching about a range of beliefs; but there was strong criticism of the Northern Ireland RE Syllabus, devised solely by four Christian denominations, which was perceived by them to be too narrow and confessional. The report particularly commended the principles and practices indicated in the TGPs as a point of reference in encouraging schools “to review the content and approach of their Religious Education curriculum [...] with the aim of making [RE] more inclusive and welcoming of diversity in order to minimise the need for parents to withdraw their children” (Mawhinney et al., 2010, Recommendation 13).

5 Conclusions: Towards an Inclusive RE?

Can we draw any more general conclusions from this brief review of some particular issues from the Northern Ireland context? In many countries Religious Education in schools is challenged by uncertainties and ambiguities about its educational role and validity; misperceptions about the purposes of the subject and the intentions of teachers lead some—perhaps many—to question the appropriateness of such a subject within contemporary educational practice. Debates within the RE community between those who desire a faith nurture or faith formation approach and those who argue for a balanced and objective teaching of a range of beliefs and life stances may only serve to intensify the confusion both within and without the teaching profession. The attempt to identify international standards based on human rights principles and interdisciplinary discussion, as in the Toledo document, is no easy panacea but at the very least it broadens out the discussion and offers a public basis for examining and evaluating practice.

Attempts within Northern Ireland to engage in this kind of discussion have been slow and difficult, in no small way due to the defensiveness of the Protestant and Catholic Christian denominations responsible for producing the “Core Syllabus” for RE and their rather startling claim of “ownership” of the subject (PCI, 2001, p. 226). The high level of educational separation discussed earlier in this paper only serves to intensify that difficulty and to polarise the discussion. Ironically in

Northern Ireland it may well be the integrated or shared schools who find themselves most internally conflicted by these issues as they seek to find ways of persuading the various religious and cultural communities that their education, and the well-being of the whole community, would benefit from children being taught together in the same school.

Several other related issues deserve scrutiny by reference to human rights ideals, but time forbids it here. From this author's perspective the task of teaching religion in schools fairly, inclusively and educationally would be significantly easier if it could be clearly and unambiguously distinguished from the processes of confessional instruction and faith nurture. Faith communities have every right—indeed, a responsibility—to undertake this task within their own community, but I find it impossible to justify this in the context of publicly funded schooling. Yet in Northern Ireland, as in some other European countries, the possibility of that distinction becoming a reality seems unlikely in the foreseeable future and thus I fear that the simplistic call for “taking religion completely out of the schools” may well become stronger. In the meantime there is much that teachers and teacher educators can do to achieve a more inclusive approach by reflection on their own policies and practice with reference to standards such as the Toledo Principles. States also have significant responsibility to ensure that educational policy and practice takes account of human rights standards. In particular they should, as in the recommendations of the Toledo document:

Evaluate existing curricula being used in public schools that touch upon teaching about religions and beliefs with a view to determining whether they promote respect for freedom of religion or belief and whether they are impartial, balanced, inclusive, age appropriate, free of bias and meet professional standards;

and also:

Assess the process that leads to the development of curricula on teaching about religions and beliefs to make sure that this process is sensitive to the needs of various religious and belief communities and that all relevant stakeholders have an opportunity to have their voices heard (OSCE, 2007, p. 77).

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Dr. Norman Richardson is Lecturer in Religious Studies & Diversity Education at Stranmillis University College, Belfast, Northern Ireland.

Interlocutors, Human Rights Education and Interreligious Dialogue: A South African Perspective

Cornelia Roux

Abstract Reflecting on interreligious education and human rights education in South Africa is complex. The different paradigms underpinning religious education in school environments embody deep philosophical differences. In this chapter an overview regarding interreligious dialogue and human rights educations is given within a social-cultural paradigm. This paradigm will be used to describe the propensity that interreligious and human rights education have to support interreligious dialogue. The position and knowledge construct of teachers as interlocutors remain a crucial part for any successful process in interreligious dialogue. However, if interlocutors do not internalize the knowledge constructs and values of human rights, they are bound to lack a crucial part needed for facilitating dialogue. An international project on, Human rights literacy: the quest for meaning (2012–2016) explored this phenomenon involving pre-service student teachers in 2013 and in 2015 including students in social sciences and law. This chapter will reflect on an analysis of the first phase of the project (2012–2014) on issues relating to interreligious dialogue and human rights education.

1 Discourses on Human Rights Education

The *Universal Declaration on Human Rights* signed in 1948 is in reality not what the leading Western states proclaimed as a “universal declaration”. When this declaration and human rights document was originally negotiated, it was mainly tied to a Western concept of individualism. The majority of the world’s countries from different regions, with their own cultures, religions and worldviews were not included (Runzo, Martin, & Sharma, 2007; Jackson, 2014, p. 11) in the original

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C. Roux (✉)

Faculty of Education, Stellenbosch University, Stellenbosch, South Africa

e-mail: cdr@sun.ac.za

negotiations and many are still excluded. Baderin (2003) argues in his work *International Human Rights and Islamic Law* for dialogues and discourses amongst different religions and cultures, especially after the impact of the events of 9/11, in order to counter the alarming continuation of inhumane events across the world. The importance of human rights education is also supported by the adoption of declarations of the United Nations General Assembly, for example the *United Nations Declaration on Human Rights Education* (March, 2011) and the proclamation of the *United Nations Decade for Human Rights Education* (1995–2004) (Resolution, 49/184). The second phase of the *United Nations Commission on Human Rights on a World Program for Human Rights Education* (2004/71) is another example of the importance and support from UNESCO for international human rights programs.

Continuous human tragedies around the world, escalating into civil wars, political and religious persecutions, social violations, racism, xenophobic and homophobic attacks are not theoretical issues any more, to be discussed in human rights education. Violations and lived experiences of individuals are becoming part of the curriculum making in human rights education. In 1987, Tarrow quoted the then European Commission's pledged in the prologue of his book *Human Rights and Education*, that young people should be equipped with knowledge, skills and attitudes and that "they are to take active part in the operation in democratic institutions" (Tarrow, 1987, p. ix). The pledge for human rights education as education activism has long been part for striving towards social justice for all.

Until 1994 South Africa was not an internationally recognized democracy. Many citizens were politically and publically besieged by racial and socially dividing laws, policies and violence without any official protection from the state. No policy document on human rights or human rights education existed prior 1997 that could support a legal or moral obligation towards the state's citizens and young people. South Africa is also part of a continent where human rights and religious atrocities are well documented and the African philosophy of *ubuntu* is not prevalent anymore (Waghid, 2014). *Ubuntu* as value is regarded as the core of "human rights understandings in African contexts". In his book *The Politics of Truth and Reconciliation in South Africa: Legitimizing the post-Apartheid state*, Richard Wilson (2001) explained the complex issues of human rights, the constitutional democracy, the processes, outcomes and experiences of the *Truth and Reconciliation Commission*. The final report was presented in March 2003 to the then President of South Africa. This report did not only explore and unveil human rights violations, but was also an analysis of the experiences of victims and perpetrators with recommendations for reconciliation, justice and retributions to victims and the pardoning of politically driven perpetrators. Wilson (2001) described in detail the processes and the complex political and human rights issues, its politics, philosophy and processes, regarding the creation of an inclusive so-called "new South African society". Our political and social history of human rights violations in South Africa (pre- and post-1994) is also prevalent in many new understandings of diversity, including the memories and experiences of the younger generation, our so-called "Born Free" generation (children born after 1994), (Du Preez, 2014b; Jansen,

2009). Current media reports, threats, racial issues and violence towards one another, both physical and emotional, reflect the “unsolved inequality issues” in cultural communities and in the society at large. Complex race, ethnic, cultural and language issues are now more than ever in the public space and plays out specifically in both our secondary and tertiary education environments, (Roux & Becker, 2016).

The question to be asked is whether there is a collective responsibility to engage with human rights education programmes in South Africa? The South African Human Rights Commission (SAHRC), (<http://www.sahrc.org.za>) concentrates mainly on the human rights and legal issues and the human rights of children. There is no mention in SAHRC documents of any external education programs as part of their education and social responsibility.

There are enormous challenges on many social justice issues in our developing democracy, with very little evidence that the outline and content of human rights education policies and curricula has succeeded in its goals to facilitate knowledge, skills and attitudes. As researchers in human rights education, religion education and curriculum studies, the HREiD research group questioned the notion if we have successfully engaged with students, and whether education is contributing to transformation, support of a just society and to nation building. Research initiatives on human rights education is being conducted by academic institutions and faculties of law, education, research centers or units at tertiary institutions. Keet (2012) rightfully argued that there are very little, if any, discourses on the problematisation of human rights education, its relation to human rights as well as its impact on education and societal issues. Human rights education in general and in South Africa in particular needs to question and disrupt discourses in human rights, which means it carries a pedagogical responsibility to critique the very source of the human right.

The basis of such a dynamic pedagogical interlocution lies with our ability to root normative human rights frameworks within human rights critiques through a discourse approach. It follows then that the language of human rights and the practices ensuing from it must forever remain in a space of contestation, contention, disputation, public debate and social engagement. Developing this space should be the function of a HRE that is neither caught up in human rights idolatry or cultism, nor is conservative and uncritical. The value of HRE partly lies in its function to make visible the complexities of human rights as a discourse (Keet, 2012, p. 8)

A universal human right has a symbolic significance in that it was/is a code to strive for and to follow as conduct for individuals and governments. How societies and/or countries interact with such a code and whether an NGO, for example *Human Rights Watch* and/or the declarations of the *United Nations Human Rights Education Programs* or any *Human Rights Commission* will indicate if it is successfully implemented. Success lies primarily in the hands of teachers and lecturers who act as interlocutors and interpret these rights and values of “being human” and promoting and facilitating respect for one another (Du Preez & Roux, 2010). The understanding of the sub-text of the right and the responsibility of the individual towards that right, be it the receiver or applier of the human right,

culminates in the success of the interaction (cf. Roux, 2010). How human rights are legally pragmatized in a society depends on the processes that are put in place, be they legal, morally justifiable or educationally supported.

2 Human Rights Education and Interreligious Education in South Africa: A Synopsis

Human Rights education and interreligious education are not necessarily two sides of the same coin. Runzo et al. (2007) draw a fine line between religious interactions and human rights. Religious Education and especially interreligious education (including interreligious dialogue) have been, for the past decade, the epitome of how values and understanding the “other” relates to inclusive values and embodied religious respect and tolerance. Gearon (2014, p. 72) describes such an approach “to enhance the social and political relevance and indeed usefulness of religious education” and rightfully define this as a specific “socio-cultural and historical-political paradigm” in religious education. He explained the different paradigms of contemporary religious education (p. 71) and cautioned for an oversimplification of religious education paradigms, which might lack other purposes of religious education as “a seeker after personal meaningful and fulfilment . . .” (Gearon, 2014, p. 72). Human Rights education, on the other hand, is a recognized discipline in tertiary institutions and integrated and infused in education (school) curricula. The binary between these two disciplines can easily be confronted with a superficial understanding of the underlined principles of what human rights education and what the aims of a specific interreligious or religious education curriculum entail.

Due to the policies before 1994, religious education was meant to inculcate particular values and morals and to preserve denominational faiths. This policy was a dividing factor for social cohesion and a politicizing tool in education (Roux, 2009). Concerned about the recognition of access and the right to basic education for all learners, the democratic government, after 1994, spent the first 10 years developing the various policies and legislations in line with the SA Constitution (1996) and Bill of Rights (1996). This includes the recognition and promotion of the values of human dignity, equality, freedom, non-racism, and non-sexism. Since 2001, with the launch of the document on *Democracy, Values and Education* and in 2003 the document on *Human Rights education across the curriculum*, human rights and democracy became an integral part of the school curriculum and content of modules in teacher training institutions. Human rights education and its proposed outcomes is a direct intervention in education to counter the history of selective abuse of basic human rights during the apartheid period (Asmal & James, 2002). The policy document *Religion in Education* (2003) and curriculum-making initiatives, including research on and about religion in schools, did not sustain discourses on religious education and interreligious dialogue which, I argue, are imperatives to subscribe to the goals and values of our democratic society (Du Preez &

Roux, 2010; Simmonds, 2013). Most academic and popular discourses were either for or against the policies. Opportunities were not upheld by either the majority of academics or practitioners (Roux, 2009) to develop sustainable and progressive alternatives or address workable solutions to re-assess the policy on religion in education. At present religion education is still a contentious issue in some schools.¹ The public schools system, although state funded, is governed by School Governing Bodies (SGBs) and informed by the School Act (1997). The SGB is a body of the school community (e.g. parents and guardians) and represents and protects the rights and inputs of the parents, as the school fraternity, to the school's ethos. This system has the potential to lead to contentious issues when minority parents or learners are discriminated against if they do not adhere to the school's majority votes (e.g. school ethos or religious and language policies). This conflict on religion in schools is still a legacy of the long history of the Christian National Education System.² Doing research in a mostly religiously biased education system urged us to reassess the value of particularistic religious education and its inculcated historical roots in South Africa. If social cohesion is supported and informed by transformative curriculum-making, the common denominator falls back on human rights education.

Human rights education and its place in education is also part of international education discourses (Baja, 2011, p. 481) and can act as a channel to include conflicting issues raised in interreligious education and dialogue. Religious education scholars should progressively become aware of the considerable advantages that human rights education is able to provide to interreligious dialogue. Internationally, interreligious education and citizenship education are driven towards the inclusion of human rights issues in the curriculum (Jackson, 2014; Miedema, 2014), whilst in South Africa the development and content of interreligious education curriculum is driven by human rights education. Since 2004, research projects on interreligious and intercultural dialogue (Roux et al., 2009) underpinned the notion that the common denominator for all South African schools is founded in the Bill of Rights (1996), which embraces and guarantees to protect the "the rights of all people in South Africa" (Constitution, 1996). Human Rights Education as common denominator includes learners from different religions and worldviews and which works towards a shared value system without denying particular values. This might be an appropriate way to introduce respect for diversity, without causing conflicting attitudes and value education (Du Preez & Roux, 2010). Most human rights education goals are to contribute to understanding "the other" and to facilitate respect for diversity and coexistence in a multi-religious and multi-cultural society.

¹ In August 2014 a group of parents called the *Organization for Religion Education and Democracy* (OGOD) took a few public schools to court because of imposing a Christian ethos on learners of non-Christian or non-religious worldviews and in which the parents have to obey the school's ethos. The outcome of this court case was still in process when this paper was finalized.

² Christian National Education is seen as mainly politicized and introduced by the Apartheid government after 1948. There are many different viewpoints on the implementation, history and legacy of this education policy.

These opportunities, created in curriculum documents (e.g. CAPS, 2011) give means to content of human rights education and incorporate the process of interreligious dialogue. In order to do so we needed to investigate and explore the understanding of the different notions of human rights education that could help teachers and educators to create “safe spaces” (Du Preez, 2012; Roux, 2012) for interreligious and intercultural dialogue in schools and school communities, and to include parents and guardians in this process. If the main role-players in human rights education and interreligious dialogue are the schools and tertiary institutions, teachers and students are becoming the main interlocutors to facilitate this dialogue.

Dialogue can only start if teachers themselves become bearers of the understanding of human rights values (Du Preez, 2008; Du Preez & Roux, 2010) and become also a means to support interaction on religious and cultural differences. This approach has brought new issues in teacher training to the fore. The question has been posed whether moral demands of human rights in the curriculum, which are also political in nature (cf. Du Preez, Simmonds, & Roux, 2012), were understood and conveyed by teachers in classroom praxis (Simmonds, 2010).

Interreligious dialogue in South Africa is mostly driven by media talk shows, and the *National Interfaith Council of South Africa* (<http://www.nicsa.org.za/>). One of its goals is: “To unite all faith groups in a single campaign to regenerate morals, revive and embrace the spirit of Ubuntu and restore the integrity of the South African nation” (<http://www.nicsa.org.za/aboutus.htm>). The voice of the NICSA is at present extremely silent regarding religious labeling, disturbing social acts and flagging moral issues in the country. Their involvement with education issues on multi-religious education and/or human rights education is non-existent. This means that faculties of education and teachers are taking the sole responsibility to foster interreligious dialogue and human rights education as part of an education curriculum. When a school environment or a teacher-training facility does not explore interreligious education and dialogue, it remains a theoretical exercise with no impact on society. South Africa is fortunate for not having religious violence or attacks, but this does not mean that interreligious dialogue should be limited to education only. Instead of interreligious dialogue on religion and education and human rights, on issues related to interreligious education and religious practices, it is the judiciary and court cases which seem to be the choice schools, parents and SGB’s take in solving religious issues and human rights issues.

3 Research Project: Human Rights Literacy: A Quest for Meaning (2012–2016)

Previous research has also shown that teachers did not act according to the spirit and essence of the approved documents and curriculum on interreligious education. The lack of internalized knowledge on human rights and the infusion of different social issues related to human rights education were of main concern. The National

Research Foundation (NRF) of South Africa research grant for rated researchers funded a research project *Human rights literacy: The quest for meaning*, which commenced in 2012. The research project has two phases: phase 1 (2012–2014) (HRLit:RSA, 2013) included only South African participants and phase 2 (2015–2016) (HRLit:Int, 2015), involved students from 5 countries (2 countries in Europe, India, Israel and South Africa). The aim of the project (Phase 1) was to determine the knowledge field of human rights literacies in teacher education at South African faculties of education. From this understanding, the project aimed to develop a theoretical and philosophical underpinning for human rights literacy for teacher education curricula. Phase two included broader participation, involving also students in social sciences, law and religious studies. In the first phase the knowledge and interpretation of human rights in a selection of various identified sections was chosen which the research team argued was applicable to a broader South African society (Becker, De Wet, & Parker, 2014). In the second phase the survey questionnaire and crystallization of the data was altered in consultation with international collaborators to include a survey applicable to a wider student population with diverse understandings and experiences. Reasoning on the concept of literacy (religious) stems from arguments and publications (Roux, 2010, 2012; Simmonds, 2014) on the complexities of teachers as interlocutors of religious and human rights education and the need to define human rights literacy(ies). Questions on, and feedback from issues regarding religion and culture were part of the identified section's notions on interreligious dialogue that could be identified (Becker et al., 2014).

From the general data analyses of phase 1 it became clear that the participants at the five South African tertiary institutions did not comprehend the meaning of human rights, its morally inclined meaning and its interreligious (if applicable) dialogical possibilities. The knowledge construct of human rights and education within its legal responsibilities and individual interpretations of moral obligations needed urgent questioning (Becker et al., 2014).

We define human rights literacy as the competence that *constitutes the understanding of the processes and implications of human rights in social contexts* (Roux & Du Preez, 2013; Roux & Becker, 2015). Simmonds (2014) defined and explained the complexities of human rights literacy in gender issues. The discourses and theory(ies) on human rights literacy(ies), except for the notion that it constituted legal knowledge, has to deal more with the social fiber and values of the society in which the law is applied. This means that even with a *Bill of Rights* or the *Universal Declaration of Human Rights* (UDHR) or the *Universal Islamic Declaration of Human Rights* (UIDHR) (Moosa, 1998; Singh, 1998), a society's moral applications and understanding of their rights will influence and constitute what human rights literacy means (cf. Becker et al., 2014). The question was, why did some of the research studies show that the lack of content and pedagogical knowledge (Simmonds, 2010) on human rights result in detectable superficial content knowledge and classroom praxis.

A rhizomatic design based on Grounded Theory was used to infuse theories on the philosophical, ontological, and epistemological underpinnings of human rights education especially in teacher training (Roux & Du Preez, 2013; Becker et al.,

2014, p. 241). Roux and Du Preez (2013) argue that in “order to define this, it is important to elaborate on the rhizome as a metaphor for postmodern knowledge, as opposed to the tree as a modernist model of knowledge” (cf. Deleuze & Felix, 1983 in Lather, 2007). Lather (2007, p. 124) describes rhizomes as “systems with underground stems and aerial roots, whose fruits are tubers and bulbs” and further states that rhizomes represent a complex nexus with “an open trajectory of loose and resonating aggregates” (Lather, 2007, p. 93). In this sense it defies linear, hierarchical networks that create one-dimensionality in complex human and social knowledge which constructs a “journey among intersections, nodes, and regionalizations through a multicentered complexity” (Lather, 2007, p. 124). The research team further adopted the notion that assessment of skills, knowledge development and human rights values (Du Preez, 2008) can only be achieved if human rights literacy exists (Roux, 2010). This research also concentrates on selected areas identified to contribute to the development of the epistemology and ontology of human rights literacy. The areas chosen were (1) gender issues, (2) human rights values, (3) social justice, (4) socio-cultural, religious and world-view contexts, and (5) curriculum development and implementations (Simmonds, 2014; Becker et al., 2014, p. 241). A mixed research methodology was utilized to explore different possible methods in obtaining the data and executing the empirical research with qualitative and quantitative research methods. The following processes were followed and conducted at the three universities and six campuses in South Africa: (1) walk-about with 103 randomly selected students on four campuses, (2) a survey (1st and 4th year teacher education students) and (3) focus group interviews (2 days apart) with voluntary students who took part in the survey. Ethical clearance and ethical principles applicable in solely qualitative and in qualitative-and-interview research were followed throughout the research (Becker et al., 2014). It was important to include the “Free Borns” as part of the research. The participants were 550 first year students and 554 final year (fourth year) students with 1192 participants, including 68 participants who took part in individual and group interviews (cf. Becker et al., 2014; Roux & Becker, 2015). In the second phase of the project (2015–2016) a survey questionnaire was conducted and an e-mail discussion group utilized to explore further issues regarding human rights literacies. The data of the second phase was still in progress and the dissemination not completed to be commented on in this chapter.

4 Human Rights Education and Interreligious Dialogue: Major Results and Discussion of the First Phase

The notion of interreligious education should start pushing boundaries on whether different facilitating approaches toward interreligious dialogue can support a given outcome of respect or understanding of one another. Younger generations are acting more and more contradictorily to what the outcome of a lived curriculum or approach towards interreligious learning and dialogue will or should be. In order

to assess the significance and the part interlocutors play in interreligious dialogue, their literacy(ies) of their own religious understanding (Roux, 2010), their knowledge, interpretations and internalizing of human rights and human rights values (Roux & Du Preez, 2013) will advance curriculum-making, as Simmonds (2014) argues.

It is important to note that the results given in this section derive from a small part in section ([iv] socio-cultural contexts) of the project in phase 1 (RSA, 2013). Selected questions and one scenario (*Scenario 1*) that entailed issues on religion, human rights literacy and interreligious dialogue in the focus groups were analyzed for this chapter. The results of this section were taken from data on ten questions in the survey related to religious issues and traditions, morals, freedom of expression, documents that shaped human rights in South Africa, the comments in the open-ended questions and the focus group interviews with the participants. The frame of reference for this section is the South African Constitution and Bill of Rights (section 15 & 31; 1 a & b) (1996³). Biographical data on students' religion, value orientation or any other ideology indicated a variety of belief systems represented in the participatory group. The data was analyzed within a hermeneutical interpretative approach and in line with the rhizomatic research paradigm and approach (Becker et al., 2014, p. 242). Ricoeur's hermeneutic theory of interpretation was used within discourse analyses (Geanellos, 2000) to crystalize the data. The walk-about and pilot study on the questions for the survey resulted in the compilation of 74 questions, and the analyses of the questions directed the scenarios to further crystalize the data for interpretation and theory making. The results will be presented under the following headings:

4.1 Material Drawn from the Walk-Abouts (103 Students)

Question 2: What Do You Think Is the Most Important Human Right?

Only four among 103 students (n = 103:4) mentioned that religious rights are important in human rights. Freedom of speech, respect and social justice were mostly mentioned as important and these remarks can be linked as elements that support the notion and impact of religious rights (individual and communal). Religious freedom and rights are protected in the Constitution and Bill of Rights (1996) and, as expected, students regard religious freedom as a given and are not threatened or misinformed on their rights. This information directed the type of questions we put to student teachers in the survey and therefore a section on religious rights, religious practices and their connection to documents and issues regarding human rights was formulated (Becker, De Wet, & Van Vollenhoven, 2015).

³ (15) Freedom of Religion, Belief and Opinion—*Everyone has the right to freedom of conscience, religion, thought, belief and opinion.*

4.2 *Issues Detected in the Survey: Questions, Analyses and Comments*

In this section significant issues and reflective comments in relation to the selected questions that indicate whether interreligious dialogue was possible, will be given. As indicated before, the survey consisted of 74 questions of which ten questions referred to religion and/or religious issues. These questions will shortly be mentioned and results and discussions applicable to the interreligious debate will be highlighted. The n-factor refers to the specific number of students that answered the question.

Question 8: Which Belief System(s) Do You Adhere To?

The majority (n = 1085:1034; [95.2 %]) of the students could define their religious affiliation. One can explain the outcome that religious affiliations are clearly identified in the student communities and related religious societies. Students not adhering to any religion or those who identified themselves as “non-religious” clearly identified their individuality (n = 1085:23; [2.12 %]). However, in analyzing the category on the open-ended question, it was interesting to note that many Christian students did not know their own belief system or denomination as “Christian”, and marked in some cases their denomination as “other beliefs”. This conclusion of the analysis was possible due to the cross-referencing between the different categories put in the question (“religious affiliation” and “other”). Students adhering to syncretistic religious beliefs, e.g. African Religion and Christianity, like Shembe and Zionist followers, were not able to identify the complex roots of their belief system and referred to it only as “Christian”. The answers reflected also the diversity of the participatory students and gave guidance to students’ choices and answers in the follow-up questions in the survey on religion and human rights.

Question 21: Select Any 10 of the Following Words or Phrases You Associate Most with Freedom

“Freedom of choice” (n = 1058:884; [79.77 %]) and “choice of belief and religion” (n = 1058:685; [64 %]) came out as the highest of all phrases and this indicated that religious freedom is a very important component of freedom in South Africa (cf. Becker et al., 2015). This does not necessarily indicate that interreligious dialogue will be supported by such an outcome; however we used this outcome as a starting point for the focus group interviews.

Question 36: Name the Three Important Documents that Shape HR in SA

This question’s feedback was very informed, as the process in becoming part of the international community supporting human rights was foreseeable. Conservative religious groupings regard human rights as either against their religious belief system or their religious principles and therefore do not support human rights. From the survey only (n = 1006:7) students indicated that human rights are based on the Bible or a religious book or religious tradition. This indication can be seen as a starting point for interreligious dialogue, if themes on human rights and religion can be accommodated in different beliefs amongst the participating students.

On the contrary, in **Question 48** “*Are religious traditions more important than human rights?*” (n = 1012:801), students contradicted their answers to the previous questions and indicated that their religious traditions are more important than human rights. This outcome correlated also with **Question 49** on the statement “*Some religious traditions are against HR*” where only (n = 1012:275; [27.17 %]) fully agree whilst (n = 1021:440; [43.48 %]) disagree or agree somewhat. In order to raise the notion of violence in the name of religion (e.g. religious practices in most traditional religions still exist) **Question 51** was put as follows: “*Religious traditions are not an excuse for violating HR*”, where 171 respondents (n = 1012:171) indicated that it is *an excuse for some violence to occur*. Participants were referring to circumcision, virginity testing and “*ukutwala*”,⁴ and to some cases where police and human rights groups acted against these “religious/cultural” practices.

Questions on being *confronted by other religions* (**Question 52**); or *learning/teaching other religions* (**Question 53**); or (**Question 65**) on *distancing yourself from other religion* and (**Question 70**) “*Where do I learn the most from human rights*” indicated the known trend in the survey of positive feedback but with reservations on the *freedom of choice* and *respect for differences*.

The questions in the survey were also intended to be disruptive and some challenging questions were put to be more confrontational. Human rights literacies on human rights, religions, belief systems and worldviews must enable student teachers to become interlocutors of interreligious dialogue. Du Preez (2012, p. 51) states that “(T)he role of the educator is therefore to arrange contents and design curricula in such a way that they stimulate dialogue and enable learners to create safe spaces”.

4.3 Reflection and Dialogue in the Scenario (1)

Different scenarios were put to the participants in the focus group discussions. In scenario (1) “*You will be the judge*”, (HRLit:RSA, 2013) issues regarding human rights and religious and cultural practices and the interaction of traditional belief systems in a school system within a multicultural and multireligious democracy, were explained. The scenario describes a Xhosa boy attending a suburban school, but is forced to simultaneously attend a traditional cultural (tribal) school (for circumcision-related rituals) which is unintentionally scheduled to take place during an examination period in the suburban school. His English-speaking friend (cross-cultural friendship) accompanies him, leaving a problematic situation for the

⁴ Male circumcision and *ukutwala* are religious and cultural customs in some ethnic and cultural groups in South Africa and there is an increase of younger people attending these initiation schools and girls being submitted to, for example, virginity testing that can be regarded as violating the child’s human rights. This debate is an ongoing issue in South Africa.

school that refuses to allow them to go. The outcome is devastating; the Xhosa boy dies from injuries inflicted by the circumcision, and the friend was expelled from school due to the confrontational issues with school management and for not meeting the assessment requirements of the exams at the end of the school term.

In the focus group discussions, the students' reflections on this scenario were mainly to accommodate differences and cross-cultural interactions. Most of them took the part of the Xhosa boy's desire to be part of the religious and cultural practice (irrespective of the outcome of the story). However they argued for dialogue, compassion and understanding of the school board towards the boys instead of taking harsh actions. Participants' opinions were intense on the responsibility of the children regarding their education career and the interference of religious practices during school terms, as education for all "is also a human right". The traditional leaders' responsibility towards young people and the interface between human rights and religious traditions divided their reasoning and at the end the school's harshness towards the boys remained the main focus. The question to be put is: Whether the born-free generation can deal with interreligious dialogue on controversial issues in religion and culture, or are they becoming more accommodative towards practices which may violate human rights (as detected in the survey), or do they have conflicting knowledge and indications from society on the significance of human rights, but in the end lack an internalizing of human rights, human rights values and interpreting religious issues?

5 Conclusion

Human rights education and interreligious dialogue in education institutions is of the utmost importance to support social cohesion. However, dialogue as facilitation strategy must persist so that new understandings and solutions are available, and, as Du Preez (2008) argues, should lead to deep dialogue. In deep dialogue people begin to share their religions/worldviews and/or cultures and they begin to understand themselves at the deepest levels that may lead to an ability to be able to transform the way they see others (cf. Du Preez, 2012, p. 50). Two quotes of participating students reflected also their interaction on race and religion and issues on religious and cultural practices (*Scenario 1*) indicate the complexities of dialogue and issue to be dealt with in interreligious dialogue.

Like our culture is Islam. We are Muslims. But if you have to fill in a form we have to say Indian. There are no Muslim race groups.—Student focus group (S1Y1M2)

What the school was doing was interfering in their culture by refusing them permission to go. Who are they as a school to actually tell me whether I should practice my cultural traditions or not?—Student focus group (S1Y4M2)

Will the "Born-Free" generation be able, as teachers in schools in 2–3 years' time, to act with attained knowledge on human rights in order to facilitate dialogue effectively, if their own literacies on religions, human rights and social cohesion are not accounted for? It was important to detect, if an understanding and moral

infusing of human rights in practice existed. Therefore we were looking for a dialogical willingness to gain knowledge on human rights, its infusion in their own reasoning, its moral implication and value responsibilities. Willingness to dialogue needs a commitment to take risks and to be confronted with issues and implications. It seems students were willing to do so. In order to expose one's knowledge (legal, moral and within a value and social construct) deep dialogue (Du Preez, 2008) should become part of exploring one's own critical thoughts and judgements on human rights. It might become part of critical human rights literacy and enhance the notion of becoming a social and knowledgeable education activist for human rights values and applications of social justice in society.

Research by Roux (2010) and other studies (cf. Du Preez, 2014a) indicated that interreligious dialogue should start in schools with young children and might act towards processes and programs in society to become more respectful towards one another. However interreligious dialogue cannot become an effective tool if the social construct of past histories, new interpretations of knowledge development, curriculum implementations and its implications, are not in coherence with one another. Influences outside the school or teacher education curricula and social constructs can and will always influence perceptions. Interreligious dialogue is not a solution on its own; it must act in combination with human rights education and the interaction with its societal understandings. I am questioning the emphasis on interreligious dialogue and tend to argue that there is, in many instances, not always an agreed upon platform to start with. We are not in the situation to counter the erroneous perceptions on diverse religious actions and belief systems. Any positive or negative social action influences perceptions in a society. Religious literacies, as a prerequisite for interreligious dialogue, are at present not supporting dialogue on religions and the misuse of religion in politics and violence are not helping to counter these perceptions (Roux, 2010).

A statement of a student in the last question on the survey questionnaire (HRLit: RSA, 2013) reflects the need to develop a different angle to assist especially student teachers, to support their literacy and develop dialogue as action to internalize human rights and human rights values in order to understand different religions and belief systems.

While completing the questionnaire I realized that even though I'm not the biggest fan of human rights, because due to my religion I think humans don't have rights, I still need to learn about what human rights is.—(HRLit:RSA, 2013 - Student participant [verbatim]).

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Prof. Dr. Cornelia Roux is Extraordinary Professor at the Faculty of Education, Stellenbosch University, Stellenbosch, South Africa.

The Contribution of Interreligious Initiatives to Human Rights Education

Johannes Lähnemann

Abstract Starting point of this paper is the declaration of the First World Assembly of the international movement Religions for Peace/RfP (former World Conference on Religion and Peace/WCRP) 1970 in Kyoto/Japan where representatives of religions from many parts of the world came together (during the middle of the Cold War). Human Rights were one of the central concerns from the very beginning of the movement: The declaration's focus on the equality and dignity of all human beings corresponds with the 1st article of the Universal Declaration of Human Rights, pointing out the inviolability of the individual and their conscience concerning the rights to freedom of belief, underlining the solidarity of the poor and oppressed with the vision of the human family. But also values and behaviors have been referenced which are particularly at home in the religions: Love, compassion, selflessness, the power of the mind. . . The paper will explain how these ideas have spread out during the development of the interreligious movement—and have been recognized as a challenge for education. The Sixth World Assembly in 1994, conducted in the Vatican, initiated the establishment of the Peace Education Standing Commission (PESC) within RfP of which professor Lähnemann is the chair and in which interreligious peace education projects and endeavor are documented to bring them into discussion with one another. It is explained how in interreligious cooperation impulses can be given for human rights education—on the international, the national and the local level.

1 Introduction: A Unique Prayer Meeting

It was the summer of 2011. We were approaching 11 September, the tenth anniversary of the devastating attacks on the World Trade Centre in New York and the Pentagon in Washington. We began to consider: On this day, could we set a unique

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J. Lähnemann (✉)

Friedrich-Alexander-University Erlangen-Nürnberg, Nürnberg, Germany

e-mail: johannes@laehnemann.de

example in our city—the place from which the National Socialist regime’s racial policies were once sent out and which is now establishing a reputation as a city of human rights—with our Nürnberg group of Religions for Peace (Religionen für den Frieden Nürnberg)?

We noticed that some young Muslims were wearing t-shirts bearing the slogan ‘Terrorism has no religion!’ That was the key message for us: ‘Terrorism has no religion!’ We considered further: Would a mosque be willing to act as the host for a multi-faith prayer meeting? Would a representative of the Jewish community, the Israelitische Kultusgemeinde, come to the mosque for the meeting? What about religions other than the three religions who traditionally would come together for such meetings—Judaism, Christianity and Islam—such as Buddhism, Hinduism and the Baha’i faith? Furthermore, could we find prayers, songs and texts from the holy scriptures which highlighted our message, terrorism has no religion?

This was followed by many telephone calls, consultation sessions and an intense search for sources. The journey was rather adventurous at times but in the end the event was very moving and impressive.

The host was the DITIB mosque on Kurfürstenstraße, as arranged by the mosque community’s spokesperson. Each religious community made a contribution, either spoken or in song. Contributions came from the imam, a Catholic lay woman, a representative of the Baha’i community, the sheik of the Muslim Mevlana community, a Hindu priest and a yoga teacher, the religious teacher from the Israelitische Kultusgemeinde, the dean of the Lutheran church, the Roman Orthodox priest and a representative of the Buddhist centre. Dr. Günther Beckstein, the former Bavarian Prime Minister, gave a greeting on behalf of the state government.

The fact that this prayer meeting was an example of interreligious learning with human rights was already clear in the Jewish opening prayer, for which Rabbi Jonathan Magonet is to thank:

Eternal God, the Guide of humanity. You have called us to peace, for You are Peace itself. May we have the vision to see that each of us, in some measure, can help to realize these aims.

Where there are ignorance and superstition, let there be enlightenment and knowledge,

Where there are prejudice and hatred, let there be acceptance and love,

Where there are fear and suspicion, let there be confidence and trust,

Where there are tyranny and oppression, let there be freedom and justice,

Where there are poverty and disease, let there be prosperity and health,

Where there are strife and discord, let there be harmony and peace.—(Lähnemann/*Religionen für den Frieden Nürnberg*, 2014, pp. 176–177)

Searching for peace, for understanding to combat ignorance, for freedom and justice against tyranny and oppression, for well-being instead of poverty, all of these are goals that are implied in human rights and which we committed ourselves to together at this opportunity.

The journey which led to such a clear demonstration of religions working together was long, and to understand this requires a short overview of the main movement, Religions for Peace (RfP), previously called the World Conference on Religion and Peace (WCRP), as follows.

2 World Conference on Religion and Peace/Religions for Peace: A Long Journey

In 1970, 300 representatives from religions from many parts of the world came together in Kyoto for the first time. This was made possible due to many years of effort which mainly stemmed from India, the USA and Japan. In Japan, soon after the Second World War, the terrible atomic bomb attacks on Hiroshima and Nagasaki had led various religious communities to look for ways to work together. The movement which led to WCRP has always received a great amount of financial support from here. It was a great achievement to bring religious leaders from the east and west together during the middle of the Cold War and the ongoing Vietnam War. The fact that human rights were one of the central concerns from the very beginning is clearly documented in the book *History of the World Conference on Religion and Peace* by the first general secretary Homer Jack (1993). This is also clear in the first interreligious declaration that was adopted in Kyoto:

We found that we share:

- a conviction of the fundamental unity of the human family, and the equality and dignity of all human beings;
- a sense of the sacredness of the individual person and his conscience;
- a sense of the value of the human community;
- a realization that might is not right; that human power is not self-sufficient and absolute;
- a belief that love, compassion, selflessness, and the force of inner truthfulness and of the spirit have ultimately greater power than hate, enmity, and self-interest;
- a sense of obligation to stand on the side of the poor and the oppressed as against the rich and the oppressors;
- a profound hope that good will finally prevail.” (Jack, 1993, p. 438)

‘The equality and dignity of all human beings.’ This corresponds exactly to the first article of the Universal Declaration of Human Rights. The inviolability of the individual and their conscience corresponds to the rights to freedom which are addressed in various parts of the Declaration of Human Rights; the same applies to solidarity with the poor and the oppressed. However, another distinguishing characteristic is that values and behaviours are referenced which are particularly at home in the religion: love, compassion, selflessness, the power of the mind. It becomes clear here that work towards human rights requires specific, deeply rooted motivations in order to pursue it with sobriety but also with passion and patience. This can be linked with a statement in the first article of the Declaration of Human Rights which says that people should meet one another in the spirit of brotherhood.

After it was initially unclear whether WCRP would be able to establish itself in the long-term, with a great deal of effort, a second world conference was held in Leuven, Belgium, in 1974. Here too, the relationship to human rights played an important role, as peace and the development of the basic conditions for peace were given special attention. Dr. Maria Lückner, a key campaigner for WCRP in Germany, had published the book *Religionen, Frieden, Menschenrechte* (Religions, Peace, Human Rights) (1971) in advance of the conference. Commissions for

specific action programmes were envisaged. At the same time, against the backdrop of the Cold War, it was always difficult to name violations of human rights directly, particularly for the participating delegates of the Soviet Union and the East European states that feared reprisals in their home countries if too specific accusations were made.

The next conference, with a special focus on Third World countries, took place in 1979 in Princeton, USA, close to the United Nations which had by then accredited WCRP as an NGO. It included a visit to the White House where the participants were met by President Jimmy Carter. A Chinese delegation came for the first time, and there was a special focus on the subject of nuclear disarmament but also the disarmament of conventional weapons. The spiritual dimension—prayers and reflections from the religions—was included more strongly than in the first two world conferences.

The fourth world conference in 1984 took place in Africa for the first time, namely in Nairobi, Kenya. Archbishop Desmond Tutu confronted the delegates with the reality of apartheid in South Africa and with the necessity of meeting this with interreligious co-operation. The continent's developmental and environmental problems also played a key role. By now no less than 60 countries were represented with 600 delegates, and an international youth committee was established.

The fifth world conference was then held on the fifth continent in January 1989 in Melbourne, Australia. It was the first conference that I took part in myself and where I was able to process the task of peace education through the religions in a separate commission area. Franz Brendle was also present, after we had established WCRP Germany several months earlier and he had been elected chair, while Norbert Klaes in Würzburg, moderator of WCRP Europe, and Günther Gebhardt, secretary general of WCRP Europe in Geneva (with secretary general John Taylor), had already been contributing at the international level for a long time. In Melbourne, particular emphasis was placed on the participation of aboriginal people and on considering the indigenous religions.

At the sixth world conference in 1994, we were greeted by Pope John Paul II in the hall of the Bishops' Synod in Rome. When he entered the hall and saw the diverse audience, which included a Native American chief from North America, he smiled as he said to his companions, 'The other Bishops' Synod'. This conference was continued in Riva del Garda where Dr. William Vendley was elected secretary general—and since then chairs and organizes the work of Religions for Peace together with his staff at the secretariat in New York (close to the United Nations/see www.religionsforpeace.org). The conference provided—among other items—the momentum for long-term systematic work in important subject areas, which led to the establishment of the Peace Education Standing Commission (PESC), of which I am chair and in which we document interreligious peace education projects and endeavour to bring them into discussion with one another.

The seventh world conference was held in 1999 in Amman, Jordan, and opened in the presence of King Abdullah II. Along with his uncle, Prince Hassan bin Talal, he is without a doubt one of the most committed advocates of peace in the Middle East. Both of them are also strongly committed to protecting Christians. At the

time, the participants were filled with hope in the wake of the Oslo process. For example, rabbis from Israel went to the Christian Theodor Schneller School in Amman. Then the Second Intifada destroyed many of these hopes. It was moving how, in an educational pre-conference talk, Rabbi Howard Bogot presented his book *Schalom, Salaam, Peace* (1999) which makes childhood dreams of peace visible, with accompanying text in Arabic, Hebrew and English—an example of efforts to use education to break down borders and create a vision of dignified living which also considers the needs of children.

For the eighth world conference in 2006, WCRP—which was now known as Religions for Peace (RfP) as the work was not only related to the conferences—returned to the place where it all began, Kyoto in Japan. 800 delegates from 100 countries met for a conference with the title ‘Shared Security’, during which the fears and dangers in many conflict regions were given special attention. Outside of the main conference, religious leaders from countries such as Iraq, Israel and Palestine, North and South Korea, Sudan and Sri Lanka held direct talks about the problems with violence in their countries. In a resolution, the conference adopted the mission of the *Global Ethic Project* set up by Hans Küng as its own. The preceding women’s conference was dedicated to the problem of violence against children and the youth conference started the *Arms Down project* which continues to collect signatures from across the world in protest of unlimited arms exports today.

The ninth world conference took place in Vienna in November 2013. The topic of the conference was ‘Welcoming the Other: Action for Human Dignity, Citizenship and Shared Well-being’. The main concerns of the Declaration of Human Rights are also of current relevance as part of this topic—with the emphasis on human dignity, civil rights for all and well-being based on solidarity. The relevance of this topic to the current situation lies in the fact that there remain many problem regions in which, instead of a culture of welcoming, a culture of hate between nations, religions and systems is dominant. Delegates from civil war-torn Syria took part, as did religious representatives from Israel and Palestine, from Myanmar, from areas of tension in Africa, and even from North and South Korea. Alternative ways of thinking and acting were a matter of urgency in the discussions, declarations and pledges.

I chaired the commission tasked with bringing the topic up-to-date for education. We were concerned with how a lack of understanding of one another in religious communities often leads to prejudice and one-sided perceptions, which can easily be misused for radicalisation. This results in a challenge for education to overcome ignorance and misconceptions and to thereby counteract animosity and hostility between different cultures and religious groups.

The basic paper developed in the commission explains:

- Religions are concerned with giving meaning to life, interpreting the world, and are not only focused on short-term goals.
- ‘Welcoming the Other’ should draw on the spiritual, ethical and social potential of religious communities.

- Tasks for religious communities in this respect are first to vitalize their own principles of belief in an open way that opposes intolerance.
- At the same time, all religious/ethical education should be accompanied by a new approach to engagement that respects and appreciates people of other faiths as well as their values and ways of life.

Therefore, a key goal is to emphasise the importance of using the spiritual traditions of the different religions as a living source for long-term, responsible and fruitful co-operation. In order to do this, educational collaborations between different religious communities, but also between religious communities and public education in schools and education institutions, were suggested.

This was included in the closing declaration ‘The Vienna Declaration—Welcoming the Other—A Multi-Religious Vision of Peace’:

Our respective religious communities can become centres of religious education on ‘welcoming the other’: To do this, we must reclaim our own religious teachings that call us to welcome the other, widely share them among our respective faith communities, including our young people, and put them into practice.—(www.rfp.org/sites/. . ./Vienna%20Declaration%20-%20Final.pdf)

The principles of this declaration have been more elaborated in the brochure “The role of interreligious education in overcoming fear and building trust” which was launched at the European Assembly of RfP in Castel Gandolfo/Italy in October 2015 (Lähnemann, 2015), describing spiritual and moral dispositions which can be trained through religious and inter-religious education and giving examples of best practice in schools as well as in other public fields of education.

What has not yet been shown in this short overview is that in addition to the global-scale interreligious councils, there are also round tables of religions and activities at the level of individual continents, nations and even in our communities, which are working on human rights issues in their own way. This will be discussed later. First we should address the question: Have the interreligious initiatives been able to achieve something?

3 Interreligious Initiatives: Failure and Success

Religions for Peace is a movement with committed members, groups and working groups in many countries. However, it has not been able to prevent terrible things from happening, such as the divide in Cyprus, the long civil war in Lebanon, the troubles in Northern Ireland, the war in former Yugoslavia, the massacre in Rwanda, the entrenched fronts in Israel and Palestine—not least the civil war in Syria and the terrorism of the so called IS (“Islamic State” in Iraq and Syrian territories)—all of which are associated with massive violations of human rights, as well as discrimination against and persecution of religious minorities in many countries. Often a kind of national religious affliction plays a large role here—an unquestioned linking of national culture, religion and politics, whereby

representatives of the ruling religious group marginalise the other groups, sometimes even want to eliminate them, and radicalise large sections of their communities.

This is also reflected in the interreligious work being carried out in our city.

Each of the religious communities represented in Nürnberg has its own stories of negative incidents that members of their faith have experienced and are experiencing.

- For example, for a long time the group had a member who was a young Egyptian who had been thrown from a train by a radical Muslim group because he had become a Christian. He lost his arm as a result.
- There were Bosnian Muslims from former Yugoslavia where mosques were destroyed and ‘ethnic cleansing’ took place.
- The members of the Buddhist centre in Fürth, the city next to Nürnberg, have a high-ranking Tibetan lama as a teacher who was forced to leave his home as a young man together with the Dalai Lama.
- The Baha’i have relatives and acquaintances in Iran who have been imprisoned because of their faith.
- The Hindu temple in the south of Nürnberg was set up by families of Tamil refugees who were forced to leave their home in northern Sri Lanka.
- Finally, the interreligious work clearly cannot ignore the difficult history that the Jews went through in Nürnberg.

Yet we can also talk of stories which are the opposite of these.

It is not well known enough that Christians, Muslims and Hindus in South Africa worked together to help overcome apartheid; that the civil war in Sierra Leone was only able to come to an end because interreligious councils mediated between the government and the rebels; that Mozambique could only be led to democracy through the many years of patient peace efforts of the Catholic St Egidio movement; that in Sri Lanka the Buddhist Sarvodaya movement is represented in over 15,000 villages with an open, interreligious education and development programme. We should also remember the important contributions the peace prayers in former East Germany (the German Democratic Republic) made to German Reunification in 1989/1990.

The book *Religions and World Peace: Religious Capacities for Conflict Resolution and Peacebuilding* (Czada, Held, & Weingardt, 2012) contains further positive examples and deserves to be a bestseller.

4 Interreligious Raising of Awareness: New Approaches in Dialogue

In the background of all of the examples given is a process of raising awareness, one could say a process of conversion, which the religious communities that have had problems with human rights for long enough have had to undergo and must continue to do so.

One of the fundamental commitments of the Religions for Peace movement is to work towards ensuring peace, equality and dignity for people of all religions and beliefs. It is a fundamental commitment for religious people as a whole to work to ensure that the religions themselves do their homework in this area.

In order to do so, it helps to bring to mind the spiritual foundations of our religions. In their own unique ways they can each be a source of strength and motivation to campaign for freedom, equality and dignity for others.

Freedom: For people of faith who see their lives as a gift from God this means, above all, freedom from selfishness, from egocentricity, from only focusing on our own gains. For Buddhists it is freedom from holding on to what is transient. It is freedom from idolising possession and power, which always come at the cost of others. Freedom is also freedom of thought. The Qur'an says 'there is no compulsion in religion'—and all religions know that a true, sincere choice for a faith can only ever be a voluntary choice.

It was therefore logical when, at the first large dialogue conference of the World Council of Churches in Chambesy near Geneva in 1977, it was stated that Muslims and Christians alike must have the unrestricted right to convince and to be convinced, and to live out their faith and organise their religious life in accordance with their religious obligations and principles (Abdullah, 1981, p. 27). Regrettably, there are too many countries in which this fundamental right is not granted.

Equality: In Judaism, Christianity, Islam and the Baha'i faith (and equally in the Zoroastrian and the Sikh religion), the belief in God as the creator means that God made all people equal, as one big family, as it is said in a central Baha'i prayer. In the Bible, St. Paul uses the image of the body with different limbs which have different tasks but can only form a body by working together (1 Corinthians 12); and he emphasises that the weaker limbs should be given special honour. Buddha taught that people belong together and should be in solidarity with all things that live and exist.

When equality is understood as equal dignity, it is clear that the widening gap between the very rich and the very poor is an appalling injustice, and it is an urgent task for churches and other religious communities to campaign for the reduction of debt for the world's poorest countries. Symbolic leaders are also incredibly important, such as Mahatma Gandhi, who took equality so seriously that he could call himself a street sweeper of India. He encouraged all of the members of his ashram, even Brahmins, to clean their own toilets. He himself adopted an untouchable girl.

Dignity: This is demonstrated when every human being is respected as a person with abilities and weaknesses, and when the needy in particular are not lost. Jesus

presented the example of a child to his disciples. The openness and dependency of a child makes it clear that people are not accepted by God because of their abilities but because of their need for love. This makes actions which help children a particularly important task for religions. They must not accept children being neglected and exploited, with such terrible practices as child labour in mines and child prostitution, or that they are put at risk of suffering from neglect in a society dominated by consumerism and ‘spiritual pollution’.

The interreligious work carried out here is a practice ground that the believers from the different religions can come to in freedom, equality and dignity. When we visit one another in churches, mosques, synagogues and temples, we begin to understand what is important for the others’ faiths and why it is important. When we hold conversations with one another, we see the prejudices and the burdens we bear in terms of our history. We give one another the sign of our faith and recognise what unites us and what makes us different. We then often understand our own faith better and more clearly. We discover where we can work together: for freedom of religions, for equal rights in education, against xenophobia and intolerance.

5 Interreligious Human Rights Education in Practice: Global, National, Local

The final part of this report will present practical examples of how projects in interreligious human rights education can be carried out.

- On an international level, the Women of Faith Network—part of Religions for Peace—has created the Restoring Dignity project, led by Ravinder Nijjar, a Scottish woman of the Sikh religion, and Yolande Iliano, the European president of RfP in Brussels. These women have identified what world religions teach—each in their own way—about the inviolable dignity of women, set down in the different holy scriptures. They have organised meetings and exhibitions, have set up an active online platform (www.rfpwomenoffaith.eu) and encourage communities, institutions and individuals to become actively involved in putting an end to violence against women and girls.
- On a global level, it is also particularly worth mentioning the Global Ethic project started by Hans Küng (www.weltethos.org), a project whose mission Religions for Peace made its own at the 2006 world conference in Kyoto. The Global Ethic Project does not intend to write a new version of human rights, instead it is a complementary plan to identify and promote the attitudes that are necessary in order to ensure that human rights are respected, based on the ethical traditions found in religions. Commitments to a culture of non-violence and respect for all life, to a culture of solidarity and a fair economic system, to a culture of truthfulness and tolerance, and finally to a culture of partnership and equality between men and women, are the four main areas which can be identified both in the ten commandments of the Jewish, Christian and Muslim

faiths and in the commitments of the layperson in Buddhism. The Global Ethic Project has snowballed, both in theory and in practice. It has inspired political ethics, economic ethics, ecological ethics and even musical culture, and its footprints can now be found in school curricula, text books and teacher training programmes. It has foundations in several countries and a university institute not only in Tübingen but also in Beijing.

- At a national level in Germany there is the round table of religions (www.religionsforpeace.de/?id=rundertisch) which includes high-profile representatives of the Christian churches (Roman Catholic, Protestant, Orthodox), Islamic associations, the Jewish community, the Baha'i faith and the Buddhists. Human rights, in particular the right to freedom of religion, are often discussed here. The round table addresses current issues and organises an annual 'Day of Religions' in and with a German city, and the local interreligious initiatives run by the various religions introduce themselves to the public in this context. At the Ökumenischer Kirchentag (Ecumenical Church Day, a big popular event) in Munich in 2010, the round table published a manifesto entitled 'Vertrauen schaffen, Vertrauen wagen' (Building Trust, Daring to Trust), along with a pledge which includes the following commitment to human rights (translated from the German):

At the Ecumenical Church Day in Munich we declare:

1. We want to build new trust with one another and
2. use the opportunities to confront pressing global problems together.
3. We want to set an example for the right to freedom of religion, faith and thought in a comprehensive sense. We want to campaign for those who are persecuted and disadvantaged due to their faith, especially those who are persecuted and disadvantaged by other religions.
4. We want to campaign for learning and development opportunities for young people, for structures in which children can know love, security and protection as a basis for a responsible life. All efforts to strengthen families and to design kindergartens and schools as living spaces should be promoted, as should the required interreligious learning.
5. We want to face the challenges of globalisation together with all of society's strength. Economic growth requires, alongside an economic perspective, a social and ecological perspective. From a religious and ethical point of view especially, profit maximisation must not have the final say, but rather the criteria must be how justice can be guaranteed for the weaker and the disadvantaged and how everyone can make their contribution to the common good.

Unfortunately, it is much more difficult to attract media attention with such declarations than with the news of problems and catastrophes—and increased recognition of this work on a political level is also desirable.

- Human rights need commitment from individuals and groups who feel an obligation to uphold them. Each and every individual is required to consider what he or she can contribute, but so is society on the whole. Working together can strengthen us in this respect. It is for this reason that work within communities is so important, such as the work carried out by the Nürnberg group of Religions for Peace (www.rfp-nuernberg.de). It is work which needs allies on

different levels. For example, the Nürnberg group has joined the project ‘Bäume für Menschenrechte’ (trees for human rights) and planted a ginkgo tree for the right to freedom of religion in the courtyard at Caritas-Pirckheimer-Haus. The 13 groups of Religions for Peace in Germany have joined many such alliances in order to become more effective and to increase awareness of the religious aspects of human rights work within these alliances.

For the work in Nürnberg, drawing on the spiritual resources of the various religious traditions which inspire people to stand up for human rights together has become particularly important. This is made clear in the topics of the multi-faith prayer meetings which the group has celebrated in various churches in the city, and in mosques too, and which have been summarised in a book published to mark the group’s 25th anniversary (Lähnemann/Religionen für den Frieden Nürnberg, 2014). Examples include (translated from the German):

Be hospitable, do not forget – Religions standing up for the persecuted

Religions, human rights, routes to friendship

Preserving life – Religions working together for peace and justice

The connection between spirituality and ecology was also an important subject for discussion—such as in the topic *Let us protect the earth*.

At the same time, we are challenged by the fact that it is necessary to complement human rights with animal rights and environmental rights, to stand up for creation and our natural resources, without which human rights work comes to nothing.

This message was included in the Nürnberg declaration of religions on preserving life, which is reproduced in the brochure ‘Offene Türen. Religionsgemeinschaften in Nürnberg und Umgebung’ (Open doors: Religious communities in Nürnberg and the surrounding area) (2008, p. 70). It concludes by saying (translated from the German):

Do not forget that each one of our lives is a precious opportunity! Let us acknowledge that each of us is unique with their own gifts and talents, but also with their own need for love and companionship. And at the same time, we are connected with all living things, are blessed with the sun, wind and rain, with growth and prosperity. In awareness of the diversity and beauty of the lively and yet so troubled world, we want to share in the responsibility for the life around us and across the whole earth.

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Prof. Dr. Johannes Lähnemann is emeritus Professor of Religious Education at the Friedrich-Alexander-University Erlangen-Nürnberg, Germany, and Chairman of the Peace Education Standing Commission (PESC) of Religions for Peace International (RfP).

Conclusion: Human Rights and Religion in Educational Contexts. Foundations and Conceptional Perspectives

Manfred L. Pirner

Abstract This concluding contribution is meant as an attempt to group several central lines of thought from the discourse documented in this volume and to inquire into viable perspectives on the relationship between human rights and religious education. The contributions collected here have made it clear that the relationship between human rights and public religious education can only be determined on the basis of fundamental philosophical, theological and jurisprudential deliberations. In my opinion, five fundamental questions appear to be central for the development of such a basis in regard to gaining a religious pedagogical perspective of human rights.

1. What is the relationship between (particular) religious traditions and (universal) human reason? In brief: How do faith and reason relate?
2. What is the relationship of the (major world) religions to each other?
3. What can religions contribute to society in regard to underpinning, promoting and critically monitoring a human rights culture?
4. What can a human rights culture contribute to a constructive and internal further development of the respective religions?
5. What contribution can a human rights culture provide to formation and education?

After discussion of these five fundamental questions, I will then sketch the consequences for religious education in five theses.

6. Education in human rights and religious education—five theses.

M.L. Pirner (✉)

Friedrich-Alexander-University Erlangen-Nürnberg, Nürnberg, Germany

e-mail: manfred.pirner@fau.de

1 What Is the Relationship Between (Individual) Religious Traditions and (Universal, Public) Human Reason? In Brief: How Do Faith and Reason Relate?

In his contribution to this volume and in his previous publications, Friedrich Lohmann has made it clear that in recent theological discussions, particularly in Protestant ones, the idea of natural law has again gained considerable significance—and therewith the idea that faith and reason do not contradict each other, but are rather mutually complementary. Already St. Paul emphasized in his theology (in his letter to the Romans in the New Testament) that the pagans, too, had a natural moral consciousness and that at the same time human reason, like humanity as a whole, had to be enlightened and transformed through God's Holy Spirit. The aim of Christian faith, as is well known, is the universal salvation of all human beings as creatures of God made in his image and likeness. Thus, faith, like reason, lays claim to a universal dimension. In present-day discussion the central insight appears to be that both reason and faith are always affected by imperfection and fallibility, so that continual striving and struggle are needed in order to come closer to the good and the true.

Bernhard Grümmé, in his contribution to this volume, stresses that in view of the catastrophes of the twentieth century, the conclusion is inescapable that secular ethical ideals of humanity were not successful. That is certainly true and can be taken as a sign of the fallibility of secular reason. But it has to be added that 2000 years of Christian history have also failed to lead to a consistent humanization of mankind which would stand as a testimony to Christian belief: Too many wars and atrocities have been committed in the name of the Christian God. And precisely the human achievement of universal human rights had a long struggle for acceptance in the face of opposition from the Christian churches.

In my opinion, however, this present situation means a special historic opportunity, in that both Christian and modern secular orientations, religious and secular rationalities, have recognized their limitations. With a perspective critical of religion, philosopher Herbert Schnädelbach has in his publications spoken of Christianity grown old with no chances of survival in its traditional form due to its "congenital defects" (Schnädelbach, 2000). Instead, I suggest that we speak of a "late Christianity" as a parallel to "late modernity"—a Christianity that is self-reflecting, that has grown "mature", if you will, that examines its "birth defects" critically, has learned from its historical errors and draws the consequences of its entanglement in the guilt of abuse of power, anti-Semitism, misogyny, homophobia, etc. In the Protestant tradition we have learnt particularly from Karl Barth and Paul Tillich that the Christian religion, like all religions, is always humanly fallible. The insight that human faith can only speak of God imperfectly and, ultimately, falsely goes all the way back to the philosophy of Plato and was further developed by Christian theology in the movement of "negative theology" (see, for example, Halbmayr & Hoff, 2008). From its innermost self-concept, from its faith in God and its epistemology, the Christian religion remains ever in need of reform and thus

open for critical confrontation with secular reason, as well as with other religions and worldviews. Indeed, precisely the topic of human rights provides an object lesson or paradigm for the realization that Christianity, from time to time, is apparently dependent on the “external prophecy”¹ of secular reason in order to recognize its true essence. In the basic ideas of human dignity and the inalienable rights and freedoms granted every human being “by nature”, Christian theology has discovered, after a long learning process, a reflection of central precepts of faith, such as the belief that man is made in the image of God.

The self-reflective knowledge of the limitations of modernity, in turn, and therewith of secular reason, has been pointed out especially by Jürgen Habermas multiple times—as demonstrated at greater length in my opening contribution to this volume. It has become the main motivation for Habermas to advocate for philosophy an openness to learn from religious traditions and positions.

As a conclusion, I see plausible arguments for the thesis that in late modernity and in late Christianity secular reason and religious reason have in a new manner become open for each other and willing to learn from one another. They can complement each other in a meaningful way. This also goes for dialogue on, and the further development of, human rights.

2 What Is the Relationship of the (Major World) Religions to Each Other?

What is valid for the relationship between faith and reason is similarly valid for the relationship between religions. Both the insight of imperfection and fallibility of one’s own religion, as well as the potential enrichment of other religions prompts a search in pluralism for pathways between relativism and fundamentalism. Over the past decades several models of thought have been suggested in order to theologially define a productive interrelationship between the world religions (as, for instance, analyzed in the dissertation of Graßal, 2013). Such approaches suggest that the conviction of truth of one’s own faith need not be surrendered, but at the same time one should be open for the capacity for truth of other religions. From an inner Christian perspective, both the Catholic and the Protestant Churches have found theological approaches from which they can “recognize a ray of truth [. . .] which enlightens all men and women” (Nostra Aetate, Second Vatican Council) and from which the teachings of other religions are perceivable and interpretable as the “externally prophetic” voice of God (see on “external prophecy” Mette, 1995).

¹ “External prophecy” means a kind of speech that comes from without one’s own religion, but is still recognized as the word of God. The phenomenon goes back to the Hebrew Bible where, for example, God is reported to have used Abimelech, King of Gerar, to remind Abraham of his duty against God. See on the notion of “external prophecy” Mette (1995).

A recent official document passed by the Council of the Protestant Churches in Germany (EKD) emphasizes that

wherever people face the truth, the promise applies to them that God's Spirit blows where he wills. This is the hope of Christians not only for themselves but beyond all church walls and religious borders. [...] Therefore the Protestant Church acknowledges that in other forms of religion, too, convincing expressions of human self-understanding, authentic forms of spirituality and responsible shapes of ethical convictions can be found. (Kirchenamt der EKD, 2015, 30; my translation).

As outlined in the opening chapter of this volume, it is such mutual respect of religions for each other that can be viewed as a constructive response to the challenge of human rights. The religious communities at least of the western world, and here in particular the Christian churches and denominations, must first realize that secular thought on human dignity and on human rights arose in the seventeenth and eighteenth centuries as a reaction to the wars of religion and religiously motivated persecutions. Although both major churches in Germany and other religions, above all the Baha'i religion (see Negele in this volume), have found their way to an explicit affirmation of human rights, the unrestricted validity of human rights continues to be controversial in the Orthodox Churches, for example, as well as in large sectors of Islam and Judaism. The challenge for religions of determining their relationship to one another in the sense of peaceful coexistence originates, above all,—as Heiner Bielefeldt has pointed out in his contribution to this volume—in the human right to freedom of thought, conscience, religion or belief. It is both disgraceful and deeply deplorable that this right to freedom is still called into question, not only by national powers, but also by religious communities, and that in part it has to be enforced against their opposition (see Bajwa in this volume).

3 What Can Religions Contribute to Society in Regard to Underpinning, Promoting and Critically Monitoring a Human Rights Culture?

In the philosophical discussion of human rights, as substantially delineated and shaped by Heiner Bielefeldt (cf. Bielefeldt, 1998) and briefly sketched in the opening chapter of this volume, it seems interesting to my view that similar tendencies are to be found in both of the most influential social philosophers of the last 50 years, John Rawls and Jürgen Habermas. From what originally began as a strongly secular and rationally oriented theory of society and justice, both come to the conclusion that the different groupings of a democratic society, also the religious groupings, should come to an agreement on certain basic principles through freedom of communication. As shown, the concepts of “overlapping consensus” between comprehensive doctrines (Rawls) and of “complementary learning processes” of religious and non-religious citizens (Habermas) mirror the,

so to speak, ‘religious turns’ in both Rawls and Habermas—while they both retained their agnostic positions. Their plea for a secular, but not secularistic legal and political foundation of modern pluralistic societies finds its parallels in the jurisprudential discourse in countries such as the United States and Germany. In this understanding, the secularity of state and law is not to be seen as a secular position of isolation from religion, but rather as an “expression of respect for freedom of religion and belief” (Bielefeldt, 2011, p. 154). In this sense the principle of “respectful non-identification” (Ibid) of the state with religious communities, as well as other ideological groups is followed, which still allows for constructive co-operation between state institutions and religious bodies.

On this basis, religions can participate in the discussion and promotion of human rights through a mutually enriching, intercultural and interreligious dialogue. In this connection I would like to remind us of Bielefeldt’s helpful delineation of the history of human rights as “*an open learning process*”. In the historical learning process which led to the development of human rights, individuals from different cultures, worldviews and religions all made their contribution. And this conflict-driven learning process remains incomplete and open and depends on the further participation of people from different cultures, worldviews and religions (cf. Bielefeldt, 2007, 2009).

Central for this learning process is also the insight that all cultures, worldviews and religions are confronted at times with shocking and devastating forms of violation of human rights. Reinhold Boschki rightly emphasizes in his contribution to this volume that the decisive impulses for the establishment of human rights came about through the catastrophic experiences of the two World Wars, and that the *culture of remembrance of traumatic violence*, which is especially strongly rooted in the Jewish tradition, has contributed to the emergence of a human rights ethic (see also Zehavit Gross’ contribution in this volume). The estimation that religious perspectives can be particularly helpful in the implementation of a human rights culture has recently, apart from Habermas, been prominently pointed out by Joas (2013).

It has been contended by several authors in this volume, that the religious instruction in religious communities, but even more public forms of religious education, especially at public schools, can make substantial contributions to developing a human rights culture. These contributions are mainly threefold: Religious education (a) helps religious people to develop an understanding of their religion that is compatible with a human rights culture; (b) it helps religious and non-religious people to develop respect and openness for each other; (c) it teaches religious values that support and strengthen human rights values.

4 What Can a Culture of Human Rights Contribute to the Constructive Further Internal Development of the Respective World Religions?

As mentioned above, religions themselves have developed further through the learning process involved in human rights discourse and will continue to do so. For instance, the Roman Catholic Church and the major Protestant churches have learned to understand the idea of human rights as a translation of central basic truths of the Christian faith and therewith have discovered the human rights' Judaeo-Christian roots. In my view the opportunity for religions in their grappling with human rights lies precisely in the rediscovery of their own, perhaps neglected, but nevertheless significant lines of tradition, as is apparently the case with current Islamic theology. Ziba Mir-Hosseini, in her contribution to this volume, brings this to hopeful attention.

Perhaps it is precisely the human rights discourse that can help all those committed to interreligious dialogue maintain a realistic and modest stance: John Rawls' fundamental idea, as pointed out in the opening chapter, was that political concepts such as human rights constitute an "overlapping consensus" merely in *central fundamental principles and values* and do not demand agreement on a comprehensive doctrine or worldview. Similarly, interreligious dialogue should restrict its goals to a—bilateral or multilateral—overlapping consensus in basic principles and values and should not aim at something like a common ethos of all great religions, let alone at religious homogeneity. Rather, peaceful coexistence of all religions is possible, if one can agree on fundamental principles, such as respect and tolerance for other religions and worldviews, and is prepared to leave the final answer on the last truths—salvation and damnation—to a merciful God.

The hopeful initiatives reported by Johannes Lähnemann in his contribution to this volume should be viewed in this sense: The *World Conference of Religions for Peace* (since 1970; now: *Religions for Peace/RfP*) and the principles of a Global Ethic of the World's Religions approved by the World Parliament of Religions in 1993 and endorsed by RfP in Kyoto 2007 see themselves explicitly as providing the ethical foundation of human rights based on the ethical traditions of the world religions (www.global-ethic-now.de), while not excluding nonreligious ethical foundations. Since 1995, the Global Ethic Foundation has developed many projects for interreligious and ethical learning (cf. Lähnemann, 1995).

5 What Can a Culture of Human Rights Contribute to Education and Formation?

It is clear that the worldwide establishment of human rights is dependent on education in a fundamental way. It is not just a matter of having to find democratic majorities to be able to anchor human rights in national declarations and laws—and even this already requires well-educated, democratically minded citizens, both

male and female. It is still more important that the values and norms on which human rights are based be affirmed by the people of a country and that such affirmation be repeated again and again from generation to generation as a free and conscious act. Even when human rights have been successfully anchored in a society, the following generations have to be brought to subjective acquisition of human rights values through their own conviction in order to secure their validity and further development. And in addition, the insight has to be stimulated that human rights are necessary and meaningful as *legally binding and enforceable rights* in order to preserve humanity from endangerment through the negative aspects of human power and human fallibility.

This double task is already perceptible in the Preamble to the Universal Declaration of Human Rights, in which the UN states explain their declaration:

[...] the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.²

The action plan of the UN on education in human rights from 2006 can also be understood in this sense, in its programmatic statement:

Human rights education can be defined as education, training and information aimed at building a universal culture of human rights. A comprehensive education in human rights not only provides knowledge about human rights and the mechanisms that protect them, but also imparts the skills needed to promote, defend and apply human rights in daily life. Human rights education fosters the attitudes and behaviours needed to uphold human rights for all members of society. [...] Both what is taught and the way in which it is taught should reflect human rights values, encourage participation and foster a learning environment free from want and fear.³

Clearly the UN is not only concerned with making human rights known and declaring their validity. Rather their goal is to create a worldwide “culture of human rights”. Although it is not mentioned explicitly, the concept of Richard Rorty seems to have been an influence here, according to which more than merely rational philosophical argumentation is necessary in order to help establish human rights (cf. Rorty, 1993; see also Weber, 2013, Chap. 2). For Rorty, unlike Rawls or Habermas, the *cultivation of empathy* through experienced transcultural solidarity plays a very decisive role in fostering a culture of human rights—and not just ensuring its legal status. In this spirit the Action Plan also calls for the fostering of the attitudes and behaviors needed for such a culture of human rights. Indeed, as becomes apparent in the course of the paper, the goal of education in human rights

²The Universal Declaration of Human Rights, online at: <http://www.un.org/en/universal-declaration-human-rights/>.

³UNESCO/OHCHR (ed.) (2006). *Plan of Action. World Programme for Human Rights Education. First Phase*, 1. Online at: <http://unesdoc.unesco.org/images/0014/001478/147853e.pdf>.

is ultimately the education of the whole human personality. As such it aims to transform education as a whole (for more on this, see Pirmer, 2013).

The latter impulse, to view the orientation towards human rights as the core of education in general, can, in my opinion, practically be understood as a modern reformulation of the classical ideal of education—and, by the way, of a Christian understanding of education as well. In its sense education must first and foremost educate people as human beings and thus serve human development. Preparation for the demands of society and its economy are secondary. A strong orientation of our school education towards human rights and therewith towards a correspondence to the human person could perhaps provide a healthy counterweight to the present performance orientation brought to bear by PISA and other international school achievement studies. The present discussion on inclusion in our schools, which was stimulated through the UN Convention of the Rights of Persons with Disabilities, offers such an opportunity (cf Pirmer, 2015). The demand that education should be oriented towards the “*The measurements of humanness*” [*Maße des Menschlichen*] is also a programmatic demand of the German Protestant Churches (EKD) in a Memorandum published in 2003 (Kirchenamt der EKD, 2003).

6 Human Rights and Religious Education: Five Theses

The premise of the following theses is that the relationship between religious education and human rights, much like the relationship between the religions and human rights, should be viewed as a fundamentally dialectal and mutual relationship. Religious education fosters a culture of human rights and is simultaneously subject to critical evaluation on the basis of its standards—a process which again serves for the advancement of education and at the same time strengthens religion as well as religious education. This is particularly true for public religious education in nursery schools, child day care, schools, media and adult education, but basically no less so for religious education and socialization in the family and community.

1. *Religious education in families, communities and in public contributes significantly to the support of children, adolescents and adults in their competence to perceive and practice their human right to religious freedom.*

As Friedrich Schweitzer argues in his contribution to this volume, the enjoyment of the basic right to freedom of religion is inconceivable without religious education. The right to religious education is ultimately a consequence of both the human right to freedom of religion, as well as the human right to education. The right to religious education becomes ever more important in a human rights-based pluralistic society, because in such a society, reflective and high-quality religious education is necessary (a) to make informed personal choices in religious matters, (b) to develop an understanding of one’s own religion or worldview that is compatible with the right to freedom of religion and belief

as well as with other human rights, and (c) to be able to competently participate in public discourse on religious issues.

2. *Recognition of religious freedom for all men and women is at the same time a central criterion for the quality of religious education, particularly in the public realm. It is honored in an exemplary way by interreligious education.*

Religious education today only does justice to its mandate, if it not only provides an introduction into the beliefs of one religion, but at the same time fosters understanding of the legitimacy of other religions and worldviews. This takes place above all when information is provided on all religions and worldviews in a way that is fair and non-polemic, that offers not only the possibility of learning from them, but ultimately even the freedom to choose them as one's own personal creed. In terms of a distinction coming from the British context I understand interreligious education as a combination of *learning about religion* and *learning from religion*, which by the way is characteristic, for example, for German (Confessional) Religious Education at public schools (RE), too. As a rule in Germany we naturally proceed from the assumption that also students who are nonbelievers or subscribe to other beliefs should be able to profit from Protestant or Catholic RE without our trying to proselytize or convert them. In a similar manner, for instance, Protestant students in Protestant RE classes can also learn something beneficial from concerning themselves with Islam or Buddhism. Both major churches in Germany emphasize in this respect that RE in public schools is meant to help the student develop *a free and independent choice* in matters of faith (cf. Sekretariat der DBK, 2005; Kirchenamt der EKD, 1994, p. 4).

Aiming at *learning from religion* also means that RE teachers at German public schools have already long been providing such “translations” as have been called for in the discourse of social and human rights ethics (see the opening chapter): Religious statements of faith are didactically treated in such a way that they can be approached by nonbelievers and those of other beliefs. RE teachers offer “translations” of specific religious perspectives into secular perspectives or those of other religions, and they introduce their students into the particular language of a religion so that they are able to make sense of it and “translate” some of its ideas into their own views, languages and life-worlds.

For *public* religious education, that is to say, for RE in public schools, respect for the religious freedom of all should be a hard criterion: only religious communities that subscribe to this freedom right can claim the right to participate in shaping and developing RE as a school subject—or even, as in most German federal states, claim to have their own confessional RE established at public schools.

However, I would like to advocate that freedom of religion also be applied to religious education and instruction in the family and community and, in these fields, be understood as an *internal criterion of quality*. Here, too, the relationship to other religions and worldviews cannot be excluded. Parents would do well, in spite of their legitimate advocacy in favor of passing on their own religious orientation, to allow their children the freedom to choose their own

path and their own position in matters of faith. Religious education through force or conscious manipulation contradicts both the understanding of faith by the major world religions and the human right to religious freedom—and by and large it no longer works in an open and pluralistic society anyway.

3. *The goals and objectives in public religious education as a whole are determined by standards of the religious traditions represented as well as by educational criteria that correspond to the basic values of our constitutional law and therewith of human rights. In a wide sense religious education thus contributes to a culture of human rights.*

RE in schools, as one central location of public religious education in most countries, rightly sees itself as an exemplary case of *humane education* in schools, i.e. its central goal is the development of the whole person of the student, of personal growth, of support for the search for meaning and orientation in life, of social and ethical learning against a horizon of pluralism in religious beliefs and worldviews. In this manner RE in schools reveals certain convergences with the basic goals of education in human rights.

Conversely it can be asserted that only those religious and philosophical communities should have the right to participate in RE at public schools or to run their own state-recognized private schools when their central convictions are compatible with the fundamental values of constitutional law and human rights.

4. *Religious education should address human rights more strongly than up to the present. In this endeavor it should take a conscious and explicit stance in the context of the worldwide intercultural learning process of human rights and contribute to political consciousness.*

Addressing human rights in the context of the worldwide, intercultural human rights learning process means, among other things, that for example Christian religious education should not make an exclusive Christian claim to the foundation or interpretation of human rights. The present curricula in Germany, for example, still contain a dominance of Christian teaching and interpretation of the dignity of man and human rights (see Pirner, 2013 for more detail). In my opinion they must be supplemented by conveying the insight that non-Christian and nonreligious justifications and interpretations of human rights have their own validity.

The other main task of religious education is to be seen in making human rights understandable, not only in their ethical values but also in their legal and political character. This raises the critical question of whether the academic discourse on religious education has sufficiently perceived the political dimension and responsibility of RE over the past 30 years. For the German context, Thomas Schlag and Bernhard Grümme have called attention to this deficit most recently and have demanded the inevitable entanglement of religious and political education be more strongly acknowledged and tackled conceptually (cf. Grümme, 2009; Schlag, 2010; see also their contributions in this volume). In this sense there should be a demand for stronger attention to the political dimension of human rights in religious educational processes.

5. *The treatment of human rights in religious education has positive repercussions for the religious communities.*

In places of public religious education, through the teaching and learning of religious and non-religious individuals also religions—as communities and institutions—can learn. The Memorandum on Religious Education by the Protestant Churches of Germany of 1994 offers a particularly felicitous formulation for RE at public schools: “In the teaching context of public schools Religious Education *puts to the test the capacity of the Christian faith in society for communication, tolerance and dialogue as a contribution for the benefit of all*” (Kirchenamt der EKD, p. 21; my translation). Through such learning based on open dialogue religious education and education in human rights can go hand in hand. Evidence from Germany and many other countries shows that religions engaging in public religious education will not remain unchanged, but will receive valuable impulses for their further development.

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Prof. Dr. Manfred L. Pirner is Professor of Religious Education at the Friedrich-Alexander-University Erlangen-Nürnberg, Germany.