Anders Sjöborg · Hans-Georg Ziebertz
Editors

Religion, Education and Human Rights

Theoretical and Empirical Perspectives

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This series investigates how religion can both challenge and contribute to a vibrant human rights culture in different national contexts, as well as in cross-national contexts. It offers empirical and theoretical perspectives on the different generations of human rights, and generates new knowledge on the connection between religion and human rights.

All religions claim that their ethical aspirations and moral duties contribute to the well-being and welfare of individual human beings, groups, and communities. This applies particularly to the golden rule which plays an important role in the ethical groundwork of all religious traditions, and which is also foundational for human rights. However, to what extent is this universal principle actually observed within and between different religions, within and between nations, and within the secular world? To what extent (if at all) do religions contribute to the realisation of human rights or to the prevention of violations of human rights? This series addresses these questions by means of an empirical and comparative approach. Each volume focuses on specific human rights, and the first volume addresses such issues as freedom of religion, discrimination, religion and democratic values, rule of law, religious moral convictions and freedom rights.

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Chapter 1
Education in the Context of Religious Pluralism and Human Rights – An Introduction

Anders Sjöborg and Hans-Georg Ziebertz

In the contemporary world, increasing focus has been placed on cultural and ideological pluralism. Ever since the works of classical social scientists such as Émile Durkheim and Peter Berger, questions have been raised as to what factors hold societies together, given an increased cultural and ideological pluralism (Berger 1969). Due to modernisation and structural differentiation, as well as urbanisation, increased education levels, mediatisation and global streams of migration, today humans face more alternatives than ever when it comes to values and priorities. As for political and educational institutions, this pluralism from time to time is problematised. Policymakers and self-proclaimed guardians of new generations argue for the need for shared values or a critical discussion of what is sometimes framed as fundamental values (such as 'British values' in the United Kingdom, 'värdegrund' in Sweden, 'trosopplæring' reform in Norway or 'Leitkultur' in Germany).

One paramount example of this development in the domain of education is the European Toledo Guiding Principles, where educational specialists and policymakers have set up main motivations for the need for education and competence for dealing with an increased cultural and religious diversity in many European societies (OSCE 2007). Parallel to this development, there is also an increasing process of judicialisation in several western societies (Lind et al. 2016). It is not only legislators and policymakers that make use of legal instruments in order to handle many aspects of the above-mentioned cultural and ideological diversity. On the contrary, international and transnational legal instruments are adopted and sometimes intersect with regional and national levels. Poignant examples of this include how the International Convention of the Rights of the Child was ratified early on by countries

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such as Sweden and Norway, and these countries actively promote these principles in their foreign policies. Another example is how the Universal Declaration of Human Rights is referred to in jurisprudence on national or regional level, not seldom in relation to issues regarding freedom of expression, freedom of religion or protection against discrimination but with regard to several different grounds such as gender, ethnicity, age, language, religion and so on. In recent decades, individuals, organisations and even states have been going to court to settle disputes by means of laws that in one way or another are related to the shared public space in an increasingly cultural pluralist society. Even though a basic foundation for some of these battles is the Universal Declaration of Human Rights, it is by no means beyond discussion what such declaration may mean for the realisation of a shared social life in contemporary societies. Not the least in terms of the domain in focus in this volume, namely, religion.

In order to be able to achieve the realisation of human rights, it is, speaking with the declaration from the UN International Conference on Human Rights in Vienna 1993, not only states but also individuals that have a moral responsibility to actively participate in the realisation of these human rights (United Nations 1993: 25). This point is crucial to the ongoing debate on human rights and democracy in culturally plural societies. If we agree that the language of human rights is a useful language for human social life, the legitimacy of these human rights depends on the extent to which the population at large agrees with the rights, inscribed in law, and lends them their support. When people identify with human rights, it is possible that a kind of human rights culture may develop. Spini and Doise (1998) have distinguished between a traditional view that the implementation of human rights principles is mainly the duty of governments. In other words, it is something for the states to bother with, and it is states that are to be blamed if some human rights are not realised. On the other hand, a more modern view finds that implementation of human rights to be a shared responsibility for the government and the individual members of the population. In other words, it is up to individuals, civil society and states to work alongside each other to achieve a human rights culture. For social scientists, theologians and educationalists, the so-called modern view is highly relevant, and they are challenged to support the academic and public discourse with substantial data on the attitudes of people and their practices regarding human rights. How people legitimise human rights is of great significance in order to enhance human rights in society.

Even if there is plenty of research on human rights and education (cf. Gerber 2017) and to some extent an increasing interest in academic work on religion and human rights, the editors of this volume found it worthwhile to bring together scholars with interests in the interrelated fields of education, religion and human rights. Most of the contributions in the present volume are result of an international workshop in Uppsala, Sweden held in March 2014. The theme of the workshop was Human Rights, Religion and Education and aimed to explore further research-based knowledge about the relation between religion, human rights and education, to identify relevant areas for future research and develop meaningful research questions. By bringing together scholars from a range of disciplines and national contexts

around the Baltic Sea region, the purpose was to engage in furthering our scientific understanding of religion, human rights and education. Even if many contributions at the workshop, hosted by the Uppsala Religion and Society Research Centre (CRS), and sponsored by Riksbankens Jubileumsfond (RJ) dealt with compulsory or secondary school education in different contexts, higher education was also visible as a topic. A common theme was the multiplicity of secularisms in different national contexts. Indeed, providing rich cases, contributors all came with empirical and theoretical perspectives on how international trends of migration and cultural diversity, judicialisation of social and political processes and rapid religious and social changes come into play as societies find their way in an increasingly diverse context.

Throughout this volume, the concept Religious Education (or in brief RE) may connote the confessional Religious Education school subject and the model found in most German federal states or Poland or Finland, as well as the non-confessional Religious Education school subject and the model established in England and Wales as well as in Sweden.

In this volume, scholars study the interconnectedness between religion, education and human rights from an international perspective using an interdisciplinary approach. Some of the chapters in the present volume present case studies of how confessional or non-confessional Religious Education (RE) at schools in different societal contexts relate to the concept of universal human rights. The different cases from Poland, Belarus, Estonia, Norway and Finland display an intriguing array of problems that point to the role of religion in public sphere and show that historical contexts play important and different roles in these five cases. Two contributions deal with higher education, where one questions how the genealogy of human rights as a concept and as discourse is taught in human rights studies in Sweden, and one examines whether it can be claimed to be a human right to withdraw from certain educational activities and healthcare services when in clinical training to become a medical doctor or a midwife on the grounds of conscientious objections. Further, one chapter discerns the construction of the concept of religion in the Swedish Education Act, in relation to the Swedish constitution as well European legislation. In an empirical study comparing data from young people in six different countries in three continents, factors that explain attitudes towards three various kinds of human rights are investigated. It is argued that cultural context is more important than personality factors, which is a new result compared to previous studies.

In the chapter *Sacred or Profane? Human Rights in Religious Education in Poland* (Chap. 2) by Katarzyna Zielińska (Jagiellonian University in Krakow) and Marcin K Zwierżdżyński (Institute of Political Science, Jesuit University Ignatianum in Krakow), whether the context of confessional religious education in Poland promotes human rights is studied. Religious education, understood as education about religion and seen as part of the general educational system, is perceived, in their chapter, as a viable vehicle for promoting democratic values via spreading knowledge on religions and promoting mutual understanding, strengthening respect for religious freedom and diversity or civic values and norms. They question if confessional religious education fulfils similar functions, and they offer an analysis of the

way human rights are understood and used in selected handbooks for religious education of Roman, Orthodox and Pentecostal Churches.

Olga Breskaya (University of Padova, Italy), in her chapter on *Path of Belarusian Secularism: Public Debates on Religious Education* (Chap. 3)*,* presents in-depth description of the attempts to implement religious education in secondary schools in Belarus. The study reveals the mode of Belarusian secularism as the practice of civil rights application and historically grounded features of Church-state relationship. The sphere of tensions between realisation of individual civil rights and interests of parents and pupils, along with the legal regulations of secondary school system regarding the religious subjects in school curricula are examined using Alfred Stepan's concept "twin tolerations" and in the context of "multiple secularism" paradigm. The author emphasises that "sufficient space from religion to function" is used by the Belarusian state for separation in one sense (prohibition of religious knowledge transmission) and integration in another (binding religion with state ideology). By prescribing for the Orthodox Church and other religious organisations particular roles in the secondary schools, the state replaces one function by the other and leaves no space for realisation of particular rights of its citizens. The absence of any kind of knowledge about religion in schools protected by the state is viewed as a challenge to the secularism principle *per se*.

In the chapter *Examining Religious Education in Finland from a Human Rights Perspective* (Chap. 4)*,* Saila Poulter, Arniika Kuusisto, Mia Matilainen and Arto Kallioniemi (University of Helsinki) argue that Religious Education (RE) has a strong potential for promoting human rights. Consequently, they find it essential to consider the human rights perspective when pondering the aims, content and practical organisation of RE. Human rights are important from the perspective of religious minorities in particular, to consider the negotiations and clashes of values encountered by children and young people whose family socialisation differs significantly from the dominant value hegemony in the school social context. Authors argue that different interpretations of religious freedom and the right to religious education are important considerations for RE. They conclude that the complex interplay between 'public' and 'private' must be reconsidered when analysing human rights issues related to religion. Furthermore, they also assert that the framework of a child's right to religion versus that of parents' right to education, according to worldview must also be taken into consideration.

Olga Schihalejev and Ringo Ringvee (both University of Tartu) discuss how different models of learning religion promote respect for the right to freedom of religion or belief, in their chapter *Silent religious minorities in schools of Estonia* (Chap. 5). Three different models to teach religion are offered in Estonian schools: there are schools with no Religious Education, others have inclusive Religious Education and there are also religiously-oriented schools with a confessional approach to teaching religion. The article draws on data from research done in the framework of the REDCo project (the main project 2006–2009, replicative study in 2012) in Estonia. It studied 14–17-year-old students' views about how they see religion in education. The samples of 1208 students from 21 schools in 2008 and 573 students from 15 schools in 2012 consist of students from different Estonian

regions and different experiences of learning about religions. Their attitudes towards three questions were studied. First, how do young people evaluate the way schools teach them about religion? Second, how do students differ in their own attitudes about the need to respect a person who is of a different religion? Third, what do young people think about religious freedoms in the school context? The results of the study call for the need for discussions on practicing religious freedom in schools and policies about Religious Education and what may best contribute to a tolerant society.

Pål Ketil Botvar (KIFO, Institute for Church, Religion, and Worldview Research, Oslo) presents cases from Norway. In his chapter titled *May children attend church services during school hours?* (Chap. 6), he focused on the role of religion in the public sphere. This was done by focusing one of the topics in the media debate on religion, namely, church services for school children during school hours. In Norway, there is a long tradition for school children to attend church services in their local church before Christmas. This debate has flared up in the national newspapers each December in recent years, and can be seen as part of the general debate on public forms of religion. What are the attitudes of the population towards this particular tradition? Does the heated media discourse mirror the situation among the population in general? What factors contribute to explaining differences in attitudes? What role does religiosity and religious affiliation play in this respect? Is the tradition of church services for school children seen as a problem by religious or non-religious groups? Is there a change in how the two groups view the role of religion in school settings? After presenting the Norwegian situation and a local case, Botvar discusses these questions in relation to recently conducted survey data.

In the chapter *Religion, Human Rights and Education. Do we need to change our way of teaching the history of human rights?* (Chap. 7), Dan-Erik Andersson (Lund University) presents an argument regarding the teaching of the history of human rights. Textbooks on human rights often describe the history of human rights as a linear process where human rights rest on a rather unified history. In this history, the idea of enlightenment is a central component, leading up to the understanding of human rights, as we know them. In this article, it is argued that the general presentation of the history of human rights in some central textbooks is highly problematic, not least on the relation between religion and human rights. Even though a simplified narrative, to some extent, makes it easier to promote human rights, it is argued that instead of repeating this simplified and untruthful history, educators need to present history in its complexity. The chapter concludes that it in the long run it is a more successful way to promote human rights.

Victoria Enkvist (Uppsala University) offers a legal analysis of the regulation of religion in schools in Sweden. In her chapter *Religion in school – a judicial perspective* (Chap. 8), the point of departure is freedom of religion, a human right that is often described as a fundamental right in a democratic society. Though the actual meaning of this statement is not entirely clear from a legal point of view, it is obvious that religion and questions concerning law and religion and the relation between them sometimes gives rise to conflicts. Consequently, this relation is important to discuss in religious as well as secular societies. One important but complex question

is how to define religion in different situations. The subject of the chapter is freedom of religion for pupils in the Swedish context. The point of departure is the Instruction of Government, but also case law from the European Court for Human Rights (ECHtR), where the European Convention on Human Rights (ECHR) is addressed. The diverging understandings of religion in various legal instruments are scrutinised in Enkvist's analysis.

In his paper, *How young Muslims and Christians structure Human Rights* (Chap. 9)*,* Hans-Georg Ziebertz (University of Würzburg) presents empirical findings about Muslim and Christian youth in Germany. He reminds that human rights are understood as universal, i.e. they are aimed to be valid all over the world, in fact not abbreviated and not subject to any particular cultural tradition. Recent history shows that states and religions continue to interpret rights, they evaluate rights and give them more and or less importance. Similar processes happen on the level of the individual. People identify "family resemblances" between some rights, while others are separated. This chapter offers insight how young Muslims and Christians in Germany structure and value human rights. The empirical situation is a challenge for human rights education when it comes to justify and defend the idea that all human rights are to be understood as egalitarian and indivisible.

Using the title *The influence of the socio-cultural environment and personality on attitudes towards human rights* (Chap. 10)*,* Hans-Georg Ziebertz, Alexander Unser, Susanne Döhnert (all from University of Würzburg) and Anders Sjöborg (Uppsala University) offer an analysis from empirical data among young people on their attitudes towards human rights and religion. Starting out from two different previous studies, factors that explain young peoples' attitudes towards human rights are examined. While a previous study showed that attitudes towards human rights are dependent on religion, values and the country of residence, another study showed that personality influences people's attitudes towards human rights. The question about which is of more significance remains unanswered. The analysis reported in this chapter includes both socio-cultural attitudes and personality characteristics using data from six different countries in Europe, Asia and Africa, which made it possible to make a broad comparison of the influence of both socio-cultural contexts and personality. Our empirical findings confirm the hypothesis that, in all measurements, the explanatory relevance of the socio-cultural context is obvious and that the influence of personality is very low as far as a respondent's attitudes towards human rights is concerned. The result, which is highly relevant to the field of education, is necessary contextualisation of human rights education.

In her chapter *Conscientious objections in clinical health care education as a manifestation of religion* (Chap. 11)*,* Kavot Zillén (Uppsala University) offers a legal analysis of whether freedom of religion includes a right to conscientious objection or not and under which circumstances, when it concerns higher education and clinical training of future medical doctors, nurses and midwives. A vital part of healthcare students' education and medical preparation is to be exposed to variety of health-related clinical settings. The students need the clinical education in order to gain knowledge and clinical reasoning skills to provide effective and safe healthcare services. Consequently, clinical healthcare education is a critical component in

delivering a competent and skilled future workforce. However, in some situations, students in their clinical training might refuse to participate in lawful healthcare and services that contradict their religion or beliefs, described here as conscientious objection in clinical healthcare education. While this is lawful under certain circumstances in some countries such as United Kingdom and Norway, this is not regulated in Sweden. In this chapter, the author discusses whether healthcare professionals and students can 'opt-out' of participating in certain health related services and educational activities by referring to the protection of freedom of religion in the European Convention on Human Rights and Fundamental Freedoms. As will be shown in the paper, conscientious objection in healthcare setting can in certain situations constitute a manifestation of religion and belief. Thus, the right to manifest and practice this freedom is not an absolute right and can be subject to limitations in accordance with international law. For that reason, it is concluded that the answer to the question whether students should be permitted to 'opt out' of educational requirements based on religious grounds depends upon the manner in which the conscientious objection affects the interest of others, such as patients, caregivers and other staff members. In this regard, educational healthcare institutions need to balance the right of conscientious objection, not only with the interests in having future healthcare professionals with proper educational training and required skills, but also with the legal and ethical responsibilities of the profession.

The contributions in this volume raise a number of questions for further reflection and research. Undoubtedly, the development of a human rights culture needs support from many sources in society. Among them, education is one of the most important sources. Public education is based on a well reflected curriculum and makes young people systematically familiar with basic values of a modern democratic society. Many people enjoy freedoms every day as naturally as they breathe. Unfortunately, these rights are not guaranteed. Throughout history, people have had to fight bitterly for certain rights before they gained general validity. The present world shows that this struggle must be fought again. Even in European societies that have long been understood as guardians of human rights, certain human rights are under pressure. Education in human rights always means to make young people familiar with the modern history of freedom, which has experienced ups and downs. The freedoms guaranteed by human rights needs the full support of the population. This includes, on the one hand, a substantial knowledge of rights and the realisation that rights do not serve individual interests but are valid for all people. This includes the motivation to stand up for human rights and the sensitivity to perceive violations of human rights. Human rights are based on values such as dignity, equality, liberty and justice, but at the same time human rights are positivised rights, expressed in the language of law. It is important to clarify in education that the rights are based on values but that they go beyond. It is the human rights law that guarantees that certain values are valid and can be protected by courts. Rights are more than wishful orientations; with rights, the modern liberal state guarantees the validity of core values for individuals.

The importance of an explicit concept of human rights education is reflected in the paper *Good Practice in Human Rights Education in Schools: Giving Effect to*

Article 29 of the CRC (Chap. 12) by Paula Gerber (Monash University, Melbourne). The author reminds to the strong effort that the United Nations and many other international institutions and initiatives made since many years on encouraging nation states to provide human rights education. Despite all these activities, Paula Gerber concludes from empirical research, conducted in Melbourne (Australia) and Boston (US), that there is still a high degree of uncertainty what 'human rights education' means and how it should be implemented within schools. This chapter identifies six key elements of effective school-based human rights education.

Human rights are continuously under discussion. Therefore, one might say that the historical development of human rights is still in progress, and many powers take part in promoting or denying certain rights. Among these powers, there are governments, parties, interest groups, economics and religions. This book pays attention to the role of religion. Most religions express today their general agreement with human rights, but there are some exceptions, especially with regard to the equality of men and women, laws regarding discrimination because of sexual orientation, marriage and family law, freedom of expression, etc. Therefore, a religion is not *per se* a partner in defending human rights. Religions can be a source for the legitimation of rights, but it can also be the opposite. This ambivalence makes it important to avoid an uncritical affirmation of religion. Religions are still powerful institutions in societies, and some authorities think it would be better to neutralise religions in the public sphere and to see religion as a private matter. However, the world reflects that religion is a public issue. Therefore, religious education has to develop programmes that do not cover the ambivalence but develop concepts from the inner heart of the religion, which can work as a religious source for modern liberties. A key concept is the dignity of every person, given by the likeness of God, who determined for people to have freedom and to live in charity with his/her neighbours. The challenge of religious education is to show that religious convictions and universal principles of human rights have much in common. Religious education may neither be used to stabilise a certain religious habit concurrent to human rights, nor may religious education be instrumentalised by the state to stabilise a certain national culture. The challenge for education, including religious education, is to maintain a degree of independence with the aim of utilising all power to educate adolescents to become mature citizens who recognise that and understand why human rights are indispensable and why human rights may not be subordinated to any ideology, be it a religious or nationalistic one. This books draws attention to some areas that call for educational attention.

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Chapter 2
Sacred or Profane? Human Rights in Religious Education in Poland

Katarzyna Zielińska and Marcin K. Zwierżdżyński

2.1 Introduction

In recent decades, religious education (RE) has become a subject of study not only for religiously oriented scholars or theologians, but also for social scientists. At least a few, overlapping, streams of research can be distinguished. Firstly, the body of research looks into particular arrangements regarding RE in a given country or region, often reflecting on more general church-state relations, policies, the actors involved or the content of RE. The existing models are usually classified in one of the following models: education *into* or *about* religion or a lack of RE in public schools (Jackson et al. 2007; Davis and Miroshnikova 2012; Ferrari 2012). The second stream of research looks at RE within the framework of human rights. Here, the focus is on the interplay between parents' rights to raise their children according to their own convictions or freedom of religion for children and the state's obligation to provide a neutral and pluralist education (Relaño 2010; Jawoniyi 2012; Valutytė and Gailiūtė 2013). Finally, various scholars take a broader look and treat RE as part of the wider education system. RE, understood mostly as education *about* religion, is recognised as a viable vehicle for spreading knowledge on religions, strengthening respect for religious freedom and diversity as well as for promoting civic values and norms (Willaime 2007: 59; Alberts 2007; Guyette 2009; Jensen 2008:125; Seymour 2013). This potential is further recognised by various intergovernmental and international organisations, as expressed in the policy recommendations (e.g. UNESCO and the UN, as well as the European Union and

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European Commission) (Jackson 2008: 164). An interesting question stems from this field – what about the confessional, education *into* religion type of RE, often offered in public schools? Does this also contribute to promotion of civic values and norms and to development of a peaceful and pluralistic society? Taking into account the fact that in many European countries confessional RE is offered within public schools,[1] these questions become particularly salient. The proposed article aims to test them empirically.

With its predominantly Catholic population, limited religious pluralism and confessional RE offered in public schools, Poland seems to provide a particularly interesting case for studying the questions related to the way RE overlaps with education and training in civil values and norms. Human rights (hereafter: HR), widely accepted as the foundation of modern democratic and pluralistic societies, will serve as our litmus test. Taking social constructionism as our theoretical orientation, we will attempt to explore how HR are constructed and socially used in selected textbooks for RE in high schools used by three different Christian Churches – the Roman Catholic Church, the Orthodox Church and the Pentecostal Church. Each Church has a different social status, and we will therefore be particularly interested in tracing the differences between majoritarian vs minority groups and their hegemonic (Roman Catholic Church) vs marginalised (the Orthodox and Pentecostal Churches) positions. This examination will be carried out against the wider background of the existing church-state relations and religious composition of the country as well as legal regulations and principles regarding HR, as expressed in the official documents on education.

2.2   Human Rights and Education in Poland

In various documents on HR, education is recognised as one of the fundamental rights. At the same time, it is seen as a salient tool for promotion of the principles of HR. The Universal Declaration of Human Rights (UDHR) aptly describes this role by stressing that education needs to be "directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms" (UDHR1948, art. 26). The requirement for children's education to be organised in line with the principles of HR is further voiced in the UN Convention on the Rights of the Child. This emphasises that education needs to be offered "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" as well as with respect for their "cultural identity, language and values" (art. 29).

Education in HR is also explicitly recognised as a prerequisite for building a democratic society, as reflected in a variety of international documents (e.g. the

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[1] In most European states, RE forms a part of the secondary school curriculum, with exemptions provided from religion classes or alternatives provided (Valutytė and Gailiūtė 2013: 48).

Charter on Education for Democratic Citizenship and Human Rights Education adopted by the Committee of Ministers in 2010, the United Nations Declaration on Human Rights Education and Training 2011). It is conceptualised as a way of "instilling in the mind of people core human rights values and the sanctity of a global citizenship ethic" (Shultz and Abdi 2008: 3) and seen as "a conduit for rights, a necessary prerequisite to the exercising and defending of one's own and others' rights" (McCowan 2012: 70).

In contrast to Western European countries, only recently did HR become a founding principle in Poland. Despite the formal ratification of the International Bill of Human Rights in 1977, the communist People's Republic of Poland neither practically implemented nor respected the rights guaranteed in the Bill. Only after the collapse of the regime in 1989 did HR become the standard for building the foundation of the new democratic state, entrenched in various state institutions (e.g. the Polish parliament, the Polish constitutional tribunal and the ombudsman) and finding expression in the new constitution of 1997 (Zielińska 2015: 139). This was also the case with the reformation of the educational system. The preamble to the Act on Education passed in 1991 makes explicit references to the UDHR. The document states that education should be directed by the norms embedded in the Polish constitution and by the recommendations of the UDHR, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child (Ministry 1991: 1277). Interestingly enough, the act also stresses that education and upbringing should be based on universal ethical rules, but respecting Christian values (*ibid*.). This poses the question of how HR are constructed in the Polish educational system, in general, and in religious education, in particular.

The principle of educating about HR also finds reflection in the teaching programme. A review of the curriculum for secondary schools indicates that the issue of HR is mostly located in the subject devoted to civil education ("Knowledge on society"). Pupils are expected to know the history and background of HR, the UDHR and related documents. An understanding of the different generations of rights as well as the national and international institutions responsible for protection of HR should be known upon completion of the course. The programme also emphasises practical aspects. Pupils are expected to be able to recognise situations when HR are infringed or endangered, identify when the rights of a particular group are violated, know of NGOs dealing with their protection or promotion and be familiar with (and possible engaged in) various activities aiming to strengthen or execute the promotion of HR (e.g. petitions, complaints, etc.) (Ministry 2009: 95).

2.3 The Religious Scene in Poland and Religious Education

The vast majority of the Polish population declare themselves to be Roman Catholics (approx. 93% of the population) (Boguszewski 2012). The Polish Autocephalous Orthodox Church, with 504,440 adherents, constitutes the second-largest religious denomination, and various Churches of the Protestant tradition form the

third-biggest group (the largest being the Evangelical Church of the Augsburg Confession in Poland, with 61,654 adherents, and the Pentecostal Church, with 23,012 adherents) (Concise Statistical Yearbook of Poland 2014: 134). Altogether, there are 172 churches and religious organisations of diverse traditions officially registered in Poland.[2]

In contrast to many European countries, Poland is seen as exceptionally religious. This is confirmed by various studies showing a high level of religious beliefs and religious practices. As of 2012, 94% of the population declared themselves to be believers (of whom 9% call themselves deeply religious), and 54% take part in religious practices at least once a week (6% of them practise a few times a week) (Boguszewski 2012: 2–3). The data also confirm the processes of the individualisation and privatisation of religion. For example, the findings show a growing number of respondents who declare that they believe in their own way (31.8% in 2006 and 47.3% in 2012) (*ibid.* 12). This is also reflected in the selective acceptance of the Church's dogmas and beliefs and in the syncretic approach merging the elements of other religious (non-Christian) traditions (*ibid*. 19). Furthermore, public polls (2005, 2009 and 2012) seem to indicate a rise in the percentage of people who declare themselves as nonbelievers, atheists or agnostics (Boguszewski 2012: 2).

The Roman Catholic Church dominates in Poland not only in a nominal sense, but also in a symbolic one. The Church played a principal role in building and sustaining the Polish national identity during the Polish partition in the nineteenth century (Casanova 1994; Zubrzycki 2006). This position was further strengthened under the communist regime, when the Church cooperated with dissidents and actively supported HR, civil liberties and development of the civil society, representing the nation against the state (Borowik 2002: 241). As a result, after the fall of the regime in 1989, the Church had a very strong and respected position, which was used, particularly in the early 1990s, to attempt to intervene in the political and public affairs of the newly constructed democratic state (Eberts 1998). Some scholars, pointing to the growing presence of the Church in the mass media, the episcopate's guidance for voters in the EU accession referendum, pressure to reintroduce religious education to public schools, strong support for the inclusion of a reference to God in the EU constitutional preamble, or recent fierce opposition to in-vitro fertilisation as illustrations of renewed religion-political activity in Poland, speak of the "re-publicisation" of religion in Poland (Herbert and Fras 2009: 85). Ironically, this growing presence of religion is accompanied with low support, as reflected in polls, for the church's political involvement in society (Grabowska 2013: 5).

The distinctive position of the Roman Catholic Church in Poland is also reflected in church-state relations. The Polish constitution declares the equality of all churches and religious organisations (Article 25). The state guarantees freedom of expression and of religious and philosophical beliefs in public life and is impartial to religious and philosophical beliefs (Article 15). The Law on Guaranteeing Freedom of

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[2]A full list of all registered churches and religious organisations is available on the website of the Ministry of Administration and Digitisation of Poland, at https://mac.gov.pl/en/projekty/fundusz-koscielny/relacje-panstwa-z-kosciolami-przydatne-informacje

Conscience and Belief, the main executive act, regulates in detail the legal status and rights, privileges and duties of most religious organisations legally recognised by the Polish State (Ustawa 1989). However, the status of the Roman Catholic Church is regulated by the Concordat signed with the Holy See in 1993 and ratified in 1998. According to various commentators, the international status of the agreement gives the Roman Catholic Church privileges over other religious groups and imposes on the state the duty of supporting the Roman Catholic Church. To sum up, the existing church-state relations seem to conform to the model of so-called "positive accommodation" or "positive neutrality". This means that the state actively supports (traditional/dominant) religion and offers a space for (traditional/dominant) religion to flourish in the polity (Robbers 2012: 180). At the level of social relations, this translates into "hierarchical pluralism", which acknowledges and accepts the diversity while making it clear which religious group is dominant and norm-defining (Pasieka 2013: 28).

The way RE is organised in public schools reflects both state-church relations and the principles underlying the educational system as well as the religious composition of the country. In Poland, the provisions for RE are laid down in the Polish Constitution of 1997. According to Article 53, parents have the right to religious and moral upbringing and teaching of their children in accordance with their convictions. All religious organisations officially recognised by the state have the right to organise RE in public schools, on the condition that schooling does not violate other people's freedom of religion and conscience. Furthermore, no one can be forced to take part in religious practices or reveal their religious beliefs or confession. The Law on Guaranteeing Freedom of Conscience and Belief also touches upon the issue of organising RE. It stresses the equality of all churches and religious organisations officially functioning in Poland in the right to offer RE in accordance with the parents or legal guardian's decision. RE is defined as an internal affair of churches and religious organisations and may be organised either at public schools and pre-schools or at places of worship, churches or other places (Article 20).

Clearly, the Polish model of RE fits the denominational or "educating *into* religion" models (Willaime 2007: 60; Jackson 2008: 165). The main aims of the instruction are to develop and deepen the religious knowledge as well as strengthen the religious identity of the pupils. The religious authorities of a relevant religious organisation are responsible for approving curricula and textbooks for RE. The instructors of the RE recruit from both religious clergy and laypersons with a relevant educational/training background. Nonetheless, the religious authorities of a given religion need to approve the appointment of a teacher. This means that despite RE being offered in public schools, the lay authorities do not have control over the content of the teaching, and have only limited control over the personnel responsible for the RE (Zielińska and Zwierżdżyński 2013: 267).

In practice, the Roman Catholic Church, the predominant religion in Polish society, benefits most from the existing provisions (94.7% in kindergartens, 98% in primary schools, 97.1% in lower high schools, 92.6% in technical high schools and 93.3% in high schools) (Tomasik 2008, 169–170). Some of the major minority religions, i.e. Orthodox Church, Greco-Catholic Church and Evangelical-Augsburg

(Lutheran Church), also benefit from those regulations in the regions where their adherents are geographically concentrated. Other religious organisations hold (if they do at all) their religious education/formation in the parish's/organisation's buildings (Zielińska and Zwierżdżyński 2013: 268).

Scholars identify some challenges to the right to religious freedom posed by the way RE is organised in Poland. First, attendance at RE is based on expression of will. In practice, in most schools, abstention from RE is expected to be expressed in written form. Furthermore, this provision does not resolve the potential conflict between the rights of the parents to bring up their children within their religious tradition and the will of minors to religious freedom. Neither does it solve the problem of pupils whose parents adhere to different religious traditions and are undecided in which tradition they would like to rear their child (Pietrzak 1999: 281). Secondly, the provision on the minimum number of pupils may be seen as limiting the rights of parents to bring up their children in their religious tradition as well as privileging the dominant religion and therefore limiting equality of all religions. Thirdly, pupils who take neither religion nor ethics lack a grade on the school certificate. This may disclose a pupil's or his/her parents' worldview, which is unconstitutional (Constitution of Poland 1997 Article 23.6, the right not to be compelled to reveal one's philosophy of life, religious convictions or belief), and contravene the right to freedom. This may also be the case with non-religious students or students from minority religions – their abstention from Catholic RE may disclose their religious/philosophical views (Zielińska and Zwierżdżyński 2013: 268).

2.4 Theoretical Background and Research Approach

As stated above, the main aim of our article is to see if HR are part of the RE curriculum. In particular, we are interested in learning how the meanings of HR are constructed and socially used in selected textbooks for RE in high schools of three different Christian Churches – Roman Catholic (RC), Orthodox (OC) and Pentecostal (PC). Our approach is richly influenced by the social constructionism perspective, well embedded in social sciences and used to examine almost every phenomenon involved in human activity (see: Burr 1995; Gergen 1999; Hacking 1999; Holstein and Gubrium 2008; Steffe and Gale 1995; Velody and Williams 1998). The central assumption of this analytic strategy is that society is permanently constructed by individuals through their institutionally managed actions, and more specifically their social interactions. Social constructionists say that reality is not given to actors as ready and steady, but it is formed and constituted – as well as reconstituted – by their ongoing presence. The result of this presence is institutional order, which is perceived by social actors – so by its source – as being objective and independent from their activity (Berger and Luckmann 1966: 52).

The most general prerequisite here is that every kind of social process, and every meaning of it, is determined by the type of society and the character of the social groups in which these processes are defined and founded. This means that every

meaning of every process is generated from a particular social point of view. It can also interpret the variety of meanings given by "different" individuals or groups to the "same" social process or object (and let us stress here that social constructionists do not claim that these processes or objects are not "real" in an ontological sense; see Nightingale and Cromby 2002: 702). We will therefore be interested in investigating how the different churches construct the meanings of HR and how HR are used by different churches. It would be particularly interesting to show how these meanings reflect the interests of each church, especially the privileged ones which hold the power in controlling the process of social construction (in the sense of Bourdieu 1984: 125, 467).

The analysis was based on three different sets of textbooks used in RE in high schools, each representing one church. The focus on the textbooks was grounded in the assumption that they reflect an objectivised view on the HR of a given religious community. In the case of the RC textbooks for RE, the selection method was based on their popularity. For the analysis, we used the three sets of textbooks that are most popular and frequently used in schools (see: Kantowski 2009: 279). In the case of minority religions, only two organisations have their textbooks for RE in public schools at the high school level – the Orthodox and Pentecostal Churches – so they were all included in the analysis (one set of textbooks representing each organisation). All the analysed materials were published between 2001 and 2007.[3]

The analysis of the empirical materials was carried out using content analysis focusing on the presentation, discussion and meaning of HR in the chosen material. HR were identified via categories derived from different generations of HR (Vasak 1977; Shultz and Abdi 2008: 26–30). We were particularly interested in finding out which handbooks mention HR and how they are conceptualised by a given religious community. We were also interested in identifying the purpose of their use, the strategies in which they are employed and their functions as presented in the analysed materials.

2.5   Beyond the Surface – Human Rights in Religious Education Textbooks

The issue of HR is one of the vital themes in RE in Polish public schools. Its significance is reflected at the level of the curriculum as well as in the teaching materials for teachers and in textbooks for students. A review of the latter shows numerous direct references to HR, with special focus on civil and social rights. However, closer inquiry allows for more subtle and nuanced understanding of the meanings that the churches in question attach to HR and the functions associated with them.

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[3] A full list of analysed textbooks is available at the end of the text.

2.5.1   "Shutting Opening": God as a Single Source of Human Rights

In presenting and addressing the issues related to HR, all three churches seem to apply a strategy which could be called "shutting opening". On the one hand, the churches seem to be open to HR and see them as a relevant tool for achieving religious (e.g. sanctity or even salvation) and social aims (e.g. common good or equality). On the other hand, they seem to shut their doors to everyone who understands HR as an invention of liberal and secular human thought. This strategy can be illustrated in three ways. First, HR are valued and given great appreciation by the institutions in question. In their view, HR need to be respected and followed in the social and public life (RC2: 1198, OC3: 585, PC1: 1096).[4] However, at the same time, they clearly indicate that HR are derived from God. In other words, HR are "appropriated" and reinterpreted as immanent in and stemming from religious tradition, whereas their secular genealogy (e.g. Enlightenment), as claimed by many interpreters (see: Carozza and Philpott 2012: 18), is rejected. According to the textbooks – and this observation applies to all three churches – HR are guaranteed by God, and not by the secular institutions of democracy or a sovereign state. They need to be seen as embedded in God (RC2: 1198) and as based on the Holy Scripture (P3: 585) from which they emanate (RC2: 1198). As a result, the activities stemming from them are based on divine standards and imperatives (PC1: 1096). Therefore, people who derive HR from secular rather than from religious traditions are in fact excluded from benefiting from these principles. The opening of the churches to the issues of HR is therefore only declarative, as the discourse constructed around HR is in fact limited to the religious field. The Orthodox Church's division of HR into those that stay in line with the "traditional morality" and those that are "contradictory" to it aptly illustrates this duality. On the one hand, we can notice selectiveness and arbitrary grouping of HR into "good" and "bad", but without giving precise examples (OC). On the other hand, their embeddedness in the religious field is also visible (RC and PC). Thus, HR should be accepted to the extent that they are compatible with religious duties, able to protect a Christian from "inner and external evil", and capable of offering proper fulfilment in society (OC).

The second dimension of the strategy of "shutting opening" is expressed in the phrase "HR are not enough". This means that both HR and their related documents cited in the examined textbooks (e.g. UDHR) are seen as valuable and important, but have limited applicability, as they "cannot be seen as a universal recipe for happiness" (RC1: 976). HR protect from external threats, but do not shape the person's inner world of thoughts and desires (*ibid.).* Furthermore, they can even justify

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[4] The analysed textbooks are marked by the acronyms referring in particular each set of textbooks to the particular church, being an institutional author: RC – Roman Catholic, OC – Orthodox, PC – Pentecostal. The number used with each acronym indicates the year of high school education (e.g. OC2 means that the analysis relates to the Orthodox textbook used in the second year of high school), while the number after the colon relates to the cited paragraph as it appears in our maxQDA2 data archive.

immoral acts, which further proves their broken relationship with morality (OC3: 595).

Finally, the "shutting" is also expressed in the defensive meaning attached to HR in the analysed textbooks. HR are described as "defending against" (RC1: 974) and "protecting from" (OC3: 592), which implies that in the opinion of the authors of the textbooks the external secular world is exclusively negative. Although the scope of the semantic field of HR is very broad (the concept relates to almost every dimension of individual and social lives), the meanings of particular rights are not specified or clearly defined. It seems that a deeper understanding of particular rights is less important than their symbolic power (every author mentions about 15 rights) and the context of their functioning. They are located between "God" and the "human inner world" and immoral acts directed against a human from the outside, and therefore ascribed with the role of a "shield".

2.5.2   Differentiation – The Case of (Limited) Freedom

The content analysis of RE textbooks suggests that HR are perceived as an essential element of the ethical dimension of religion. Freedom is seen as the most important of the universal values, and is addressed by each church in question. Interestingly enough, in the analysed textbooks the category "bounded freedom" replaces the notion of freedom perceived as being dangerous and degrading (RC2: 632, OC3: 599, PC1: 599). The call for "bounded freedom" has two main sources – religious (freedom is limited by God's law) and social (freedom is limited by social norms). The vision of freedom as presented in the textbooks is therefore a result of contrasting the Christian standpoints with the contemporary currents competing with this vision. The meaning of the right to freedom is therefore presented as the alternative "either…or", that is, either "God, the sake of the other and limited freedom" or "destructive temptation of freedom degrading for human dignity". Clearly, the presented understanding of freedom contradicts the assumed and criticised secular meaning of this concept, seeing "man as fundamentally autonomous, naturally free in an absolute sense that denied human beings' structural dependence on God and their intrinsically social nature" (Carozza and Philpott 2012: 19).

Furthermore, analysis of the research material suggests that in the churches' understanding, freedom is not only limited, but also instrumentalised. Admittedly, freedom is perceived as the main value and basis for HR, but at the same time it is used in the textbooks as a category helping to indicate the enemy understood as someone or something that uses HR to fight against its "true meaning". All understandings of freedom, in contrast to Christianity, associated by the churches with liberalism, secularisation, relativism, humanism, socialism, Marxism, spiritism, fundamentalism, postmodernism and consumption, are seen as offering distorted visions of freedom. This negative perception of secular visions of freedom is expressed particularly strongly in the textbooks of the Roman Catholic Church, which speak of "incorrect concepts of freedom of the human being" (RC2: 1320).

Focusing on the dangers and listing the enemies – common elements of the repertoire of the closed discourse (van Dijk 2003: 357) – the representation of evil forms a kind of chain and creates a stable configuration of expressions. Through this mechanism, the threat is objectivised and becomes a force beyond the individual. Each of the alternative systems is presented as offering an interpretation of HR that is in stark contrast to the Christian understanding; the Christian understanding of dignity is opposed by humanism, freedom by liberalism, property by materialism, diversity by pluralism and equality by indifferentism. The ongoing conflict in the world is presented in the textbooks as a battle for values and the fight against the "dark forces". This is seen as a clash between the church, which offers the correct interpretation of HR, and the regime of the joint hostile ideologies that distort their genuine meaning. Paradoxically, HR are one of the most effective combat tools used in this "battle".

Freedom is thus used in the analysed textbooks as a tool for identity differentiation, which can be traced back to the ambivalent attitude of the Christian religion towards the world. The specificity of Christianity plays a central role here. As a "this-worldly" religion, it derives the core of its existence from tension with the world. Objection, as an answer to modernity, seen as a synonym of a world hostile to religion, becomes a natural way of adapting to the secularised structures of the society. This process means creation of the opposing structures whose main function is to constantly resist the systemic "hotbed of evil". This type of adaptation is neither a conformist adjustment nor structural resemblance. On the contrary, all the churches in question are meaningful inasmuch as they function "in opposition", or as they are able to bear testimony and persuade to their own novelty in contrast to modernity. Abandoning this contestation and the attempt to tune their own message to the modern world could lead not to adaptation, but rather to annihilation (Schelsky 1967: 167).

This spirit of contrariness, characteristic of the textbooks, is mostly related to secularisation ("evident attack of secularisation in the name of democratisation and liberal values, accompanied with the slogans of alleged protection of dignity and civil rights, aims to crush religion once and forever") (OC2: 1179); development of knowledge and science along with democratisation result in relativisation of norms (PC3: 452) and relativism undermining the one objective truth and leading to unjustified equal appreciation of various religions (RC2: 357). The opinion of the RC is particularly interesting in this context, as it defines itself as a depositary of the real and objective truth, confirming Agnieszka Pasieka's (2013) "hierarchical pluralism" thesis. This implies that all other religions or worldviews are less truthful and bereft of equal value, whereas the RC is presented as norm-defining.

As presented in the textbooks, secularisation and relativisation are negative consequences of the social transformations in the field of knowledge, technology, political thought and the law. Both of these challenges are usually used in the disguise of seemingly valuable phenomena such as toleration, development, democracy and progress. Nonetheless, it is clear that their positive connotation is only apparent, as these phenomena without the religious "framework" lead only to the dehumanisation of the world. Basing the constructed meaning of freedom and other HR on the

identification of a threat exemplifies the "granfalloon" technique of persuasion, frequently used in the analysed textbooks. This implies a "division of the world", that is, marking the borders of their own group, where the addressee of the message belongs, and construction and support of the feeling of belonging and being proud of the membership in the community. Focusing on the likeness of the members, the community provides the feeling of security (Pratkanis and Aronson 1992: 214–223). Its functioning is also based on the contrast with its environment. In practice, this may mean the de-humanisation of opposite group members, based on describing them with simple, stereotypical and often negatively connoted labels (liberal, green, commie, leftie, etc.).

The elements discussed above are an indication of the strategy of dichotomisation based on the simplification of values and aiming to trigger the resistance (McGuire 2008: 185). Furthermore, the analysis suggests that all the analysed textbooks offer "feigned promotion" of HR. On the one hand, HR are used to legitimise the churches' positions, messages and activities. On the other hand, they are used under closely defined conditions and within clearly defined boundaries. Moreover, these imposed boundaries often lead to violation of HR, creating hierarchies of worse and better religions, ideologies, identities, etc.

2.5.3 Minorities Voice: Religious Freedom

Religious freedom is an important outcome of the universal right to freedom, and has a particular relevance in the field of RE. The interpretations of religious freedom, "packed" in the textbooks and ready to be internalised by pupils, do not stem from the "semantic vacuum". They need to be interpreted and understood in the context of relations of domination and subordination, which are translated, even if in a concealed way, into the analysed material. This seems to be confirmed in our research material. The analysis suggests that the meaning attached to religious freedom depends on the positioning of a given church in the social and religious structure of Poland and, therefore, on the power attached to that positioning. This also explains why the issue of religious freedom is mostly articulated in the textbooks of the minority churches. In other words, as the RC holds a dominant hegemonic position that is taken for granted, it has "established a culture of consensus over time that marginalises other institutions and cultural expressions" (Schröder 2012: 19). On the contrary, minority churches need to constantly legitimise their presence, so references to and uses of HR serve to challenge their peripheralisation.

In the Orthodox Church's textbook, the essence of religious freedom is expressed in a very particular and indirect way. The author draws a map of the church communities and organisations focusing on socio-cultural activities in the broadest terms and including such profiles as charity organisations (addressing their activities to children, families, the elderly, the poor, the homeless and emigrant and asylum seekers) and organisations focusing on education, as well as providing equal opportunities, European integration, leisure and those working on promotion of HR,

freedom and democracy. These are organisations of different forms (e.g. associations, schools, choirs, publishing houses, radio, sport clubs, etc.), which are internally diversified and whose activities cover a broad spectrum of social and geographical areas. The enumeration of the multitude of organisations and their activities does not allow them to be presented in detail. Rather, it seems to be used to emphasise the social symbolic power of the group and to legitimise their right to (religious) existence.

A different understanding of religious freedom can be extracted from the textbook of the PC. Here we can see direct references to the existing law on religious freedom, which, as a system external to the religious field, allows and legitimises the functioning of the church and its related organisations. In these references, emphasis is placed on the freedom to choose religion and on the right to its free public expression and the equality of all religions in state, political, social and cultural life (PC1: 1151). This serves as a background to the detailed presentation of the legal basis for the functioning of the Pentecostal Church in Poland. The legal recognition provides a space for independent functioning and therefore clears the path for "being visible". The law seems to provide the church with the "feeling" of certainty, legitimising its autonomous and consolidated position. The final expression of independence and freedom to act is the frequent references to the existing church's inner legal regulations. This makes the message clearer and more direct – "we have the right to act". The focus on the legal and organisational dimensions of religion visible in the textbooks of the minoritychurches is an expression of their internal differentiation. This seems like a plausible strategy to make them more credible.

In comparison, the textbooks of the RCC, the dominant religion, present it as an undifferentiated monolith. There is no information on the organisations and communities existing within the church or related organisations functioning beyond its formal structure. Furthermore, the RC textbook refers almost exclusively to the "invisible" dimension, related to teaching and transmission of the particular content. In contrast, both minority churches include in their textbooks elements of local history, space and ownership. In other words, they focus on "visible", palpable and real dimensions. The differences in visibility of the issue of religious freedom between the different churches seem to reflect their distinguished social positioning. The references to the legal and institutional dimensions serve as a way of overcoming the social invisibility of minority churches and as a mechanism of legitimisation and authentication of their social position. In contrast, the RC as the dominant player on the religious scene is sufficiently socially visible, and forms the "taken for granted" context. Therefore, it does not need to use any mechanism of authorisation or legitimisation in the textbooks, and the limited attention given to the issue of religious freedom may be a reflection of its hegemonic position.

2.5.4   Between Right and Duty – Political Participation and Social Activity

Social-centric values seem to be the least controversial for the churches in question. Almost unequivocal support for these values can be found in all analysed textbooks. This focus on the need for "opening to the world" and political and social involvement may seem to contradict the understanding of freedom discussed earlier and the perception of the world as a threat. However, we need to remember the dual perception of the "world" in the Christian doctrine. On the one hand, this is a place for God's actions. On the other hand, it is the space of the rebellion against God (Weber 1958: 324).

The analysis shows both similarities and differences in the way different churches address and conceptualise this socio-centric perspective. All the churches explicitly encourage their members to take active part in the socio-political life of their societies and countries. However, the scope and character of the expected activities differ between the churches. The Roman Catholic Church operates at the global level ("the world"), where the "problems" that need to be solved exist. Furthermore, the RC textbooks offer the most elaborated description of the possible actions, also including the need for political involvement. HR serve as the legitimisation for the social and political involvement of both the RC and its members. At the same time, impartiality is emphasised, allowing the church to remain "politically correct".[5]

> Taking into account the fact that the Church's mission is directed to religious and not to worldly reality, it does not offer the world ready solutions to the existing social, economic and political problems. It does not offer any economic and political systems of programmes, it does not prioritise one over the other. However, the Church demands respect for the basic human rights, for human dignity, freedom, justice and the truth (RC2: 933).

Each direction of the actions, as designed by the RC, is built on the active and positively perceived conduct of the Christians – the peace is "made and promoted", interpersonal bonds are "strengthened", human rights are "protected", one "participates" in politics, the international order is "built", the homeland is "cared for" and the common good is "created" (RC2: 1178–1182). This multidirectional and diversified character of the envisaged actions towards the world suggests that Christianity has not only a motivating potential, but also an expansionist one.

In contrast, the Orthodox Church focuses mostly on the meso level of "community", where the duties and engagement should take place (OC3: 880). The Pentecostal Church, meanwhile, stresses the need to get involved at the level of the specific and well-defined group ("congregation"), which demands "service and dedication" from its members (PC1: 1060). It seems that the differences in the way the churches prescribe the social engagement of their members could again be explained by their specific social positioning. The RC is a global and international organisation, while the OC usually functions within the scope of a given state or

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[5]The author juxtaposes this position with the stance of liberation theology, of which he is critical, where political correctness was not present.

region. On the contrary, the Pentecostal congregations usually function independently of each other.

Another important dimension of social engagement, as envisaged in the RC textbook, is employment, recognised as one of the fundamental HR. Analysis of the large passages addressing the issue opens the question of whether the right to work is more the right of a person (individual) or humans (society). Primarily speaking, "the common good is seen as exceeding the individual good" (RC2: 1199). Nonetheless, despite the emphasis on the need for "common actions for the social development", it needs to be inseparable from the personalist perspective, where great attention is paid to the "good of the individual person". Therefore, employment is seen as a positive force in the work for a common good and for the individual.

Ironically, the understanding of the right to employment and labour as presented in the RC textbook, with its focus on the threat and alienation stemming from uncontrolled industrialisation (RC2: 933, 1072), resembles the socialist or even Marxist understanding of labour relations. Using the concepts that are typical of dichotomous theory of work – conflict, capital, two opposing groups, means of production, profit, subject and object – to describe the labour seems to confirm the similarities between the Christian and Marxist understandings of those issues. Therefore, the universal right to work is located by the authors of the RE textbooks in a rather unexpected conceptual context. At the same time, the Church declares unequivocal support for the right to work for individuals. The demand for respect of workers' rights to fair payment and treatment is based on the primacy given to human beings over material objects or the outcomes of their work. At the same time, the Church is very critical of all political systems and ideologies (i.e. totalitarian and atheistic), which prioritise economic benefit over the rights of individuals or give absolute primacy to the market over human work. They "disrespect basic human rights and are in contradiction to human dignity" (RC2: 934).

2.6   Bioethics, Women's Rights and Family Life

Further issues closely related to HR that are presented in the analysed RE textbooks are women's rights, and the related reproductive rights, situated in the wider context of bioethics as well as family life. All three churches hold a similar, unambiguous and uncompromising view on abortion. This is perceived as a violation of HR – "the right of each person to life from conception until their natural death" (RC2: 696), as homicide (PC2: 751), and as a sin, despite the legal status of such an act and despite the scientific views on the issue (OC3: 583). Addressing the issue of abortion, the churches apply the legal framework by using legal terms in order to strengthen their rejection of this. Abortion is addressed and described as murder or homicide, and contrasted with the right to life (from conception to natural death). At the same time, the secular law is contrasted with the prioritised Church law. The category of "responsibility" is further strengthened through references to the religious

categories of sin and the final judgement ("in front of God"), in order to make it clearer which law needs to be applied. The very same argumentation is used in the context of euthanasia. Interestingly enough, neither issue is problematised or discussed in a nuanced way presenting the possible clashes between different types of rights (e.g. women's right to freedom and choice/or life vs right of foetus to life; right to freedom of a terminally ill person vs right to terminate someone's life given only to God). The interpretations presented in the RE textbooks of the churches in question, therefore, exemplify earlier strategies of "shutting opening" and "identity differentiation" – drawing clear divisions between the right and wrong interpretations.

Apart from bioethics, another field perceived by all three churches as under threat from the secular world is family and marriage. In the analysed RE textbooks, marriage and family always function in a symbiotic relation (marriage means family and family means marriage). They are also closely related to sexual ethics, as marriage-family life is the only legitimised environment for procreation. Furthermore, marriage and family are also understood in exclusively heterosexual terms. Simply, as presented in the RC textbook, homosexuality is identified as particularly dangerous to the family, understood as the universal foundation of social life (RC2: 647). The anxiety assumed by the author of the text and evoked among readers is strengthened by the simultaneous mechanism of de-personification and over-activation of the described group. The texts speak of "active homosexual communities" that "demand social acceptance for their sexual orientation and conduct" and that "attempt to promote 'homosexual culture' among the youth" (*ibid.*).

Similarly, in the PC textbooks, the traditional marriage-family structure is perceived as under threat, but this time the scapegoat role is played by informal relationships, often called "free relationships" and referred to by the use of the prefix "so-called". They are seen as fragile and momentary. The associational chain of "common-law marriage-infidelity-promiscuity" plays the role of the "chain of threats" (PC3: 1134).

In the context of sexuality, the conflict between religious and secular parts becomes blatantly visible, particularly so in the RC textbook. The vision offered by Christianity clashes with the vision of the modern world that promotes a "'modern' picture of the relationship between woman and man", the "so-called 'sexual freedom'", which is the basis for promotion of the "so-called 'marriage attempts' or marriages based only on civil marriage" (RC3: 811). The use of impersonal, vague and blurred wording triggers the atmosphere of threat. Furthermore, a vague enemy is belittled though the stylistic-lexical forms employed (e.g. the pervasive function of the "so-called" and the quotation marks in the use of the notions commonly seen as positive, e.g. "modern", "freedom", "free" and "normal"). Like an experienced propagandist, the author does not use precise exemplifications of what he describes, but only vague notions, which imply rich negative connotations. Once again, the mechanism of simplification of value range is in place. The values such as "faithfulness", "moral norms", "marriage coexistence" or "genuine values" that need to be "guarded" clash with "civil marriage", "divorces", "abortion", "sterilisation",

"contraception" and "pornography" (*ibid.*). So the genuine values are contrasted with anti-values, which need to be rejected.

2.7 Conclusion

A strong appreciation of HR can be noticed in all the analysed textbooks. However, they are seen as valuable as long as they are derived from God. They are seen as a protection against the designs of a secular world, and as subordinated to the religious norms. They also allow us to identify the enemy and justify the evangelical mission of the church in the world. Such conditional acceptance of HR seems to stem from the particular attitude of Christianity towards the world. This attitude can be called "limited acceptance". Thomas F. O'Dea offers an apt theoretical interpretation of this attitude:

> the central ideals and values of Christianity cannot be realized within this world apart from compromise, and therefore […] the history of the Christian church is best understood in terms of two contradictory yet complementary tendencies: *compromise with the world* and *rejection of the world* – accommodation, and protest against accommodation (O'Dea 1966: 67).

The understanding of the concept of freedom and bioethical issues as presented in RE textbooks shows that this compromise is very limited and applies mostly to the fields of social and political activities. Therefore, in the conflict between the sacred and profane, human rights are situated in the latter.

The ambivalent attitude towards the world, crucial for understanding HR issues in the analysed textbooks, can be interpreted as the consequence of the transformation of social structure. In the face of the change, religion stands on the side of the holistically understood tradition juxtaposed with the fragmented modernity. The latter, defined as damaging to human existence itself, un-rooting human beings from centuries-old tradition and alienating from society, is presented in the textbooks as the main rival of religion. The immorality of modernity is linked to economisation of life, politicisation and de-humanisation of social relations, relativisation of norms and attacks on various counter-ideologies against such values as life, work or freedom. The central axis of meaning of Christianity is a "tension", expressing the contradictions between the religious meaning system and the secular space of the modern world (Zwierżdżyński 2014: 265–324). HR are located somewhere in the middle, and they are at stake in the game for domination in the social field of power.

Surprisingly enough, the analysis shows many similarities in the way HR are understood and used by the churches in question. The slightly different function of the usage of HR is only visible in the part dealing with the issue related to freedom of religion. This means that our hypothesis on the differentiating effect of the churches' social position on understanding and use of HR was confirmed to a very limited degree. It rather seems that the peculiarity of Christian doctrine can serve as a better explanatory factor.

In line with social constructivist assumptions, the understandings of HR as presented in the analysed RE textbooks should be seen as elements of objectivised social reality. On the one hand, they reflect the self-identification of the textbooks' institutional authors and mirror the specificity of Christianity. On the other hand, they also influence – at least in principle – the pupils' consciousness and their attitudes towards the wider world. Nonetheless, we also need to be careful with drawing too far-reaching conclusions, as the material used for our analyses is also reinforced by the institutional context in which they operate – namely, the school and the wider educational context. Furthermore, this potential influence is strengthened by the educational context in which RE is offered. This means that religious ways of understanding HR are imposed upon the very impressionable minds of young people on the verge of becoming full participants in social and political life.

Finally, linking our analysis back to the question of the role of RE offered in public schools in promoting civil values and HR, we could give a partially positive answer. As stated earlier, HR are presented in very positive ways, but the understanding of the term is very specific and limited to the religious field. Furthermore, we should also be aware that various "Others" are excluded from the validity of HR. Therefore, the universality of HR seems to be limited, something that is contradictory to their very foundations.

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Chapter 3
Path of Belarusian Secularism: Public Debates on Religious Education

Olga Breskaya

This article presents an in-depth description of the attempts to implement religious education in secondary schools in Belarus. The focus on this sphere reveals the mode of Belarusian secularism as the practise of civil rights application, and historically grounded features of the Church-state relationship gain their sharp forms here. The sphere of tensions in realisation of individual civil rights and interests of parents and pupils along with legal regulations for the secondary school system regarding religious subjects in school curricula are examined in this paper in the framework of Alfred Stepan's "twin tolerations" principle and in the context of "multiple secularism" paradigm. It is emphasised that the "sufficient space from religion to function" is used by the Belarusian state for the separation in one sense (prohibition of religious knowledge transmission) and integration in another (binding religion with state ideology). Prescribing the Orthodox Church and other religious organisation's particular role in secondary schools, the state replaces one function with the other and allows no space for the realisation of particular rights of its citizens. The absence of any kind of knowledge about religion in schools protected by the state is viewed as a challenge to the secularism principle per se.

3.1 The Problem

Even if secularism was accepted as a "condition of freedom of religion or belief and non–discrimination" (Pollock 2011) in European institutions, it demarcates public space in a variety of ways depending on the settings of political environment. Being fixed as a constitutional principle, secularism appears in the definite public spheres

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where the realisation of civil rights meets the practices of particular legal norms application. The specifics of secularism pattern are defined by the bilateral relationship, which Alfred Stepan called a "twin tolerations" principle. This inter-relationship is grounded in the necessity of co-existence of the counterbalances: "Democratic institutions do need sufficient political space from religion to function, just as citizens do need to be given sufficient space by democratic institutions to exercise their religious freedom" (Stepan 2010: 2). Secularism is a mechanism for retaining a counterweight to the implementation of the rights of citizens and the maintenance of pluralism and democracy. Thus, the question arises as to whether secularism is possible in non-democratic states if this principle of counterbalance is not respected? To answer this issue, Barry Kosmin defined the model of "hard secu-larism" (Kosmin 2006) and Alfred Stepan suggested the "authoritarian secularism" type (Stepan 2010).

The "twin toleration" relationship building is not a simple task for the countries where the changes of political regimes occur together with the formation of legisla-tion on religious rights and freedoms for the citizens as well as legal grounds for the public corporations as the mediators for the realisation of individual rights and pub-lic policy. In this context, Belarus is an interesting case being the country, which has experienced simultaneous political and religious changes for the last 25 years. From the beginning of the twentieth century, Belarusian state implemented European principles of secularism. From 1919, when the Soviet Socialistic Republic of Byelorussia was formed, elements of French secularism models were implemented. Moreover, from 1991, when the independence period of Belarus started, French and German secularism patterns, which present different models in itself, were used for the new Constitution and legal acts regulating the status of religious organisations and individual religious freedoms and rights.

This article examines the sphere of secondary education in Belarus in the context of legislative regulations and public debates on religious education in school. The optics of "twin toleration" is quite demonstrative in this case as it reveals the over-lapping and contradictory space of civil rights realisation and rules of how public education functions as regulated by the state. The main argument of this article is that Belarusian secularism has an unbalanced and restrictive character at the sec-ondary education level because the state "protects" the neutrality of space, while the possibility for the application of civil rights of the citizens is left unexecuted. The discrimination of not only religious minorities but also religious majorities in the situation of signed agreement on cooperation between state and the Orthodox Church could be observed. This secularism path is related to the inertia of political changes and dependence on the secularism model rooted in the recent historical past, presumably state character of secondary education, prevalence of legalism decisions and lack of resources of religious organisations for the support of reli-gious education due to the weakness of Church autonomy and also absence of the tradition of academic theology in the region. The author will present the indicators of Belarusian secularism model taking into consideration political and cultural par-ticularities as argued by David Martin and Stjepan Meštrović. To prove the hypoth-esis, the analysis of the legal documents will be presented along with expert analysis

of representatives from academia and the Church as well as data from the recent empirical study about the possibility of introducing the courses on religion at schools.

3.2 The Continuity of the Belarusian Secularism Model

The models of secularism in a particular country are deeply interrelated with regional political and cultural inflections as well as with different purposes that the secularity is "deployed to achieve in political and historical projects" (Schenk et al. 2015: 7). The growing idea of "multiple secularities" (Berger et al. 2008; Wohlrab-Sahr and Burchardt 2012; Burchardt and Wohlrab–Sahr 2013) suggests a comparative theoretical framework for a clear distinction of different modes of secularity and for finding parallels in how secularism works in various spatio-temporal contexts. David Martin's argument about "the pattern of religion and religious institutions in any given country mirrors and is mirrored by the political pattern" (Martin 2007: 140) is central in this theoretical framework. In this theory, Eastern Europe with Eastern Orthodoxy could be placed as a distinct model that is also "a cultural block in the path of the particular western kind of secular modernity, particularly with regard to the relation of religion to power and to a whole organic society" (Martin 2008: 133). The interplay of religion, politics and culture in Eastern Europe could be viewed in an opposite way to western secularism patterns. Stjepan Meštrović (2011: 96), referring to Max Weber claims, "Eastern Europe is profoundly different from the west" suggesting religious and cultural arguments for this statement. Taking into account both pro et contra positions for the relevance of Eastern European secularism and modernisation paths to the wider European secularist perspective and idea that "religious arguments and its cultural derivatives should be taken seriously" (Meštrović 1994: 8), in this comparative work we will examine Belarusian secularism model. The case of Belarus in the framework of the process of "creating what looks like a common Eastern European pattern" (Martin 2008: 130) is demonstrative.

As all former soviet republics, Belarus implemented elements of western secularism models at the legislative level in the twentieth century. The Belarusian secularism could be described with relation to the classifications, which evolved in Western Europe and the United States during the twentieth century. The first decrees and laws of the Soviet government in the regulation of the state of the religious sphere were based on similar European legal norms and principles. The Constitution of the Socialist Soviet Republic of Byelorussia (1919) declared: "In order to guarantee the real freedom of conscience for the workers the Church is separated from the state and the school from the Church, and freedom of religious and anti-religious propaganda is recognized for all the citizens" (Ch. 1, Article 7).[1] Although the state created the "the facade of the alternatives in the issue of religious freedom", it did

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[1] Konstitutsiya Sotsialisticheskoy Sovetskoy Respubliki Belorussii (1919) [Constitution of Socialist Soviet Republic of Byelorussia].

not hide its anti-religious policy in its attempt "to separate the citizens from religion, which occurred to be more difficult than to separate the Church from the state and the school from the Church. Nevertheless, all possible steps to transform Soviet citizens into atheists were undertaken" (Tumanov 2011). In 1939, this policy was extended to the western region of Belarus after its accession to the Soviet Union. According to Archbishop Athanasius Martos, "the Soviets found well-organized Eastern Orthodox and Catholic church life in Western Belarus" (Martos 1990: 257). Surprisingly, however, until today, the echo of pre-Soviet period of church-state policy in Belarus could be found in the disparities of the religious communities figures in the western and eastern parts of the country.

Constitutional model of Church-state relations in Belarus during the Soviet and post-Soviet periods was arranged in obvious parallels with the French principle of laïcité, proclaimed in La loi concernant la séparation des Églises et de l'État in 1905. The goal of the laïcité was the privatisation of religion (Ponkin 2005: 24), not meaning that "religion has no longer any collective expression or public manifestations" (Baubérot 2002), but that question of faith became a matter of personal freedom, which was guaranteed by the law. The real results of the policy of separation of powers were the "era of true freedom" for religion and the end of the period when religion ceased to be something of a public service and became a "private matter". The subsequent period of "legal war" and the refusal to obey certain provisions of the 1905 Act by the institutional Church and devoted Catholics led to the further reconciliation of Church and State in France (Baubérot 2002). Thus, in practice the French law of 1905 did not have an exclusively repressive nature, as it became the case with the Byelorussian SSR law. In Belarus, declared legal norms had decorative character; constitutional recognition of individual religious freedom has led to the complete elimination of religion from the public sphere and repressions against the individuals expressing religious beliefs.

In the 1990s, the adherence to the ideas of democratic and secular state based on the rule of law was proclaimed by the independent Belarus. Religious freedom[2] was declared as an inalienable constitutional right of Belarusians. The early 1990s opened the prospects for the construction of a secularism model in which believers got the guarantees for the freedom of public expressions of their views and religious institutions got access to the public sphere. For the religious institutions, the real autonomy, that is, participation in solving important social problems became a possibility. And in this new period of 1990s, the strategy of following some elements of French and German secularism models could be depicted: the proclamation of religious freedom, the continuation of the policy of separation of Church and state along with the attempts to identify priorities for closer cooperation in the social sphere. The individual religious freedoms were guaranteed by the Constitution from 1994. Article 31 claims that: "Everyone shall have the right independently to determine one's attitude towards religion, to profess any religion individually or jointly with others, or to profess none at all, to express and spread beliefs connected with

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[2] Konstitutsiya Respubliki Belarus 1994 g. s redaktsiyey 1996 g. [Constitution of the Republic of Belarus of 1994 with the amendments of 1996].

one's attitude towards religion, and to participate in the performance of acts of worship and religious rituals and rites, which are not prohibited by the law".[3]

In 2002, the new version of the law "On Freedom of Conscience and Religious Organizations" contained in its preamble a classification of religions, in terms of their roles in the nation-building process: "traditional" and "historical" for Belarus. Like the German model, which endowed several religious groups with the status of "public corporation", in Belarus together with the proclamation of the equality of religions behind the law, the particular priorities were established in the preamble to the law. The Orthodox Church was recognised as having the determining role in the historical formation and development of spiritual, cultural and state traditions of Belarusian people; the Catholic Church – as having spiritual, cultural and historical role on the territory of Belarus; the Evangelical Lutheran Church, Judaism, and Islam were recognised in their inseparability from the common history of the Belarusian people.

In 2003, the signing of a cooperation agreement with the Orthodox Church followed. From 2008, the discussions around the possibility of signing the Concordat with the Catholic Church had started. However, if the German model of keeping the priority status of public corporations for the religious groups is connected with the guarantees of religious education in public schools and theological faculties, in Belarus the cooperation agreement did not establish the preferences in the education sphere but guaranteed the freedom of internal organisation of Church by the state (Vasilevich and Kutuzova 2014: 56).

3.3   The Separation Between Religion and State in Belarusian School System

As Alfred Stepan notes in his analysis on separatist model of secularism that among 25 European democracies "all of them fund religious education in some way, 76% of them have religious education in state schools as standard offering" (Stepan 2010: 6). The combination of separatism model with some elements of cooperation, prescribed by the state spheres could be clearly viewed in the example of Belarus. The presence of religion in the educational system in Belarus is the subject of state regulation. Classifying the legal norms related to the religion and schooling, one could make a distinction between the following spheres of religious education presence in schools: (a) secondary state schools' knowledge transmission with its restrictively secular feature; (b) religious upbringing as extracurricular activity in state schools with its elective character and (c) confessional education which is provided by religious organisations not in the premises of state schools. This

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[3] Konstitutsiya Respubliki Belarus 1994 g. (s izmeneniyami i dopolneniyami, prinyatymi na respublikanskikh referendumakh 24 noyabrya 1996 g. i 17 oktyabrya 2004 g.) [Constitution of the Republic of Belarus of 1994 with alterations and amendments adopted at the republican referendums of 24 November 1996 and of 17 October 2004].

classification elicits the conclusion that knowledge about religion in its diverse forms is a subject of particular control by the state. It refers us to the idea that negotiations between state schools, religious communities, and state are the battlefields, which "were shaped to represent emblematically the chosen national model of Church/State relationships" (Hunter-Henin 2011: 9).

The debate around the presence of religious education in school has been and still is current in Belarus. Also, its focus still revolves around the same rhetoric, that is, public schools should be secular and neutral. The first law of Republic of Belarus "On freedom of conscience and religious organizations" (1992) proclaimed that: "National system of education has secular character in Belarus and does not intend to form particular relation to religion" (art. 9 "Education and Religion"). As a result of this norm realisation, there is no specific knowledge about religious traditions and religious history in Belarusian schools even in the forms, which offer religious studies. According to Article 9, all confessional types of education should be provided by the religious groups in the forms of Sunday schools. Only registered religious organisations are allowed to create study groups and Sunday religious schools "using owned and (or) given to them in the use of the premises, except premises owned by the state educational institutions".[4] These regulatory principles did not change in the renewed law adopted in 2002.

The secular character of Belarusian educational system has also been articulated in the first edition of the "Law on education" (1991) of independent Belarus.[5] Article 1 claims that the state policies concerning education are based, among others, on universal values and human rights, and on the humanistic and secular character of education. In the newly adopted Codex on Education (2011), the same principles are proclaimed in Article 2. This article claims that: "Educational institutions could interact with the registered religious organizations with regard to their influence on the formation of spiritual, cultural and state traditions of the Belarusian people in the sphere of upbringing on the basis of written statements of pupils (legal representative of underage pupils) outside the classroom (during the extra-classroom time). Procedures, conditions, content and form of such interactions are determined by the Government of the Republic of Belarus in agreement with the President of the Republic of Belarus" (Article 2, para 4).[6]

This situation in the sphere of secondary education in Belarus, with the positive and negative rights, clearly delineates the individual opportunities and policy restrictions. Taking into account the fact that the vast majority of Belarusian

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[4] Zakon Respubliki Belarus "O svobode sovesti i religioznykh organizatsiyakh" ot 17 dekabrya 1992 g. [Law of Republic of Belarus "On freedom of conscience and religious organizations" 17 December 1992]. № 2054 – XII.

[5] Zakon Respubliki Belarus ob obrazovanii ot 29 oktyabrya 1991 g. [Law of Republic of Belarus on Education 29 October 1991], № 1202-XII.

[6] Kodeks Respubliki Belarus ob obrazovanii ot 13 yanvarya 2011 g. [Codex of Republic of Belarus on Education 13 January 2011], № 243–3.

secondary education takes place in the state schools,[7] we could observe the unitized attempt to take religion from the school curricula. Tolerating the sphere of individual religious rights and by leaving the confessional form of religious education outside of the schools, the state brings forward the legal arguments that could be questioned by the citizens, families and religious communities interested in the presence of religious education in school.

3.4   Religious Upbringing Outside the Regular Curriculum

There is clear distinction between knowledge transmission and upbringing processes articulated in the Codex on education. The education is composed of both processes. "Education is the teaching and upbringing processes for the benefit of individuals, society and the state, aimed at acquiring knowledge and skills, the formation of a harmonious, multi-faceted developed personality of a pupil" (Art 1., para 1.6). In addition, teaching is "a purposeful process of organizing and stimulating learning activities of students on the acquisition of knowledge and skills, and development of their creative abilities" (para 1.12); upbringing is "a purposeful process of formation of spiritual and moral and emotional value sphere of pupil's personality" (para 1.1 of Codex on education).

   In 2011, the special document "Regulations on the order, conditions, content and forms of interaction between the educational establishments and religious organizations on the issues of upbringing of pupils"[8] was adopted. While religious education (knowledge transmission) is prohibited in secondary schools in Belarus, upbringing as extra-curricular activity is allowed when certain conditions are met. The content and spheres of this upbringing are clearly defined (Chapter 3 of Regulations). These are spheres of civil, moral and patriotic upbringing based on the "spiritual, cultural and state traditions of Belarusians", including knowledge of cultural and spiritual heritage, care about the preservation and reconstruction of memorials, social work with deviant families, a-social behaviour, promotion of healthy ways of living, environmental protection activities, prevention of religious organisations' influence, activities which are directed against the sovereignty of the Belarusian state. The whole range of restrictions is introduced in the Regulations. Among them are, for example, the prohibition of religious literature, audio, video and other religious materials distribution (other than those declared in the lists of educational

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[7] When we refer to (secondary) schools in this article, we mean the publicly funded state schools. In the 2013–2014 school year, there were only 10 private schools among the 3395 registered schools, including colleges for professional training. During that period, 930,606 pupils attended state schools and 694 pupils (that is 0.07% from the total number) attended private schools (Belarus. Belorusskoe obrazovanie v kontekste mezdunarodnykh pokazateley 2013).

[8] Polozheniye o poryadke, usloviyakh, soderzhanii i formakh vzaimodeystviya uchrezhdeniy obrazovaniya s religioznymi organizatsiyami v voprosakh vospitaniya obuchayushchikhsya [Regulations on the order, conditions, content and forms of interaction between the educational establishments and religious organisations on the issues of upbringing of pupils], resolution of the Belarusian Council of Ministers 24 June. 2011 № 838.

programmes); prohibition of religious services, religious rituals and ceremonies, and placement of religious symbols in schools. Additionally, only the registered religious organisations with specific status (republican religious association),[9] which have agreement of cooperation with the Ministry of Education, can provide the activities for extra-curricular upbringing.

This separation of different educational activities puts the Orthodox Church in a marginal status, suggesting to the Church the ideological function for building the national identity in educational public space. "During the Victory Day, Memory Day of international soldiers, Mother's Day…, the priests could be observed in all kinds of educational establishments" (Vasilevich and Kutuzova 2014: 66), – such a situation leads to the perception of the Church as supporting the state, reducing its role to the care of the convalescent and memorisation.

3.5   Religious and Secular Response to the Neutrality of State Education

There are several public actors eager to interpret the state regulations on the secondary education separation model: the Church leaders, academic experts and NGOs. The official reaction by the Belarusian Orthodox Church on the issues of presence of religious education in secondary school was expressed by the Metropolitan of Minsk and Slutsk Pavel, in 2014, during his speech at the conference "Religion and education in secular societies". Talking about the progress in the development of relations between Church and state in the educational sphere, the Metropolitan expressed concerns about the politics of neutrality practiced by the Belarusian state:

> The first concern is about the possibility of identifying the concepts of secularism and neutrality. Sometimes in the practice of public relations, we meet with the reluctance of officials to resolve this or that citizen's initiative under the pretext of violation of some ideological balance. 'Whether Catholics will be offended? And we still have Baptists'– they say in these cases. And it turns out that the officer does not support the citizens belonging to different faiths in the realization of their rights but they do everything to prevent everyone from the realization of inherent individual rights. In this case, the declared neutrality is actually a vacuum, which will be filled for sure…(Metropolitan Pavel 2014: 17).

In his statement, the Metropolitan Pavel conceptualises the secularism principle as the mechanism for the creation of constraints for the realisation of individual rights and non–ideological presence of religion in public space. The criticism of neutrality of public space is definitely related to the 2011 Regulations document, which put the majority religion in Belarus in a complicated situation of forced silence in schools with its ideological role for national and cultural identity build-

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[9] The Belarusian law "On freedom of conscience and religious organizations" (2002) defines three types of religious social bodies: religious organisations, religious communities and religious associations. Republican religious association consists of religious communities acting in the most territorial areas of Belarus.

ing. In the paragraph focused on the relationship of education and religion, it was said by the Metropolitan that: "Not knowledge as much as upbringing, overcoming of sin, – that is our goal in the educational and up-bringing processes". This phrase shifts our attention directly to the above-described dichotomy in the Regulations (2011).

The position of academic experts varies, from the conceptualisation of neutrality in compliance with the state policy of division of competences when public education is separated from all kinds of religious knowledge transmission to the necessity of rethinking the neutrality principle as a space of cooperative variations of religious education and public education. The "separated approach" is very clearly presented by the Belarusian scholar Victor Starostenko who considers that public education should have a value free character in relation to religion, should give no preferences either to religious or to the atheistic ideology, should not provide teaching of religion, and should not involve religious/atheistic organisations in order to respond to the requirements of national Belarusian secularism legislative model in the sphere of public education. At the same time, religious institutions and their representatives should not interfere in the public educational sphere, the content of curricula and syllabi. There should be no religious/atheistic propaganda, no religious symbols, no missionary work, religious services, rituals and ceremonies as well as no professional training of priests, theologians and church personnel (Starostenko 2014: 255).

Other scholars denote the novelty of building the secularism model in secondary schools for independent Belarus and absence of such experience, in comparison with other European countries that have already developed the secularism model from the eighteenth century. Nickolai Shchokin and Leonid Zemliakov (2009) in their analysis of the modern situation with religious education in Belarus pay attention to the collisions between the legislation and the space of personal freedoms of citizens. These experts emphasised the importance of further work on the conceptualisation of terms, such as secular education and religious education in Belarus and clarification of the status of educational establishments of religious organisations.

> On the one hand, the existing problems and contradictions are caused by the imperfection of legislation. …The modifications are possible under the conditions of changing the attitudes of state, educational public authorities, as well as pupils and teachers towards the knowledge about religion, towards the learning, which could not be reduced to acceptance of religious dogma or ideology, but has the character of a general cultural cognitive process. On the other hand, the existence of problems and contradictions is caused by the strengthening of the educational activities of religious organizations. As a result, the educational institutions of the Republic of Belarus were involved in the process of revaluation of religion in society. The main collision of the Belarusian legal policy in the sphere of education is the lack of regulatory mechanisms for the implementation of freedom of religion into the law on education, on the one hand, and the anchorage of this educational rights to political and legal field, from the other. (Shchokin and Zemliakov 2009: 83)

Belarusian expert and director of NGO "Ecumena", Natalia Vasilevich, compared the prohibition of religious symbols in the educational establishments introduced by the Regulations (2011) with the "Lautsi vs Italy" case and underlined that the Italian case had pan-European resonance as well as in Belarus and Russia.

…then Patriarch Kirill and other bishops strongly criticized the European Court. Now, when a similar decision was made at the highest level in Belarus, there is no particular cause for concern. On the contrary, the Belarusian Orthodox Church announces new steps of cooperation with the Belarusian state in the sphere of education and remains optimistic (Vasilevich 2011).

The diversity of positions on the issues of public school neutrality and possibilities of its reconceptualisation bring us back to David Martin's and Stjepan Meštrović's arguments. Both of them emphasised that the local political and cultural patterns are the salient factors in the process of Eastern European modernisation, while declared norms and implemented international principles and conceptions of secularism, neutrality, personal freedoms and welfare state are the "empty" constructs. Recent arguments and statements of the Belarusian experts have indicated the continuation of public discussion, which had started more than 20 years ago.

3.6   The Future of Religious Education in Belarus: Personal Expectations and Institutional Vision

The data from the international research project "Religion and Human Rights" bring evidence about the attitudes of young Belarusians (N = 712) toward the role of the state as the safeguard of civil rights realisation in the educational sphere. It is quite demonstrative that only 26.2% of young Belarusians between 17 and 19 years old consider that religious education in schools should not be guaranteed by the state (see Table 3.1). This category of young people presents the school graduates who recently experienced the absence of religious curricula in schools. The positive attitude toward the obligatory role of the state as the mediator for the negotiations on the teaching of religion in school have confirmed 34.8% of respondents, while 39% of young people expressed the ambivalent attitudes. The positive ambivalence of the mean could be interpreted as the desire of Belarusian youth towards the creation of particular guarantees by the state in definition of the space for the teaching of religion in school; at the same time it says about the uncertainty of recent school graduates' position toward the role of the state on educational issues as soon as they had no possibility to study in the classes of religion.

Table 3.1 Opinion of young people in Belarus toward the role of state in providing religious education

The government should provide for enough space that religion could be taught in schools	%
I totally disagree	9.6
I disagree	16.6
I am not sure	39.0
I agree	24.7
I fully agree	10.1

Mean = 3.09, SD = 1.09

Table 3.2 Attitudes of young people in Belarus toward the freedom to religion

Students should be offered time, space and a room in schools to do their prayers	%
I totally disagree	11.2
I disagree	22.5
I am not sure	43.3
I agree	17.0
I fully agree	6.0

Mean = 2.94, SD = 1.03

The negative ambivalence of the mean in regard to the respondents' attitudes towards the freedom to religion (see Table 3.2) confirms the fact that particular secularism model rooted in historical and cultural tradition reproduces the patterns and habits of public opinion. 43.3% of the school graduates who have never seen religious symbols in schools and had no possibility to express their religious freedoms in schools are uncertain about the possibility of having time and space for praying in school. Comparatively greater number of respondents 33.7% (to the 26.2% in the previous question) demonstrates their negative attitude to the possibility of existence the particular space for religion in school, and less number of students (23%) support this idea.

Looking back to the 2000s, it became obvious that the momentum of public inertia concerning introduction of religious education in school curricula was not connected with the soviet heritage of anti-religious policy only. The educational experience, which existed before the Russian revolution, was also there. That was the experience of an opposite kind – of symphony model of Church-state relations and state religion when religious education was an obligatory part of school curricula.

This contradictory experience of clerical and atheistic teaching could continue the traumatic relationship with religious education in schools for a long period. However, in the 1990s, new religious gymnasiums and schools were opened in post-soviet space; in 2000s, the new wave of reforms with the introduction of "Basics of Orthodox Culture" as experimental syllabus were in progress. In Russia, from 2012, "Basics of Religious Culture and Secular Ethics" became an obligatory course for pupils in Classes 4 and 5. According to the recent national poll in Russia, 29% of respondents were against the introduction of this course into the curricula, 17% of parents expressed their preference to select the "Basics of Secular Ethics", 41% were in favour of "Basics of Orthodox Culture", and 18% were interested in "Basics of Word Religion Culture" (Zorkaja 2014: 177–178). In Belarus, teaching of such kind of courses is still an experimental project. The facultative courses on "Basics of Orthodox Culture", "Spiritual Grounds of Culture" and "Culture and Religion" are taught in three secondary state schools in Minsk and Minsk region only (Babosov 2014: 31).

Recent empirical data presenting the opinions of Belarusian school teachers on the readiness of the educational system to introduce the course on religion/religions

Table 3.3 Opinion of parents and secondary school pupils about the possibility of selecting RE courses

How could you learn about religion in school?	Parents %	Secondary school pupils %
In obligatory way	5.6	16.6
In a selective way	79.9	79.0
Religion should not be part of school curricula	14.5	4.4

Source: Shkurova et al. (2011)

Table 3.4 Evaluation of importance of knowledge about religion for own children

Do you consider knowledge about religion to be important for your own child?	Parents' answers %
Strongly agree	48.6
Agree	39.2
Uncertain	9.4
Disagree	2.1
Strongly disagree	0.7

Source: Shkurova et al. (2011)

into the curricula demonstrates the continuation of debates. Specifically, 45.2% of teachers articulate that schools are "rather unprepared" for the introduction of religious education; 8.6% define the situation with "absolutely unprepared educational system", 25.8% of teachers are uncertain and 19.2% respond that "the schools are more or less ready" (Karaseva and Shkurova 2014: 140).

However, the responses from parents and pupils show the demand and interest in this project. In 2011, the first empirical study on preferences of parents and high school pupils regarding the possible course on religion and its content was conducted in Belarus (Shkurova et al. 2011).[10] Both parents and high-school pupils expressed their views on the possibility of elective religious courses, which they considered to be an important part of the education process (see Tables 3.3 and 3.4).

If the course on religion could be introduced in public schools, 7.9% of high school pupils mentioned that they plan to attend all the classes, 59.3% of pupils plan to attend some classes and later to make a decision about the importance of this subject and further attendance, and 32.8% of pupils consider that: "better I do something more interesting". Among the parents, 19.4% will select this subject for their children and will support them; 66.5% will sign up their children for the course but will not insist on their attendance, and 14.1% will not choose this facultative course for their children. The empirical data demonstrate that majority of parents (88%) support the idea of religious education in schools.

Among the secondary school pupils, 26.7% prefer to learn about the extraordinary facts from the history of religion, while 24.6% of parents would prefer knowl-

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[10] In May of 2011, 483 secondary school pupils and 435 parents participated in the survey in Minsk (Shkurova et al. 2011).

edge about the history of different religions for their children and 24.4% of parents – the knowledge about the essence of the various religions in comparative perspective (Shkurova et al. 2011: 89). The experts conclude that pupils are more interested in entertainment, and parents are more responsible as they choose essence and history of religion, so the course should be based on parents' vision, which is "in compliance with the principles of secular education and multi-confessional culture of Belarus" (Shkurova et al. 2011: 90).

Using the term "secular education", Svetlana Karasseva and Elena Shkurova proceed with the debates around the possible presence of religious education in the state schools, which previously had mostly two opposite historical variations in Belarus: confessional and atheistic. The alternative to both of them is the non-confessional education based on the religious studies approach, focused predominantly on the history of world religions. However, it is obvious that the next steps related to the implementation of religious education will face the impossibility of building the only one ideal model of such curricula in public schools (Ziebertz and Kay 2006: 252).

By adding the voices of representatives of religious institutions and state officials to the expectations of parents, pupils, teachers and academic experts, we get the more controversial picture. In 2015, within the existing Regulations (2011), an updated Programme on cooperation between the Ministry of Education of Belarus and Belarusian Orthodox Church was signed for the next 6 years (2015–2020).[11] There are six main priorities of cooperation mentioned in this program[12] and lists of particular activities, which cover them. "The development of experimental and innovative programs for the spiritual and moral education; creation of teaching materials" (2.1) is among them as the only one activity among 77 mentioned in the programme together with the activity "Implementation of the pilot and innovation activities on patriotic, spiritual moral and family education of school youth with the application of the Orthodox traditions" (2.6). The comparison of expectations of parents with the priorities of the Programme on cooperation shows that the willingness of parents and pupils will not be realised in the near future as there is no interest in patriotic upbringing as a form of religious education. The substitution of knowledge transmission functions by the ideological upbringing will not give

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[11] Programme on cooperation between the Ministry of Education of Belarus and Belarusian Orthodox Church was signed for the next 6 years (2015–2020) http://www.academy.edu.by/component/content/article/45/1024-23032015-ps.html

[12] They are: (1) organisation and regulations (consists of 5 articles); (2) organisation of joint research, innovation, methodological support (13 articles); (3) activities in the field of education and social work (31 articles including: (a) formation of love for the homeland (15 articles); (b) development of artistic creativity (7 articles); (c) organisation of interaction in the family strengthening the spiritual and moral foundations of the family, the revival and promotion of family values (4 articles); carrying out activities on memorial anniversaries (5 articles); (4) volunteerism (8 articles); (5) Orthodox education and the organisation of the spiritual and educational events (9 articles); (6) information activities in educational institutions aimed at the prevention of addictions (drugs, spices); the negative influence of totalitarian sects and destructive cults (6 articles) (see "Programme on Cooperation…(2015–2020)".

benefits to the families or religious groups but clearly demonstrates the gaps and imbalances between legal grounds for Belarusian secularism as well as some collisions within legal regulations and architecture of power relations between the state and Church.

3.7   Conclusion

Starting this paper from the thesis that complexities of "twin toleration" relationship building are evident in the countries where changes of political regimes occur together with the liberation of religious life, we could conclude that in Belarusian case the established separation of religious and political spheres in the beginning of the twentieth century with anti-religious policy continues to exist in a camouflaging way today. We also observed that "twin toleration" relationship encounters collisions and contradictions at the institutional level, which became the mediator for the realisation of religious rights and freedoms for the citizens and implementation of decisions in the Belarusian state. In this example, the "sufficient space from religion to function" is used by the state for the separation in one sense (prohibition of religious knowledge transmission) and integration in another (binding religion with state ideology). Prescribing for the Orthodox Church and other religious organisation's particular role in the secondary schools, the state replaces one function by the other and leaves no space for the realisation of particular rights of its citizens. Accordingly, the "twin toleration" relationship develops in an unbalanced and unstable model. It is obvious that the existing problem with pedagogical terminology is not the only reason why religious education is not part of school curricula and why there are continuous debates on that. This terminological separation line is a façade for the lasting history of the relationship between religion and political power, which creates different constraints for the presence of religious education in secondary schools.

In spite of the fact that Belarusian state implemented several principles from different secularism models, the practice of state policy reveals differences in the mechanisms of its realisation with Western European countries as well. The historical analysis and observation of legal documents prove the idea of Alfred Stepan that secularism models which "co-exist with democracy" are not fixed or normative models, but rather "conjunctional and socially constructed". The historical background and sometimes hidden logic of introduction of religious education into school curricula and extracurricular activities together with long discussions could be viewed as a verification of David Martin's and Stjepan Meštrović's ideas. In many cases, the "neutrality" and "secularism" concepts are used for the covering of political or cultural processes, breaking up the debate or to create the regime of "protection and separation" of citizens from the realisation of their rights.

For the Church, the presence of religion at the level of secondary education is also challenging, as there is one additional reason that is not so obvious from legal and terminological debates. This is the historical fact of absence of theological

departments at universities and model of separation of theological education (in seminary and Academia) from public universities, which are also mostly state run, in the region. The training of teachers for the religious education requires the cooperation of university, church and state, so the solution on religious education faces the necessity of structural changes or finding a new strategy for cooperation. Who will train the teachers, support the education process, evaluate the quality, and create the standards for teachers' selection? This historical argument should be taken into account when explaining why Belarusian teachers consider schools to be unprepared for the introduction of religious education courses.

The fear of penetration of secular boundaries by religious groups and scepticism towards the possibilities of teaching religious courses in schools held by the society and state question the existing mechanisms and institutional structures – how the rights and freedoms of particular citizens could be realised and for whom the public space neutrality is protected. By raising this issue, we reveal the doubts that the path of Belarusian secularism as part of the wider Eastern-European secularism model really does present exclusive and opposite secularism pattern for European models. The secularism requires particular political and socio-cultural conditions, which protect and support individuals and social institutions autonomy as a guarantee for the functioning of the "twin toleration" principle; otherwise, the counterbalance mechanism does not function and the very concept of secularism is challenged.

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Chapter 4
Examining Religious Education in Finland from a Human Rights Perspective

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Religious Education (hereinafter RE) has a strong potential for promoting human rights. Consequently, it is essential to consider the human rights perspective when pondering the aims, content, and practical organisation of RE. Additionally, the issue of human rights is vital in considerations related to the place of religion in the public sphere, such as the various contexts of institutional education: kindergartens, preschools and schools. Moreover, it is important from the perspective of religious minorities in particular to consider the negotiations and clashes of values encountered by children and young people whose family socialisation differs significantly from the dominant value hegemony in the social context of schools (Kuusisto 2010, 2011a). Different interpretations of religious freedom and the right to religious education are important considerations for RE. However, the complex interplay of 'public' and 'private' must be reconsidered when analysing human rights issues related to religion. Furthermore, the framework of a child's right to religion versus that of parents' right to education according to worldview must be scrutinised.

4.1 Introduction

This article aims to identify forms of RE that would be sound in terms of a human rights legal framework. To illustrate what we mean by this, Evans' work (2008) provides a good example by exploring the nature of RE in state schools from the international human rights perspectives that inform different approaches to teaching religion. Our reflections emerge from the Finnish context, and we will expand our theoretical analysis to the role of religion, education and human rights in the wider

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public space (Kuusisto et al. forthcoming). Firstly, we will elaborate on different interpretations of religious freedom and the right to religious education. Then, we will approach the issue in terms of how RE can be practically organised from a human rights perspective. Finally, we will examine human rights and RE within the wider debate on religion in Western societies and the public sphere. The article stems from our empirical work in different contexts, but here, instead of providing data excerpts, we aim to bring out the central theoretical issues concerning the phenomenon. We are presently engaged in examining the views on religion and RE of comprehensive school pupils in three countries (Finland, Sweden and Estonia) in the research projects *Encountering Diversity in Education (EDEN)*[1]—which is being completed in close co-operation with the Swedish-Estonian *Cultural and Religious Diversity in Primary school (CARDIPS)*[2] project—and in *Learning from Religions and Worldviews in Schools in Glocalising Societies (LerREW)*.[3]

Human rights are rights, which belong to any individual as a consequence of being human (Piechowiak 1999: 3). Human rights also refer to a well-organised relationship between the individual and the state (Scheinin 2002: 1–14). Although there are different, even contradictory, understandings of the nature and content of this relationship, human rights can be seen to exist universally across moral systems (for more about the philosophical basis and the ontology of human rights see, for example, Gewirth (1982: 41–78; 218–233) and Nickel (1987, 1–81; 171–179)). Human rights conventions are also legally binding documents in the countries that have ratified them (Drzewicki 1999: 25–47; Scheinin 2002: Matilainen 2011). The function of human rights is also to safeguard and promote human dignity (*Menschenwürde*) (Zajadło 1999: 15–23; Kilcullen 2010). In order to appreciate the human worth of other individuals, one needs to be a moral subject. This requires freedom: only a free human being can be truly moral, and the way in which an individual utilises her freedom influences how her human worth is realised. Competence in contemplating one's actions, making moral decisions and taking the consequent actions are required of proficient citizens. The core principle of human rights is the understanding that each community has a class of actions, which are mutually acknowledged to be permitted or required (Kilcullen 2010; Hallamaa 2008: 64–65). However, to become an autonomous, free subject, one needs to be educated in a moral sense. This pedagogical paradox illustrates the necessity of acting at the crossroads of freedom and control of an individual (Siljander 2014: 31). True democracy requires the presence of morally autonomous individuals who are capable of independent and critical thinking. Thus, moral education is a precondition of democratic life (Tarrant 1989: 22).

From a philosophical perspective, a legally binding system of human rights does not create human rights themselves; rather, the purpose of human rights instruments is to protect human rights (Piechowiak 1999: 6). However, legally binding documents can create a common value basis for dealing with situations where there are

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[1] http://blogs.helsinki.fi/katsomusaineet/tutkimushankkeet/eden/

[2] http://www.sh.se/p3/ext/content.nsf/aget?openagent&key=projekt_page_eng_1383834365104

[3] http://blogs.helsinki.fi/katsomusaineet/in-english/

different understandings of the nature and content of human rights. In an educational context, these legally binding documents provide the criteria for educational aims and set the scope for educational actions. Moreover, in education, human rights are usually established as core values, for example, in the framework of curricula (Matilainen 2011: 1–8). Education informs about the legal dimension of human rights as well as educates about and towards the values (e.g., human dignity, equality) that are connected to human rights. Human rights provide tools for making transparent the criteria by which the relationship between the community and its members can be satisfactorily organised. Human rights help justify the reasons for safeguarding personal integrity and, for example, define the limits of parental power over a child and establish parental responsibilities from the perspective of the needs of the child (Hallamaa 2008: 64–66).

The rights of the child and the child's 'best interest' should always be at the heart of any examination of questions related to education, including religious instruction. The UN Declaration of the Rights of the Child (1959) describes children as being entitled to holistic support in their development towards adulthood. Principle 2 states: "The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity." Furthermore, in terms of applying this, the Principle continues: "In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration" (UN Declaration of the Rights of the Child 1959).[4]

The Convention on the Rights of the Child, furthermore, states in Article 2 that: "States Parties shall respect and ensure the rights set forth in this Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, … or other status." It adds further that: "States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the … expressed opinions, or beliefs of the child's parents, legal guardians, or family members." Moreover, Article 14 of the Convention declares: "States Parties shall respect the right of the child to freedom of thought, conscience and religion," continuing that "States Parties shall respect the rights and duties of the parents … to 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 Convention on the Rights of the Child 1989).

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[4] *Proclaimed by General Assembly Resolution 1386(XIV) of 20 November 1959. This was the basis of the Convention of the Rights of the Child adopted by the UN General Assembly, 30 years later on 20 November 1989. The Convention on the Rights of the Child entered into force on 2 September 1990.*

4.2   Different Interpretations of Religious Freedom and the Right to Religious Education

The UN Convention of the Rights of the Child raises the issue of *whose* right is in question when it comes to religious education, the *parental right* to socialise children according to particular worldview values—which may also differ greatly between a child's parents, in which case this question is even more complex—or the *right of the child* to receive instruction on worldviews. In international law, according to European Convention on Human Rights and in Covenant for Civil and Political Rights, for example, parents clearly have a right to educate their children in accordance with their religious or philosophical convictions. However, the state does not have to provide a form of education in accordance with parental beliefs, but parents must have the right to withdraw their children from teaching that is against their conviction (Council of Europe 2014: 79). Children, for their part, are regarded as autonomous individual persons meaning that they have the same right to freedom of religion or belief as adults but their rights have to be seen in balance with the rights of parents in relation to upbringing within particular religious or philosophical traditions. The best interests of the child should be a primary consideration when judging the transition from parents acting on behalf of children, and children acting as autonomous individuals (Council of Europe 2014: 80).

Typically, religious upbringing at home and religious education at school have different aims: Religious upbringing provided by parents is typically focused on a child's socialisation into a particular religious tradition (e.g. Kuusisto 2003, 2011b), whereas RE in educational institutions aims—in principle—at providing every pupil with both an 'objective', diverse view of religions and wider critical religious literacy. Similarly, the focus of teaching in religious communities is on socialising children into a specific religious tradition and membership of a religious community. In contrast, school or kindergarten education plays a critical role in providing information on a variety of worldviews, giving a democratic and reflexive frame of reference for different interpretations. Naturally, the RE provided by educational institutions has different aims and content depending on the level of schooling, from kindergarten (e.g. Kuusisto and Lamminmäki-Vartia 2012) to comprehensive and upper secondary school.

The quote from the Convention also raises the question of education as *Bildung* (Siljander 2014: 33–53) and how it is perceived: is it a matter of nature or nurture, socialisation, individuation, or agency (e.g. Kuusisto 2011b)? This is also related to considering different interpretations of freedom of religion when formulating the aims and the content of religious education and instruction, as religious freedom and the right to religious education play an important role in RE (Matilainen and Kallioniemi 2011). In Finland, the Freedom of Religion Act was reformed in 2003 to emphasise the positive freedom of religion. Consequently, it states that in the education system a child has the right to his or her own religion and instruction that stems from the recognition of the positive freedom of religion (Basic Education Act, Amendment 2003/454, §13).

When examining the goals and content of societal education, a child's right to education vis-a-vis religion should be understood first as the right to knowledge and information about religions and other worldviews that are present in that child's everyday life, second as the provision of tools for constructing a personal worldview, and third as the development of understanding and dialogical approach to alternative worldviews. Furthermore, the right to question the education provided is of utmost importance, which is, in particular, an issue of parental socialisation. Recognition of individual agency plays a critical role here, and educators need to see that in order for a worldview to be personal, questions about the reasons behind religious practices should be allowed and even encouraged in order for children to be able to make informed decisions on their worldview. In other words, we argue that gaining religious literacy is an essential part of the right of children and young people to become autonomous individuals.

In international research on RE, three different approaches to the subject are commonly advanced: learning religion, learning about religion and learning from religion (Hull 2001: 3–5). *Learning religion* is based on a situation where RE in schools focuses on one specific religion. The aim of education is to strengthen pupils' commitment to their own religion or make them believers. A characteristic of this approach is that religious representatives control the curriculum, learning materials and learning sets (Hull 2001: 3). In the *learning about religion* approach, the perspective of teaching is non-religious. The approach can be termed a religious studies-based descriptive approach (Hull 2001: 4). In contrast, the *learning from religion* approach is based on the idea that RE should aim to support pupils' development in their search for the elements of religion, which have significance for their moral and spiritual growth. The focus of this approach is on pupils' own experiences. In the first two approaches, the main perspective is religion, but in the last approach the key perspective is the pupil and his or her life questions (Hull 2001: 6).

There are many approaches to whether and how religion should be taught in state schools. According to international criteria for religious education (Schweitzer 2002), despite the model of RE, whether it is confessional or secular, teaching should always include other religions and worldviews in addition to instruction on one's own religion. There is strong agreement among scholars of international RE that in multicultural, multi-faith societies RE should be based on the academic study of religion, rather than on confessional issues and faith, and that schools should play a neutral role in providing knowledge about religion and teaching active tolerance and dialogue between worldviews, rather than strengthening belonging to a certain religious group or clearly constructing a religious identity. Nevertheless, the question of identity is very problematic here, as identity formation is the central educational task in all sectors of education. However, the issue at stake is the degree to which it is justified in the context of RE in schools to make pupils learn certain religious identity; instead, it should rather understand its role as providing tools for personal growth and individual identity formation.

Schweitzer (2005, 2007) discusses children's right to religion and spirituality, stating that while spiritual development has played a clear role in children's rights since the 1924 Geneva Declaration, the 1989 Convention is lacking in the respect

that it fails to include a sufficiently precise reference to children's right to religious and spiritual education. Furthermore, as the spiritual rights of the child are located in the section of the Convention that defines standards of living, not in the section that describes the child's right to education, Schweitzer concludes that the convention confers no specific legal right to religious education. He continues that a child's right to religion should in fact be a pedagogical rather than a legal question; however, including such a right as a legal obligation could function as a moral standard that would be likely to improve accessibility to this kind of education. In his opinion, children's right to religion should be an educational right that would translate into educational attitudes and approaches that take children seriously as active subjects of experience rather than as passive objects of education (Schweitzer 2005: 103–107). Indeed, the critical role of children's agency in the process of worldview development has been examined in a study on religious socialisation within a religious minority in Finland (Kuusisto 2003, 2011b). Furthermore, de Ruyter (2002) also argues that children should have a right to what she calls "meaningful education". She defines this as "education that assists children to find their meaning in life"; this requires a coherent primary culture and the opportunity for children to use the conception of the "good" offered by their parents while being free to explore other conceptions (de Ruyter 2002: 34, 38).

Although the guidelines proposed above are not specific about the content and implementation of education on worldviews, to approach the matter from the other direction, the human rights perspective should be paramount when considering the aims, content and practical organisation of RE instruction (Matilainen and Kallioniemi 2011). Additionally, the human rights perspective is vital in considerations related to the place of religion in the public sphere (Riitaoja et al. 2010; Poulter 2013). Moreover, it is important from the perspective of religious minorities in particular to consider the negotiations and clashes of values encountered by children and young people whose family socialisation differs significantly from the dominant value hegemony in the social context of schools (Kuusisto 2010, 2011a).

4.3 Human Rights Considerations on the Practical Organisation of RE

RE that is appropriate from the human rights perspective sets certain criteria for education that require careful analysis (see Evans, 2008). The recently published Council of Europe publication *Signposts* (2014) provides general guidelines both for the study of religions and non-religious worldviews and also the importance of the human rights perspective within it. The framework of human rights is also crucial in considering the different models for practical organisation of RE. Evans (2008) explores six different approaches for teaching about religion in state schools and argues that the best RE approach for defending human rights principles is one that is pluralistic in nature but does not violate the other rights of the pupil. She considers

the Toledo Guiding Principles,[5] the authoritative document for defending education that is inclusive, fair and respectful to both religious and non-religious views, while acknowledging the complexity and partiality of a single document. To create an educationally sound and religiously respectful model of RE is a multidimensional issue where there are no absolute answers and many possible alternatives.

The Finnish solution for organising RE in schools is absolutely unique: the Finnish model is a religion-based model (Schreiner 2001) offering students teaching of either their 'own' religion or secular ethics according to their religious or non-religious affiliation throughout comprehensive school. The current system of RE includes individual curricula for 13 minority religions and secular ethics parallel to majority Lutheran education. RE is defined as non-confessional in that education is not permitted to include religious practice (Seppo 2003).

The pros and cons of the Finnish model of RE have been the topic of national debate, but they have also provoked international interest. This is due to the practical arrangement of teaching groups in Finland, where RE is organised according to the pupil's religious affiliation, which ultimately depends on the religion of the parent. The current model was redefined in the 2003 reform of the Freedom of Religion Act to emphasise the positive freedom of religion. As a consequence of the 2003 reform, 'confession' was changed to expression of 'one's own religion' (Basic Education Act, Amendment 2003/454, §13). The idea is that pupils are first able to familiarise themselves thoroughly with their own religion, which is seen as helpful for studying other religions and worldviews (More about Finnish model cf. Kallioniemi 2010; Matilainen and Kallioniemi 2011; Matilainen 2014.) The Finnish model has been seen as guaranteeing the rights of religious minorities to receive and provide non-confessional RE according to their own religion in state-owned schools (Matilainen and Kallioniemi, 2011; Kuusisto and Kallioniemi 2014; Rissanen 2014). The model has also been justified by claims that instead of the subject placing itself either in the confessional or secular ends, Finnish RE has its standpoint in every pupil's 'own' particular religious tradition from which the different layers of 'the other' are reflected.

From the perspective of children's rights, one may well ask how Finnish RE is provided according to a child's 'own' religion if it is determined by the parents' religious affiliation. Another important point is to ask whether internally diverse worldviews of pupils belonging officially to the same religion are recognised in the classes based on the children's 'own religion' (Poulter et al. 2015a). The argument that a child primarily has the right to his or her own religion, can also be approached from the perspective that a child must also have the right to learn not just from his or her own religion but also from other religions and worldviews, which in formal education would mean preparing future-citizens for dialogue and understanding of

[5] The Toledo Guiding Principles were issued by the Organisation for Security and Co-operation in Europe (OSCE) in 2007. They were developed by an inter-disciplinary team that comprised international human rights lawyers, educators and academics. The Toledo Guiding Principles is a handbook that offers guidance on preparing curricula for teaching about religions and beliefs, and it is based on human rights and in particular the right to freedom of conscience. (Santoro 2008, 83).

the other. Interestingly, in Finland, Lutheran students are obliged to participate in Lutheran RE; all other pupils, whether they belong to another religion or have no religion at all, are free to choose between all the possible RE or secular ethics classes that are taught at the local school. Recent research shows that Finnish minority RE (such as Islamic, Buddhist, orthodox Christian RE) has many outcomes; at best, it might help pupils with minority religious identities integrate into Finnish society, so that Muslims would view themselves, for instance, as Finnish Muslims (Rissanen 2014). In contrast, the lack of dialogue within schools and between classes because of the segregated model of RE is a great challenge to the inclusion of minority students in the school culture (Zilliacus 2014).

The perspectives of various stakeholder groups have also been studied, and the results are in line with previous international studies, such as the REDCo[6] projects. What is typical of the views expressed is that people generally favour the model of which they have personal experience (Kuusisto and Kallioniemi in press). However, there are some interesting exceptions. Headmasters sometimes see the present model as rather demanding, as for them, the increasingly multi-faith setting imposes the requirement of finding qualified teachers for each minority RE group and allocating suitable times and venues for the different instruction groups. Nevertheless, headmasters also value the present model from the perspective of the freedom of religion, as an opportunity for students to receive RE according to their own religion, for its ability to increase pupils' knowledge of their 'own roots', for the opportunity to understand people from different religious backgrounds, and for those students who are not members of a particular religious community, for the chance to study another religion. The main limitation of the model is seen by headmasters to be the physical separation of teaching groups, which limits the possibility of religious dialogue among peers. This was seen as one of the main challenges in modern RE (Matilainen and Kallioniemi 2011).

In Finland, some private schools, especially in urban areas, have recently implemented a partly integrative model of RE, with the particular aim of bringing students together in the classroom to create dialogue between worldviews. There is growing interest in such an integrative school subject, and consequently some research projects have begun to study the topic. To date, several arguments for and against whether such a model can secure students' right to their own religion have been raised, but the academic contribution to the discussion has started to emerge only very recently; the first results on the experiences of pupils indicate that the integrative model is considered as being a safe learning space between different worldviews, and pupils associate very positive views on not being physically separated on the basis of their worldview (Åhs et al. 2016).

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[6] *Religion in Education. A contribution to Dialogue or a factor of Conflict in transforming societies of European Countries (REDCo).* See: Weisse, W. (2010). REDCo: A European Research Project on Religion in Education. Religion & Education, 37 (3), 187–202. http://www.tandfonline.com/doi/abs/10.1080/15507394.2010.513937

4.4 The Human Rights Perspective in Relation to the Place of Religion in the Public Space

The public space is an essential category of the modern civic state, a forum for the construction of the social and private identities of its citizens (Fraser 1995: 287). Based on a secularist reading of the philosophy of the Enlightenment in the West, the modern public space has widely been interpreted as radically non-religious (Taylor 1995: 267). People have been expected only to use language and justifications that are 'common to all', i.e. language that is secular. However, questions arise as to the extent to which people in the public space are expected to 'translate' religious language into secular language (Habermas 2006). From the freedom of religion perspective, it is pertinent to question the grounds on which there might be elements in the supposedly neutral, secular language that can be unjust to some citizens or groups and whether in the name of democracy and the equality of all, religious people can be required to renounce their personal convictions when acting in the public space. However, the combination of Protestantism and secularism in the Nordic context results in something that can be termed 'secular Lutheranism' (Riitaoja et al. 2010) or 'secular Christianity'. As an unquestioned hegemony, secular Lutheranism is the privileged power position in the public space and thus, is 'Othering' towards purely secular or exclusively Christian worldviews as well as towards other non-Christian, non-secular worldviews (Poulter et al. 2015a).

Finnish people consider religion as a highly private matter, and public institutions are considered to be free from religious elements, except for the use of culturally specific Lutheran expressions that are linked to nationality, of being a Finn (Kääriäinen et al. 2005: 114, 168). To date, the public debate in Finland has mainly concerned religious festivals and individuals' right to exemption from religious activities at school. However, there are more and more cases where the borderline between religious rights and human rights or other fundamental rights is open to interpretation. For instance, there has been much debate over the cases of a male Sikh bus driver's right to wear a turban, a female Muslim supermarket worker's right to be dressed in a hijab and the circumcision of male babies on the grounds of religious conviction (see e.g. Poulter and Kallioniemi 2014).

Freedom of religion lies at the heart of democratic life. Nevertheless, it is evident that freedom of religion in the public sphere has been interpreted in various ways (Poulter 2013). If and when freedom of religion is interpreted as a strictly private issue, and the freedom to express and manifest religion is restricted, the central aims of the European Convention of Human Rights (63/1999, §9) and the Finnish Constitution (731/1999, §11) will have been neglected. Thus, we argue that freedom of religion should be seen not simply as an individual right but as a broader issue, as a question of justice affecting society as a whole and consequently something that calls for defending both public and private forms of religion.

In Finland, similar to other European countries, the issue of the right to religious anonymity has recently been raised. The debate has centred on a complaint related to the right to leave the school end-of-year ceremony before the religious hymn that marks the end of the school year. It was claimed that if a person considered the

hymn to violate his or her freedom from religion and decided to leave the event at the point where the hymn was to begin, the right to individual anonymity of world-view would be violated, as the cause for absenting oneself would clearly be the (religious) hymn. The Finnish National Board of Education (2014) previously concluded that this particular hymn was part of the Finnish cultural tradition and could thus be included in the school end-of-term ceremony and did not agree that there would be violation of freedom from religion. Similar cases have arisen all around Europe in recent years (see Poulter 2012, 2013), and currently in Finland the Citizens' Initiative on "Equal worldview education" is under preparation, which criticises the fact that the current RE model forces families to reveal their convictions and the memberships of religious communities or being members of none. Thus, the fully secular model of worldview education is argued not to label pupils in disfavouring ways and create undesirable categories but rather to guarantee the religious anonymity and equality of all.[7]

In the current debate in Europe concerning the visibility of religion in the public sphere, reactions to religion have varied, and the European Court of Human Rights, for instance, has been accused of failing to take a clear stand on issues of religion, especially Islam (Pirjola 2011). Furthermore, critical voices note that freedom of religion is often interpreted exclusively from a narrow secularist perspective, without taking into consideration the complex issue of an individual's right to commit to a collective, traditional lifestyle and set of moral principles (Martinez-Torrón 2012: 3). Educational theorist Gert Biesta (2006: 78–79) argues that the reason behind the strict privatisation of religion can be partly explained in Europe by modern political systems' fear of both pluralism and traditionally non-Western religious and moral traditions that make strong value claims. However, religions would benefit from an active public dialogue between different understandings of human dignity and the discourse of secular human rights. However, the aspects of the faith where possible violation of human rights is justified in the name of religious authority should be questioned and critically reflected on. Otherwise, the nature of religious groups may become 'internally excluded' (Young 2000: 55–56) from the public discussion by listening to their arguments but failing to take them seriously as reasonable or true (Biesta 2009: 105). Instead, when the communication is bilateral, both lay members and the authorities of religious traditions may also fruitfully contribute to the promotion of human rights together with secular actors in society.

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[7] http://www.katsomusaloite.fi/in-english/

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Chapter 5
Silent Religious Minorities in Schools in Estonia

Olga Schihalejev and Ringo Ringvee

The article discusses how different models of learning religion promote respect for the right to freedom of religion or belief. Three different models of teaching religion are offered in Estonian schools: there are schools with no Religious Education, others have inclusive Religious Education and there are also religiously-oriented schools with a confessional approach to teaching religion. The article draws on data from research done in the framework of the REDCo project (the main project 2006–2009, replicative study in 2012) in Estonia. It studied 14–17-year-old students' views about how they see religion in education. The samples of 1,208 students from 21 schools in 2008 and 573 students from 15 schools in 2012 consist of students from different Estonian regions and with different experiences of learning about religions. Their attitudes towards three questions were studied. First, how do young people evaluate the way schools teach them about religion? Second, how do students differ in their own attitudes about the need to respect a person who is of a different religion? Third, what do young people think about religious freedoms in the school context? The results of the study call for discussion of practising religious freedom in schools and policies about Religious Education and what may best contribute to a tolerant society.

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5.1 Introduction

Schools are institutions where the future is shaped. Education is a tool to promote different ideas and principles, for example, the idea of human rights. The foundations of contemporary idea of human rights are stipulated in the United Nation's Universal Declaration of Human Rights (UDHR) from 1948. Since then, several international and regional agreements, declarations and other instruments that restate the principles of human rights in accordance with the 1948 Declaration have been adopted. Majority of national constitutions include explicit references to honour and protect human rights. Although the western liberal democratic societies are based on respect for human rights, it does not mean the absence of criticism or questioning of the scope of human rights (see Jackson 2014a for a discussion). The unalienable rights include freedom of religion or belief as stipulated in Article 18 of the 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 religion or belief does not include only internal freedom to believe but also external freedom to manifest one's religion. However, Article 29 of the UDHR sets out possibilities to limit external freedom in certain circumstances, although these limitations must, according to Article 29, be "determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society".

Human rights and education are interwoven in many different ways. The right to education is one of the essential rights. The other side of the same coin is that education is a powerful tool for promoting human rights and interpreting them. In their editorial introduction to a special issue of *International Review of Education*, Volker Lenhart and Kaisa Savolainen (2002: 145) see education to be "at the heart of humanity's change towards the recognition of human rights for all". Many other authors regard education to be a crucial context for the promotion and development of human rights culture (e.g. Keet 2006; Waldron and Ruane 2010; Rasmussen 2013). School is the context in which young people shape their understanding of how society functions, what is accepted as a public concern and what is considered to be a strictly private matter. This understanding also helps to shape young people's appreciation of human rights, including freedom of religion or belief.

For example, human rights standards reinforce the Council of Europe's work on 'the Dimension of Religions and Non-Religious Convictions within Intercultural Education' (Council of Europe 2008; Jackson 2014b). Another example comes from the OSCE's Office for Democratic Institutions and Human Rights (ODIHR); this, the *Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools*, is a guide for policymakers and others on introducing studies of religions and non-religious worldviews into education within state-funded schools

in Europe and North America (OSCE 2007). The underlying argument for including teaching about religions and beliefs in public schools is based on human rights; education on these matters is believed to contribute to a better understanding of increasing religious diversity in the public sphere, potentially contributing to tolerance of, and even respect for, differences, thus, contributing to social cohesion as well as to understanding.

Several authors, although with different arguments and writings from different perspectives, have argued that religious education (RE) has the potential to address and promote human rights (Schweizer 2002; Gearon 2006; Council of Europe 2008; Jackson 2014b). The provision of RE varies not only by its content, but also by its underlying rationale. One can find 'confessional', faith-based RE in many European countries, such as Spain, Poland and Italy, for example. Religious education is supported by religious communities and children are educated 'in', as well as learning mainly about, their own religion. There are countries with no religious education as a separate curriculum subject, for example, in France or some post-Soviet countries. Students learn about religions in other subjects, such as literature, history or civics. There is also a non-confessional multi-faith RE, intended to be inclusive of all students, regardless of their religious or non-religious background. Non-confessional RE is found in fully state-funded schools in England and Wales and in Sweden and Norway. Students from different religious and non-religious backgrounds learn about a variety of different religions (and sometimes other worldviews), learn to live together and to reflect on one another's beliefs. The differences between these three models may be unclear in reality, but this is not the topic of this article. The article discusses what the potentials of different forms of RE are for promoting respect for human rights, such as, for example, the right to freedom of religion or belief. In examining this question empirically, Estonia may be seen as a laboratory (Neill and Schihalejev 2012) through offering various approaches to teaching about religion in different schools. One may find some schools with no RE, others offering 'non-confessional', inclusive, RE, and there are also some religiously-oriented schools with a 'confessional' approach to teaching religion (this is described more precisely in the section Religious education in Estonia).

This chapter focuses on three sub-questions. First, how do young people with different experiences of learning about religion evaluate the way schools teach them about religion – how does it contribute to their knowledge about religions, and to their diverse and multifaceted understanding, and their respect towards people of different religions? Second, how do students differ in their own attitudes about the need to respect a person who holds a different view, or is of a different religion? Third, what do young people think about religious freedoms in the school context? What religious freedoms are seen as acceptable or not?

All three questions are explored through comparison of attitudes of students who have never studied RE, those who have learned RE in non-confessional schools and those who study at confessional schools. The chapter draws on data from research in Estonia undertaken as part of the European Commission-funded REDCo project ("Religion in Education. A contribution to Dialogue or a factor of Conflict in transforming societies of European Countries" 2006–2009), together with a smaller-scale

replicative study ([2012]). These studies focused on the views of 14–17-year-old students' on how they see religion in education.[1]

5.2   Religion and RE in Estonia

5.2.1   Religion in Estonia

Estonia is often seen as one of the least religious countries in Europe, at least with regard to religious affiliation and traditional religious practices (Ringvee [2014]). The number of adherents dropped during the Soviet regime in Estonia (1940–1991), but also, nowadays, formal adherence to an organised religion continues to decline (Fig. 5.1).

The most extensive data about the religious affiliation of the population of Estonia are provided by the Population and Housing Census conducted in 2000 and 2011. According to the last census, 29% of the population aged 15 and over defined their religious affiliation, whereas this proportion was lower among young people (14% for 15–19-years-old), compared to older age groups (e.g. 24% for 25–39 years
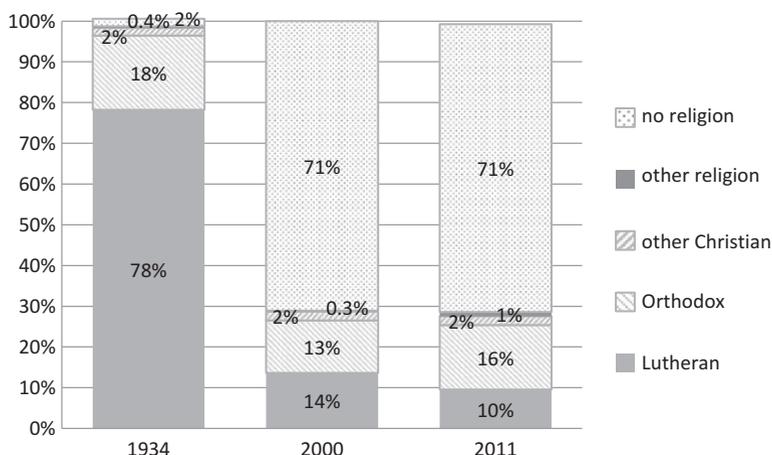
Fig. 5.1 Changing religious landscape in Estonia according to Population and Housing Census *in Estonia 1934, 2000 and 2011* (*Source:* Riigi Statistika Keskbüroo [1935] and *Stat.ee*)

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[1] The results of the main study are published in various books (study on classroom interaction in ter Avest et al. [2009]; teachers' strategies for dealing with diversity in van der Want et al., [2009]; qualitative study of young people's views in Knauth et al., [2008]; and the quantitative study in Valk et al., [2009]; a book with a cross-section of examples from different stages of the project is Jackson, [2012], while Estonian research specifically is reported in Schihalejev, [2010]). The results of the replicative quantitative study may be found in the *Religious Education Journal of Australia* in the various issues published in 2014 (Bertram-Troost et al. [2014]).
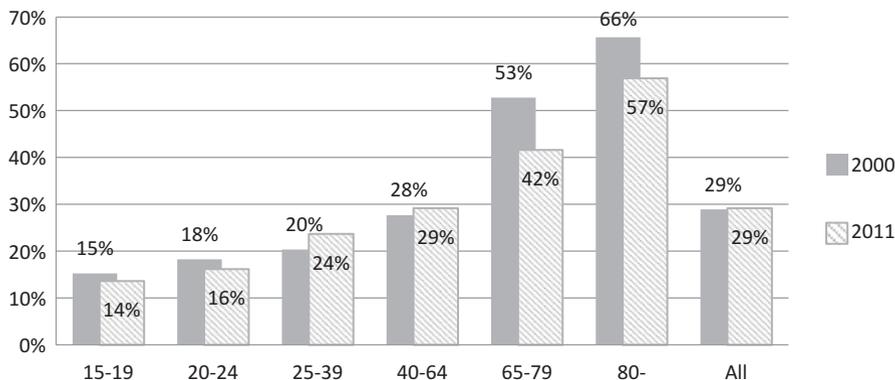
**Fig. 5.2** Religious affiliation by age (*Source*: Population and Housing Census 2000/ 2011)

and 44% for 65 years and older). The number of adherents is dropping especially among older age groups (65+) and less among younger people (15–24) (Fig. 5.2). According to the European Values Study of 2008, the proportion of people attending religious services at least once a month was between 10%, and 22% of respondents said that they prayed at least once a week (European Values Study 2010).

5.2.2 Freedom of Religion and Belief in Estonia

Estonian Constitution from 1992 stipulates the freedom of religion and belief. Article 40 of the Constitution states

> Everyone is entitled to freedom of conscience, freedom of religion and freedom of thought. Everyone is free to belong to any church or any religious society. There is no state church. Everyone is free to practise his or her religion, alone or in community with others, in public or in private, unless this is detrimental to public order, public health or public morality.

Human rights, including religious freedom, are protected in Estonia by different legal Acts. The rights of religious communities as legal entities are protected by the Churches and Congregations Act (Kiviorg 2011). Registered religious associations may establish private schools where the confessional religious education may be provided, while RE in public schools is religiously neutral and state regulated.

5.2.3 Religious Education in Estonia

Religious Education in Estonia is based on the principle of freedom of religion and belief. It aims to shape skills and attitudes that form the basis of mutual understanding, respect, openness and cooperation in a pluralistic society (Schihalejev 2014).

But provision of RE in Estonia differs greatly from school to school. As RE is an elective subject, it is taught only in some schools and not in others. In basic school (students aged 7–16 years), the school's curriculum determines whether, how and under what conditions the subject is taught. In upper secondary school, RE and national defence are two subjects that the school must offer, if at least one student wishes to study these (Gümnaasiumi riiklik õppekava 2010, 2013). However, there is no obligation on the school to ask students about their interest. Most of the schools in Estonia do not provide a special subject dealing with religion. Only approximately 10% of schools have introduced RE, which may be taught as an elective subject, an extra-curricular course, or a regular subject – provided that compliance with the national subject syllabus is ensured (Põhikooli riiklik õppekava 2010). A non-confessional approach to RE is required in public schools, while private schools are allowed to have confessional RE (Erakooliseadus 2010). In Estonia, there has been a growing trend during the last three years to establish religiously affiliated schools, and the number of such schools has increased from four to nine. All these schools are Christian schools and offer confessional Christian RE for students, although only minority of the students attending them are Christians.

This plurality contributes to the situation that nowadays one may find different models of RE in Estonian schools. In the following discussion, three main groups will be distinguished – (a) children from schools with no distinct subject for learning religion; (b) children from schools with non-confessional RE, usually comprising a year of learning about world religions in secondary or upper secondary school and (c) children from schools with a confessional approach.

5.3 Human Rights and RE in Estonia: Results of the REDCo Study

What are the main differences between students who have never studied RE, those who have learned RE in non-confessional schools and those who learn at confessional schools? As indicated above, this article examines the results of a quantitative study conducted in Estonia as part of the REDCo research. The study focused on how religions and values can contribute to dialogue or tension in the context of educational institutions and looked into students' own perceptions of religion and religious diversity, and its potential for dialogue or conflict.

The present chapter draws on an integrated data set of both studies, conducted in 2008 (a sample of 1208 students from 21 schools) and 2012 (573 students from 15 schools). Both studies included students from different Estonian regions with different experiences of learning about religions. Forty-seven percent of respondents were male and 53% female; 83% studied in Estonian-medium schools and 18% in Russian-medium schools. Fifteen percent of the sample defined themselves as Christians, 1% adhered to other religions, 1% was agnostics or atheists and the rest had no religious affiliation. There were more Christian students in schools with
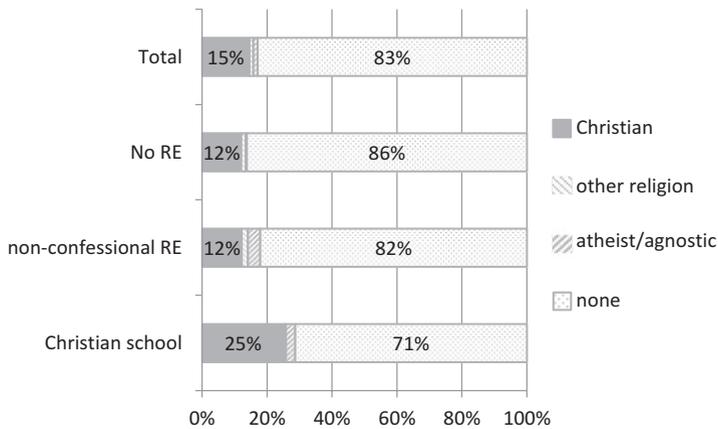
Fig. 5.3 Respondents by religious affiliatio (*Source*: REDCo Estonian data files 2008, 2012)

Christian profiles, but even there most students did not adhere to any religion
(Fig. 5.3). Thirteen percent of the sample studied RE in non-confessional municipal
schools, 20% in Christian schools and 67% had no RE.

The present chapter is going to discuss how different models of learning
religion(s) promote respect for freedom of religion or belief. Accordingly, students'
attitudes towards three questions are examined: How do young people evaluate the
way schools teach them about religion? How do students differ in their own atti-
tudes about the need to respect a person who is of a different religion? What do
young people think about religious freedoms in the school context? The students
were provided with statements of their peers from a qualitative research on stu-
dents' views about religion in school. Then, the students were asked to evaluate
these statements on 5-point scale: "strongly agree", "agree", "neither agree or dis-
agree", "disagree" and "strongly disagree".

5.3.1 Evaluation of the Way Different Religions Are Taught in Schools

The first research question about the role of the school is approached by examining
students' agreement with following statements:

- I find topics about religions interesting at school.
- At school, I learn to have respect for everyone, whatever their religion.
- At school, I get knowledge about religions.
- At school, I have opportunities to discuss religious issues from different
 perspectives.
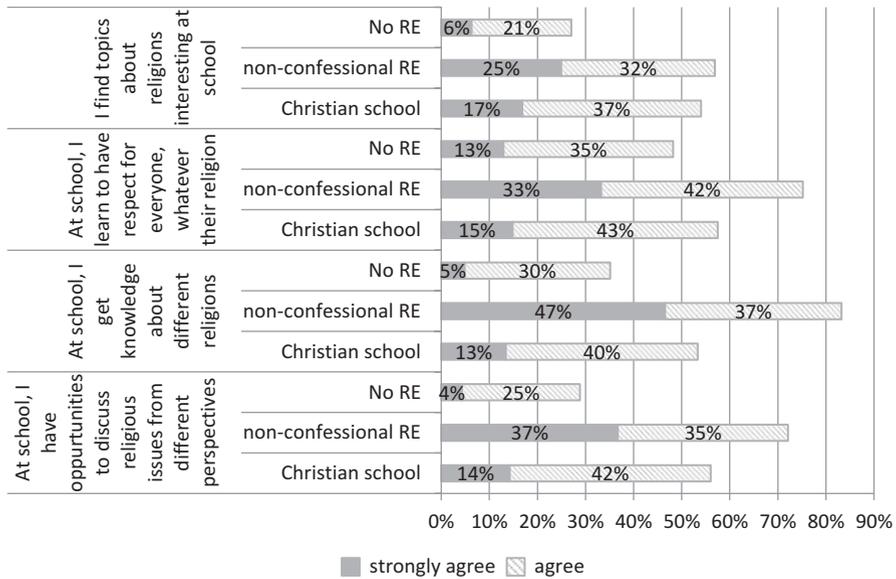
Fig. 5.4 Views about studying religion by RE model (*Source:* REDCo Estonian data files 2008, 2012)

Students who had studied RE were in agreement with all the statements about positive attitudes towards learning about religion and respect at school, followed by those who had confessional RE from Christian schools. It is often argued that students in Estonia get all relevant knowledge from such subjects as history, literature, geography, etc. However, only a few students find religion to be an interesting topic in schools with no RE, with 27% agreeing or agreeing strongly that religion is an interesting topic at school. Students who learn about religion in school find the topic much more interesting, with 54% of students in Christian schools and 57% of students who have learned RE agreeing that it is an interesting issue to study (Fig. 5.4). Sometimes people learn important issues, even though they do not seem very interesting at the time. 48% of students with no RE agree that they learn to respect people from different religions, while the respective number is 58% in Christian schools and 75% for those who learn RE. One of the prerequisites for being tolerant is to be knowledgeable about different religions, with opportunities to discuss controversial issues. The religious schools have been blamed for omitting these aims. In Estonia, the religious schools occupy the place between schools with RE and those without RE, as 53% of students from Christian schools agree or agree strongly that they learn about different religions and 56% that they discuss religion at school from different perspectives, while respectively only 35% and 29% of students from non-confessional settings, and with no RE, do so. However, the students who have studied RE agree or agree strongly with these statements by 84% and 72% (For all items $p < 0.001$, Fig. 5.4).

The role of the school in learning about religion in relation to human relations is valued most highly by students who study RE in a non-confessional setting and least by students who have never studied RE.

5.3.2   Attitudes About the Need to Respect Those of a Different Religion

As education in general has been understood as a powerful tool for promoting human rights, then RE due to its subject has important role to promote the ideas and understanding of freedom of religion or belief. Thus, the second research question about the attitudes towards respect is explored by agreement with the following statements:

- Talking about religion helps to live peacefully together with people from different religions.
- Students should be able to talk and communicate about religious topics.
- Respecting the religion of others helps to cope with differences.
- I respect people who believe.

Students who had not studied RE had least respect for people who believe, and were most sceptical about different means to increase such respect: 45% of them agreed or agreed strongly that they respect other people who believe; 25% agreed that talking about religion helps them to live peacefully with people from different religions; 48% agreed that students should be able to talk and communicate about religious topics and 49% that respecting the religion of others helps them to cope with differences in worldview matters (for all items $p < 0.001$, Fig. 5.5).

Students who considered themselves religious tended to agree significantly more with all these statements, so one would expect more agreement in Christian schools. However, the differences between attitudes towards these statements by students with RE in confessional or non-confessional settings differed less significantly than with students with no RE. The students from Christian schools were a little more optimistic (the number of students who had studied RE is given in brackets): 71% (61%) agreed or agreed strongly that they respect other people who believe; 39% (37%) that talking about religion helps them to live peacefully with people from different religions; 79% (71%) that students should be able to talk and communicate about religious topics and 77% (70%) that respecting the religion of others helps to cope with differences (Fig. 5.5).

When expressing their own views, rather than evaluating the school, students who attended RE both in confessional and non-confessional settings valued tolerance and different means to achieve it more highly than students with no RE. Thus, the view that religious schools *per se* provide less tolerant attitudes is questioned, at least if children of diverse religious and non-religious backgrounds are represented
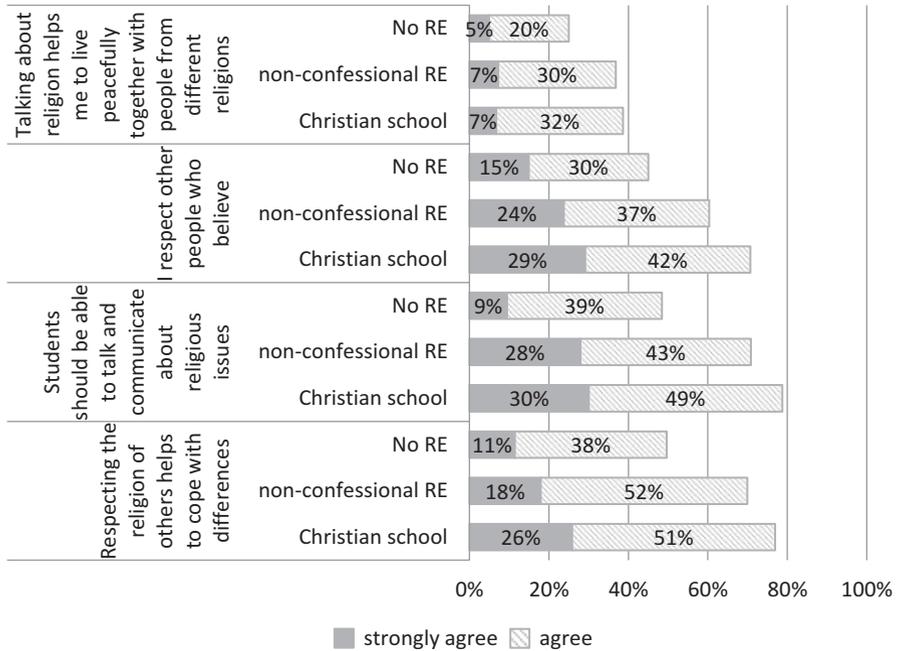
Fig. 5.5 Attitudes towards respect for religion by RE model (*Source:* REDCo Estonian data files 2008, 2012)

in the school. The experience of talking about religion, as provided in RE, may cause disagreements and even frustration, but it also contributes to experiencing its value.

5.3.3 Views About Religious Freedoms in the School Context

Article 19 of the UDHR includes the external aspects of religious freedom. RE provides possibilities to understand not only beliefs of different religions but also the rationale of religious traditions on religious behaviour and observances that are included under the sphere of religious freedom to be protected. At the same time, RE also provides space for discussion on limitations of religious freedom concerning the manifestation of religion or belief. From that perspective, the third research question sets the following statements for students to agree or disagree:

• Students should be able to wear discreet religious symbols at school.
• Students should be able to wear more visible religious symbols at school.
• Schools should provide facilities for students to pray in school.
• Voluntary religious services (e.g. school worship, prayers) could be part of school life.

Students should be able to wear religious symbols at school ...
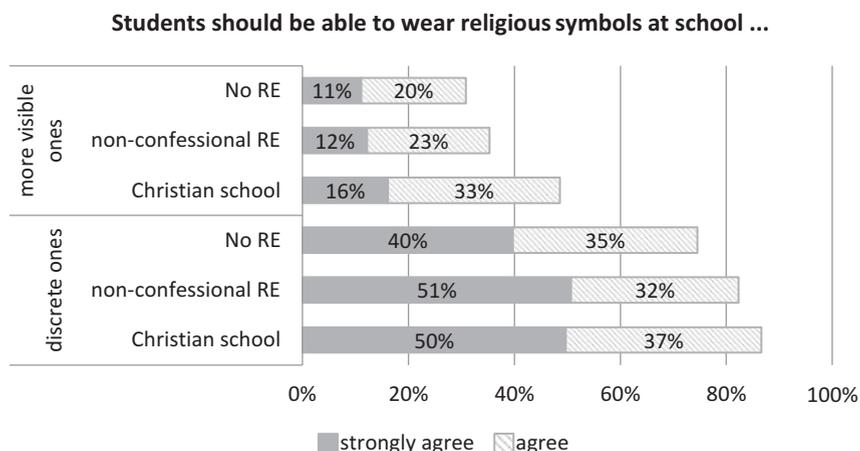
Fig. 5.6 Wearing of religious symbols at school by RE model (*Source*: REDCo Estonian data files 2008, 2012)

- Students can be absent from school during their religious festivals.
- At school meals, religious food requirements should be taken into account.

More students from Christian schools agreed or agreed strongly with all the statements in significant levels (p < 0.001). Students from non-denominational schools who had learned RE agreed significantly more with statements about religious food requirements and wearing of religious symbols, but they did not differ from their peers with no RE in their opinions about the school's provision of religious services or prayer rooms, neither would they allow religious students to be absent from school during religious festivals. The more students regarded religion to be important to them, the more they agreed that religion should be more integrated to school-life. For example, of those for whom religion was very important, 36% thought that schools should have a prayer room, but only 4% of those for whom religion was not important at all. Regarding the view that religious food requirements should be taken into account in school environment, 42% of those for whom religion was very important supported the view, with 19% supporting from those for whom religion was not important at all.

In general, students favour issues with which they have had some direct experience – discreet religious symbols are worn in Estonian schools with no restrictions; more visible ones are worn rather rarely. Accordingly, 78% of students were in favour of discreet religious symbols, while only 34% were in favour of more visible ones (Fig. 5.6).

There are usually no prayers rooms in schools, not even in some Christian schools. However, several schools do celebrate festivals such as Christmas in churches. It may be just an ordinary school assembly or a concert in church; in the case of Christian schools, it may be a simple religious service. Such first-hand experiences or lack of them may explain why students are more in favour of religious services (26%) than prayer rooms in schools (10%, Fig. 5.7).
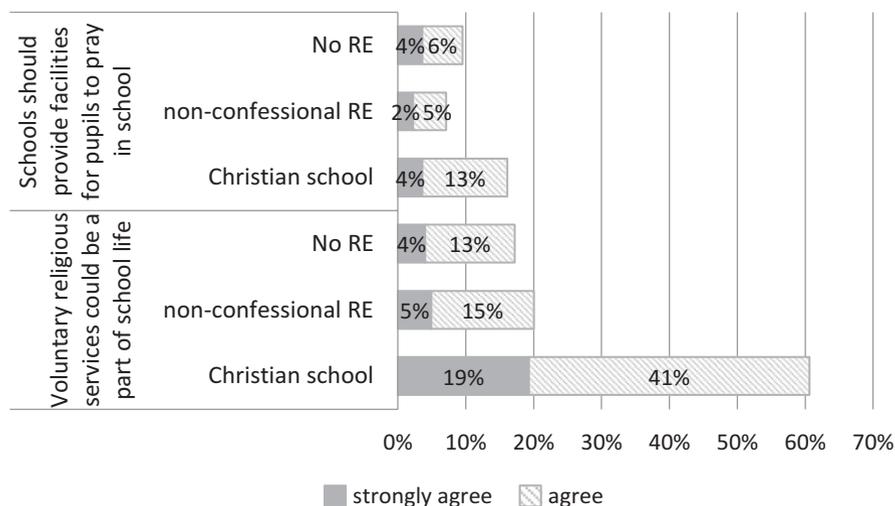
Fig. 5.7 Religious activities at school by RE model (*Source*: REDCo Estonian data files 2008, 2012)

From the data, it becomes evident that students in Estonia consider that the right to practise religion is not of public concern and belongs to private sphere, thus, reflecting prevailing attitudes in society in general. This is prevailing attitude also among students who consider themselves as religious although religious students do not agree with the dominant view as strongly as their secular friends. It is agreed that religion should be mostly a person's own business, and it is not a duty of a school to support a religious worldview. Students in religious schools, both religious as secular, have experienced the different approaches to religion by the schools, and they either are religiously affiliated or if they are unaffiliated they still have contact with religiously affiliated students, and they are more in favour of different rights on religious grounds. These students see religion as not only including the internal freedom to believe but also the external freedom to manifest this internal belief or faith in public and practise religion in the community, and adhere to religious observances.

5.4   Concluding Remarks

The results of the study raise many questions about the theoretical understanding of freedom of religion as it is understood and interpreted by the students as well as relating to policies about RE in a society where the majority of population remains religiously unaffiliated.

The results of REDCo research give empirical evidence on the role of (religious) education in promoting human rights (freedom of religion or belief). The results

show that students who have studied RE have fewer prejudices about religious issues, hold more complex ideas about religion and religious people, see religious differences to be an interesting part of life, and have more courage to hold a different view from others, as well as have better skills to speak about religious matters (Schihalejev 2010, 2013). RE currently has a place only in every tenth school in Estonia. In some, it is a voluntary subject; in others, it is not provided at all.

The findings reported above could be discussed fruitfully in relation to the Council of Europe's Recommendation on teaching about religions and non-religious convictions (Council of Europe 2008) and its ideas in the recent *Signposts* book, encouraging the discussion of that recommendation in different European countries (Jackson 2014b). The Council of Europe's *Signposts* book affirms the great importance of research at national levels to promote the discussion and development of future policy. It is hoped that the research reported above will make a contribution in the Estonian context, while questions such as the following call out for discussion: Do we need to worry about freedom of religion in school if religious students are assimilated (silent) and accept secular hegemonic views about religion as being a strictly private, rather than of public concern? Under what conditions should public schools in secular environment consider the rights of religious students and allow exceptions from general rules on religious grounds? For example, how many students would it need to take seriously a request for a prayer room or a demand to take into account their religious requirements in providing school meals? Would denial of these requests be considered as a violation of religious freedom? These are the questions that the contemporary western society has to face, while religion is becoming increasingly private matter and the numbers of religiously unaffiliated people increase.

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Chapter 6
May Children Attend Church Services During School Hours?

How Debates on Religion in the Public Sphere Affect Norwegian Schools

Pål Ketil Botvar

In Norway, there is a long tradition of church sermons for school children during school hours in the days before the Christmas holidays in December. This phenomenon has been highly debated in the media in the last couple of years. Representatives from the group of organised humanists have been especially active in this debate. In one case, a group of parents took action in order to protect the tradition against the will of the school's headmaster. Church services for school children are examples of public forms of religion. According to some scholars, religion has gotten a more prominent place in the public sphere because religious actors are actively fighting marginalisation of religion in society. Others argue that the increased interest in public forms of religion is a consequence of secularisation and an increased hostility towards certain forms of religion. A third position argues that religion has always been part of the public debate and that no significant changes have taken place. In this article, the three theoretical positions are discussed on the basis of survey data from the Norwegian population.

6.1 Introduction

The development of multicultural societies in the West has given religion a more prominent place in the public sphere. It is becoming both more visible and more contested. The American scholar Jose Casanova (1994) describes this process as the de-privatisation of religion. New forms of public religion are emerging first and foremost as a consequence of religious actors acting against marginalisation of religion (Casanova 1994: 5). The new visibility of religion leads to heated debates in the mass media and disputes between groups with different worldviews. On the one

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hand, religious people react negatively to what they see as secularisation of society. On the other hand, organised secularists protest the visibility of religion in the public sphere.

David Voas and Rodney Ling (2010: 73) argue that secularisation is an important explanation for the increased visibility of religion. People in Western countries are becoming less religious and also more sceptical towards religion. The keen focus on religion in today's society is not the result of religion gaining influence in society but a consequence of more anti-religious attitudes in the population. According to Voas and Ling (2010: 84), conflicts related to religion will increase the more society becomes secularised.

James Beckford (2010: 122) has criticised both Casanova and others for claiming that the role of religion in the public sphere is changing. At least in northern Europe, religion has always been part of public life. According to Beckford, one of the reasons why religion has a more prominent role in the public debate lately is because politicians are trying to use religion as a means to achieve their political goals. One of Beckford's examples is dialogue meetings, where religious groups are invited to discuss issues with other religious groups and representatives of local government authorities. Beckford argues that the interest in religion in the public sphere is driven by the authorities attempting to achieve political goals, such as security or social cohesion issues (Beckford 2010: 126).

As pointed out above, there are different views on the role of religion in today's society. Scholars tend to agree that religion has become more visible and that religion more than previously is the subject of public discourse. On the one hand, scholars such as Casanova as well as Voas and Ling argue that religious and non-religious actors are fighting for or against the presence of religion in the public sphere. According to Casanova, religious actors are in the front of the struggle, while Voas and Ling argue that the non-religious have gained influence. On the other hand, Beckford is critical towards the whole idea of a resurgence of religion in public life and argues that no significant changes have taken place.

To sum up, we are dealing with three different hypotheses:

– Religious actors acts against secularisation resulting in a resurgence of religion in the public sphere (Casanova)
– People have become more hostile towards religion, and religion in the public sphere is thus becoming a contested issue (Voas & Ling)
– Religion has always been visible in society and also a controversial phenomenon. No fundamental changes have taken place in recent years (Beckford)

This article discusses the role of religion in the public sphere by focussing on one of the topics in the media debate on religion, namely, church services for school children during school hours. In Norway, there is a long tradition of school children attending church services in their local church before Christmas. This debate, which has flared up in national newspapers each December over the last years, can be seen as part of the general debate on public forms of religion. What are the attitudes of the population towards this particular tradition? Does the heated media discourse mirror the situation among the population in general? What factors contribute to

explaining differences in attitudes? What role does religiosity and religious affiliation play in this respect? Is the tradition of church services for school children seen as a problem by religious or non-religious groups? Is there a change in how the two groups view the role of religion in school settings?

After presenting the Norwegian situation and a local case, I will discuss these questions in relation to recently conducted survey data. I will also discuss what the findings tell us about the fruitfulness of the three theoretical perspectives already presented.

6.2 Religion as Part of the Human-Rights Package

So what is the relevance of the discussion on "public religion" to human rights? Both Norway and other European countries have recently experienced public disputes over the use of religious symbols in the public sphere, for example, the caricatures of the prophet Mohammed, laws on blasphemy, prayer rooms in public schools, building of mosques and the use of religious symbols as part of the clothing on public servants. In the public debate, religion is often discussed in relation to human rights. Some argue that religion is a private matter that should be practised outside the public sphere. Others argue that people have a right to express their religious identity openly. While these debates have led some people to be negative about public forms of religion, others have become concerned about the human rights aspects of religion.

In Norway, the resurgence of religion has taken place in spite of the widespread secularisation. According to opinion polls, Norwegians are among the least religious people in Europe, only surpassed by Estonia, the Czech Republic, Denmark and Sweden (Norris and Inglehart 2004: 60). The relation between church and state in Norway could, until recently, be described as a state church system. However, in 2012, this system was formally abandoned when the Norwegian Parliament voted to amend the 1814 Constitution. The state church system favouring the national Lutheran church had come under pressure because of the country's growing religious diversity. The close relation between church and state was thus seen as problematic vis-à-vis the principle of religious freedom.

Nonetheless, around 75% of the Norwegian population are still members of the national Lutheran church, and a significant number make use of church services such as baptism, confirmation, church marriage and church burial. At the same time, a growing number of people belong to other religious organisations or do not belong to any religious organisation at all. In recent years, Muslims have become the largest religious group outside the national church and today they account for about six per cent of the Norwegian population and about 20% in the capital of Oslo. The situation in the big cities in the southern and eastern parts of Norway differs from that of the rural areas when it comes to the effects of ethnic and religious pluralisation. Some of the questions related to religion and human rights are thus more relevant in the cities than in the rural regions of the country.

6.3   Religion in Norwegian Public Schools

6.3.1   Controversies

In this paper, my interest in religion is related to school and education issues. The objectives clause (*formålsparagraf*) for public schools in Norway states that the Norwegian public schools are based on Christian and humanist values and the Norwegian cultural heritage. This makes it legitimate for schools to celebrate Christmas and Easter as Christian feasts, and to maintain the religious elements that have been part of the National celebrations on 17 May where the schools take part in the parade.

For some years, the teaching of religion in public schools from ages 6 to 16 has been the subject of public dispute. The course, called Christian Knowledge and Religious and Ethical Information (CKREE), reviews world religions and philosophy while promoting tolerance and respect for all religious beliefs. Citing the country's Christian history, the CKREE course devotes an extensive amount of time to studying Christianity (more than 50%), but the course also includes a discussion on other religions.

The present Norwegian model for religious education, introduced in 1997, differs from the general picture in Europe as it is compulsory but does not have a confessional basis. It can be seen as part of an international trend to provide multireligious education for all pupils. One of the main aims of the subject is to promote tolerance and understanding by providing knowledge about different traditions and encouraging a dialogue on common values. The presence of this aim is the reason why the subject is compulsory for pupils of all faiths, with only a limited right to exemption from certain parts of the teaching (for instance, activities that might be seen as parts of religious rituals, such as church services or praying). The combination of a main focus on Christian knowledge and the limited right to exemption has made the subject controversial for parents in some religious (and non-religious) groups.

The criticism from various minority groups has led to changes in the curriculum, the latest in 2007. Two trials have been held at the Human Rights court in Strasbourg where groups of Muslim and secular humanist parents have demanded the right to take their children out of the class during this subject. The secular humanists and the Muslims fear that the dominance of Christianity in the subject can lead to their children being influenced – or even indoctrinated – to look upon the Christian faith as better than other beliefs. The authorities argue that the dominant role of Christianity in the subject is legitimised by the role Christianity has played throughout Norwegian history and the fact that 75% of the Norwegian population belong to the national Lutheran church (called the Church of Norway).

In 2012, there was a public debate in leading newspapers on prayer rooms in high schools in Norway's capital of Oslo. The decision by one high school to establish a prayer room for Muslim pupils to be used for Friday prayers was heavily criticised by the right-wing Progress Party. The principal of the school ultimately bowed to

pressure and cancelled the plans. Muslim leaders and politicians from other political parties immediately expressed their disappointment about the education authority's decision not to allow prayer rooms in the schools. The Muslim leaders were joined by the Lutheran bishop in Oslo on this issue. Eventually an agreement was reached and pupils were allowed to gather for praying during lunch breaks but "fixed installations", such as prayer carpets, were abandoned. This example shows that increased religious diversity is one of the factors behind the media debates on religion. Even if some school leaders and some politicians want to restrict the ability of religious expressions in the public sphere, this is problematic vis-a-vis human rights principles. Such attempts to limit religious freedom are quickly opposed by religious leaders. In this case, both Christian and Muslim leaders joined forces in order to overturn decisions made by public servants.

6.3.2   Church Sermons During School Hours

Traditionally, the church has been involved in special events and celebrations in the schools, for example, the celebration of the Christmas holiday at the end of the school semester. Today, negotiations are taking place in all public primary schools about the schools culture of celebrating holidays. This culture includes activities and celebrations inside and outside the school grounds, with most schools selecting such religious holidays as Advent, Christmas and Easter. Moreover, some schools also choose to have a simple ceremony at the beginning and the end of the school day, and before the summer holidays, and perform memorial ceremonies if a pupil, employee or parent dies. Furthermore, some schools mark the religious holidays of religions other than Christianity (Høeg 2012: 28).

Most schools in Norway continue the practice of participating in church services during school hours as part of the end-of-term celebrations before the Christmas holiday or the summer break. These services constitute a traditional element in the school year, and turn end-of-term activities into ceremonial occasions in the sense of providing a shared experience in which the pupils, teachers and school leaders take part. This tradition has become increasingly problematic in recent decades due, in particular, to criticism from secular humanist groups. Nowadays, participation is voluntary and must be accepted by the parents of the child. There is also a national rule stating that the school should provide an alternative secular gathering for those not attending the service (Hovdelien and Nergaard 2014). In most schools, there is one form or another of organised cooperation in the context of Christmas by highlighting the first Sunday of Advent and St Lucia's day on December 13th. Many schools end the autumn semester just before Christmas with an assembly in the local church, including singing Christmas carols and using varying elements of worship liturgy. It is also quite common that a prayer or a blessing by the clergy is included. In some instances, the ceremony also includes a speech by the headmaster.

In the year 2014, almost 3000 sermons were held in the national Lutheran church for school children aged between 6 and 16, according to church statistics. This means that on average each congregation had 2.4 sermons for schoolchildren. Only 14% of the ca 1250 congregations did not provide any sermons for school children. Most of these congregations are very small and have no school within their parish boundaries. All in all, the Church of Norway reports 579,215 visits by school children during school hours in 2014. This is almost the same figure as in 2010. Also, there are around 620,000 pupils in primary and secondary schools in Norway. The tradition seems to be established and stable in all parts of the country.

Despite this, the use of churches and the religious character of the end of term ceremony have repeatedly been questioned in the public debate. At the national level, the Norwegian Directorate for Education and Training has stated that such sermons can take place as long as the sermon is not made into an end of semester ceremony on the last day before Christmas holydays and that an equivalent alternative programme is established for those (parents) who do not want (their child) to take part in the regular ceremonies. The right to be granted exemption that the Norwegian Directorate of Education and Training suggests makes it important to listen to the parents' decisions and to offer an alternative for all those who do not want to attend the school worship service (Hovdelien and Nergaard 2014).

The critique of the use of churches for school celebrations has mainly been supported by a minor group of atheists, often members of the Norwegian Humanist Organisation (in Norwegian: *Human-Etisk Forbund*). Around 2% of the population are members of this organisation. Their position is to continue the development that has been taking place since the end of the 1970s, where religion is considered a private matter and the school's mission is to be a secular institution. The prevalent attitude here is that religion easily creates distance and polarisation among pupils, meaning that the school should not favour or downgrade one or another religion or worldview group. In practice, it is up to the headmaster of the local school to make decisions on the organisation of school gatherings and celebrations, which means that there are differences between schools, even within the same city or area. Some headmasters choose to remove the religious customs and traditions or only express them to a limited degree. However, this attitude does not seem to be the dominating view. Since there has been a long historic tradition to use the local church, protests from pupils as well as parents are only likely when headmasters try to move the event to a different place or change it radically.

6.3.3   The Kråkstad Examples

In the small community of Kråkstad, south of Oslo, we find several examples of such conflicts. For many years, on the days before Christmas holidays, the children went to church services in the local church. But in 2010, the headmistress, who is a member of the Humanist Association, decided to break this tradition and abandon the church service. She did not think it was good enough that those children whose

parents did not want them to take part in church services stayed at school with an alternative programme. She wanted the parents to actively ask for a church ceremony. The decision activated the parents' representatives in the local board of education who started a campaign to keep to the church ceremony as usual. The parents and the church organised the Christmas service by themselves during school hours. Despite the negative views of the headmistress, a majority of the pupils took part in the church ceremony (Hovdelien and Nergaard 2014: 263). According to school rules, parents can take their children out of school on religious holidays that are important in their faith tradition.

The celebrations of the Norwegian national day, 17th May, also stimulate debates on religion and schools. In Norway, a children's parade organised by the schools constitutes an important part of the celebrations. In many parts of the country, religion has had a connection to the 17th May celebrations (Botvar 2014: 12). In some local communities, the parade proceeds from the school to the local church. Today, in small rural communities, a church service can still be a compulsory part of the programme for the schools, even though the overarching impression is that the dominant position of the church in the school programmes has been reduced. Again the local community of Kråkstad was in the national media because of an incident that involved religion and the school on the national day. In Kråkstad, the children walk from the local school to the local church and some of the children and their parents go inside to attend a sermon while others wait outside for the parade to continue. This has led to heated local debates resulting in the establishment of an alternative programme outside the church, similar to the model for the Christmas services during school hours (Aagedal 2014).

Both, the Christmas celebrations and the national day celebrations, bring the local school and the local church together. The two examples from Kråkstad show that religion in school settings is becoming increasingly controversial and that protests may come from both religious and non-religious groups of parents. In the case of Christmas celebration, a group of parents protested the headmistress' decision to abandon the tradition of church services, while in the national day case another group protested. In both cases, the local community was split on the question of religion in the public sphere.

6.4   Method

6.4.1   The Data Material

Despite the controversy raised over the legitimacy of arranging church services during school hours in Norway, little research has been done on this topic. Some research has been done in Sweden where the situation is more or less the same as in Norway (Pettersson 2014). In December 2014, a digital survey was conducted among a sample of 1564 Norwegians between 18 and 80 years. The samle is

representative and mirrors the population on such factors as gender, age and place of residence. The survey was conducted by Norstat, one of the leading providers of data collection in Europe, and the questions were formulated by KIFO Institute for Church, Religion and Worldview Research. This study makes it possible to investigate the attitudes of the population towards the question of having church services for school children during Christmas time. The size of the sample and the richness of the background questions allows us to take a closer look at how different groups view this tradition.

Regarding data on attitudes towards church sermons for school children, we only have data from 2014. The survey allows us to take a look at how majority groups and minority groups look at the tradition of church services for school children. In order to see which of the theoretical arguments are most plausible, I need to include longitudinal data in the analyses.

The so-called Elections surveys is conducted every fourth year in connection with the Parliamentary elections. These surveys are conducted by the Central Bureau of Statistics and are therefore regarded as very reliable. Each survey has around 2000 respondents between 18 and 79-years-old and is reported to be representative of the population at large. The surveys contain a set of questions that are used after every election in order to study attitudinal changes among the population.

6.4.2 Research Questions

The data material allows us to analyse the following questions:

– Is the majority of the adult population positive or negative towards the traditional church services for school children?
– Do ethnic and religious minority groups have other views on this tradition than the majority?
– Do the attitudes vary according to background characteristics such as gender, age, having children in school or living in certain areas of the country?
– Have religious and non-religious groups in society changed their attitudes towards the teaching of christian traditions in schools or are the attitudes stable over time?

6.5 Empirical Findings

Since 75% of the Norwegian population are members of the national Lutheran church and another 5% are members of other Christian churches, we expect to find a majority in favour of the tradition of having church services for school children.

Table 6.1 Support for church service for school children before Christmas and religiosity of respondents

Church attendance of respondents	% supporting a church ceremony for children during school hours	N
At least monthly	93	123
Several times a year	85	415
Once a year	79	137
More seldom	61	422
Never	37	454
Total	65	1551

Source: (Botvar 2017)

Among the around 25% that are not members of the national church, we expect to find much more negative attitudes towards the tradition.

One of the questions in the 2014 survey was "At Christmas time many school children visit the local church during school hours. Do you think this practice is acceptable or not? The Norwegian Directorate for Education and Training has allowed this, as long as those who do not participate receive an adequate alternative". Results show that 67% are positive towards the practice of sending school children to church before Christmas. Only 18% are negative, while 13% are neither positive nor negative (Botvar 2017).

The survey demonstrates that there generally is a positive attitude towards the use of church sermons during school hours before Christmas among the population. Even so, it is interesting to take a closer look at the patterns of attitudes. Are the attitudes evenly distributed among different groups in society or is there a split, for example, between the religious and the non-religious part of the population? And do variables such as gender, age and place of residence matter?

Human rights, to a great extent, have to do with how a society treats minority groups. This means that if a certain minority group feels that their rights are threatened it is a problem not only for group-members but also for the whole society.

According to the 2014 survey, 72% of the respondents are members of the national Lutheran church. Among this group of respondents, as many as 77% support the tradition of having school sermons, while the same is true for only 40% of those who are not members of the national church. Among the non-members, 47% are against the tradition. Even if this does not form a clear majority, it could be seen as problematic as long as attitudes are, to a great extent, determined by church membership. On the other hand, a clear majority of the population supports the practise. And according to state directives, those who want to opt out have a legal right to do so if the parents agree to it.

Table 6.1 shows that not only those who attend church regularly support the tradition of sending school children to church ceremonies before Christmas. Also, most people who attend church less than once a year are supportive. Among those who never visit a church, only a minority support the tradition. Even in this group of "unchurched", those who are against the tradition do not constitute a majority (only 43%).

Table 6.2 Support for church service for school children before Christmas and age group of respondents

	% supporting a church ceremony for children during school hours	N
18–29 years	56	199
30–44 years	64	315
45–59 years	66	433
60 +	72	613
Total	66	1560

Source: (Botvar 2017)

Table 6.3 Support for church service for school children before Christmas and respondents' place of residence

	% supporting a church ceremony for children during school hours	N
Oslo region	62	393
Eastern region, rest	69	417
South/Western region	70	480
Middle/Northern region	63	274
Total	66	1564

Source: (Botvar 2017)

The analysis shows that women (71%) are a bit more in favour of the tradition than men (63%). When it comes to age, respondents between 18 and 30 years of age are less in favour of the tradition than older respondents. According to the lifecycle perspective, we might expect the young to favour the church visits for school children to a greater extend when they become parents. A generational perspective would however emphasise the declining support for the tradition across age groups. One possible interpretation would therefore be that in a couple of years a much smaller amount of the population would be supportive (Table 6.2).

One might expect people living in metropolitan multicultural cities to be more sceptical towards church services than people living in the rural areas. However, the data show that people in the Oslo area are almost as positive as people living in the less populated northern part of Norway. This result also hints that people who identify with other religions than Lutheranism may be supporting the tradition of sending school children to church before Christmas (Table 6.3).

The data is not suitable for analysing people belonging to religious minorities because the numbers are so small. But the survey does have a question about the birthplace of the parents (Table 6.4). Even if the numbers are small, there is a clear tendency that those whose parents were born outside Norway are more sceptical towards the tradition of church services for school children. Still, there is a majority supporting the tradition. We need a bigger sample and more research in order to know how different immigrant groups think about this tradition.

Table 6.4 Support for church service for school children before Christmas and parents' birthplace

	% supporting a Church ceremony for children during school hours	N
Both parents born in Norway	67	1401
One parent born outside Norway	63	98
Both parents born outside Norway	55	65
Total	66	1564

Source: (Botvar 2017)

Table 6.5 Teaching Christian tradition: obligatory or optional?

	Mean	N
1997	4.2	2055
2001	4.9	2052
2005	5.0	2012
2009	4.9	1782
2013	5.6	1727

Source: Election survey 1997–2013
Scores on 0–10 point scale: 0 = teaching Christian tradition is obligatory, 10 = teaching = optional

The Election survey contains one question about teaching Christian tradition in primary and secondary schools. The respondents were asked to place themselves on a scale from 0 to 10, where 0 means that such teachings should be obligatory for all pupils and 10 means that it should be optional. This question does not say anything about the role of church sermons, but it is still an indicator of the general views about teaching Christian tradition. Looking at the mean scores, the attitudes remain fairly stable during the last 15 years. If we include the year 1997, when today's subject was introduced, people tend to be more in favour of making it optional.

If we take the 2013 data and merge all those who support making the teachings obligatory, we find a simple majority of 45% against and 39% who think the teachings should be optional. Sixteen per cent of the sample refuse to take a stand and choose the middle category (Table 6.5). The balance between obligatory and optional has been stable between 2001 and 2009. In 2013, a shift towards the liberal standpoint took place. The shift is quite clear when we look at the time span back to 1997, when today's subject was introduced. In 1997, a majority wanted the education to be obligatory. In 2013, the population was split equally.

The Election survey includes an index measuring religious commitment based on data about membership in religious organisations and church attendance. By including this variable, we can see how the most religiously committed and the least committed look at the issue at stake over time.

In all the surveys, those who were religiously active tended to be more supportive of making the education obligatory than those who were religiously passive. In Norway, the group of religiously active consists of 10–15% of the population, while

Table 6.6 Mean scores on scale with obligatory vs optional Christian education among different religious groups

Religious activity	1997	2001	2005	2009	2013
Very active	2.4	3.0	3.3	3.6	4.6
Fairly active	2.8	3.4	3.6	3.2	3.8
Fairly passive	3.1	4.3	4.0	3.8	4.1
Passive	5.1	5.7	5.9	5.8	6.0
N	2055	2052	2012	1782	1702

Source: Election survey 1997–2013

about 60% are passive. In Table 6.6, groups of fairly active and fairly passive are also included. In all four groups, respondents tended to be more in favour of making Christian education optional in primary and secondary school. This can be seen as an indicator of the ongoing secularisation process. Even if we only have included a few indicators of religiosity in the analyses, it is fair to say that the results point in the direction of a slow but steady process of secularisation. All religious groups are becoming less supportive of obligatory Christian education in public schools. The changes are significant among the group of active and committed members of religious organisations, which in a Norwegian setting tends to mean Christian organisations. Those belonging to other religions than the Christian are so few in these surveys that they do not influence the results. In the survey from 2013, those who were most religiously active had become more in favour of the subject being optional.

6.6   Discussion

Even if the Norwegian population has become highly secularised, a majority of the population still accepts that religion plays a role in the public arena. The recent heated debates over the use of headscarves, prayer rooms in schools, blasphemy, and the Mohammad caricatures have not yet led to a decrease in the acceptance of certain religious symbols and practise in the public sphere. The topic of this study is related to human rights and especially to freedom of religion questions. On the one hand, one has a right *to* religion, meaning that people have a right to practise their religion and to teach their children the same religion. Freedom of religion can also be seen as a right not to take part in religious activities that are not in line with one's convictions (freedom *from* religion).

Data show that people tend to accept religious views and symbols in the public sphere, especially when they are seen as related to core human rights. Both those who attend church often and those who never go to church seem to agree on such basic principles as religious freedom. A restrictive attitude towards public forms of religion is problematic vis-à-vis principles of human rights, especially freedom of

religion. For a majority of the population, the public debates on religion have probably made them more aware of and concerned about human rights as an integrated part of public religion.

The persistent use of churches, carols, hymns and clergy at certain events like the end of school year or school term demonstrates the continuous negotiation and struggle between secular and religious interests in the public sphere. The survey data presented in this article show that the Norwegian population generally responds positively to the tradition of sending school children to church sermons before Christmas and that there is a mismatch between the local practise and the views of elite groups active in the public debates. On the one hand, criticism from individuals and humanist groups is increasing, as they demand that the public sphere should be free of religious symbols. The local examples can be seen as influenced by the changed role of religion in the public sphere. In the national media disputing religion in the schools is common, while in local communities it is legitimate to fight for religious traditions. On the other hand, a majority of the Norwegian population still accepts some form of public religion, and religious representatives are accepted as resources providing links to the past and hope for the future. As long as these expectations and limitations are fulfilled, cooperation between the church and the school is accepted by a majority of the population, even in an increasingly multicultural society and a principally secular state. At least this is what the Norwegian case shows.

In the first part of this article, I introduced three theses on religion in the public sphere in today's society. Casanova (1994) argues that religion is becoming more visible in the public sphere because religious people actively fight marginalisation of religion. The new focus on religion in the public sphere is thus driven by people being positive towards (certain forms of) religion. Voas and Ling argue differently. According to them, secularisation makes the population more negative towards religion, especially visible forms taking place in the public sphere. Casanova as well as Voas and Ling presuppose an increased polarisation on religious issues in the population. These scholars differ however, when it comes to what part of the population is the driving force behind the changed situation. The third position represented by Beckford is the null hypothesis, that is, no real change has occurred; everything has stayed the same. Religion is an integrated part of the public sphere, and there is a balance between those who defend and those who attack the public role of religion.

The empirical analyses give some support to all three hypotheses presented. The data from the Election surveys show that over a timespan of 16 years, the support for obligatory education in the Christian tradition has decreased. This is also true when we look at the religiously most committed part of the population. The Norstat 2014 survey shows that those who are most active in church are much more in favour of the tradition of having church sermons for school children than those who seldom go to church. At the same time, the Election surveys show that those who are religiously active have become less committed towards Christian education over

time. Beckford is right in that the changes of attitudes in the population are slow. In the last few years, the support for obligatory Christian education in public schools has remained rather stable.

The two case studies from Kråkstad bring valuable insights into the analyses. One of the Kråkstad examples (related to Christmas) can be seen as empirical support for the thesis put forward by Jose Casanova about religion being de-privatised because religious actors actively fight against marginalisation of religion. The other example (the national day) is more in line with the Voas and Ling argument about secularisation leading to controversies about religion in the public sphere. Both cases show that a group of activists from either side are needed in order to make religion an issue on the public agenda. Such groups can consist of either religious or non-religious people. The public discussions are likely to lead to confrontation and polarisation. This is probably why so many local communities try to avoid such debates.

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Chapter 7
Teaching the History of Human Rights

Dan-Erik Andersson

Textbooks on human rights often describe the history of human rights as a linear process, where human rights rest on a rather unified history. In this history, the idea of Enlightenment is a central component, leading to the understanding of human rights, as we know them. This article argues that the common presentation of the history of human rights in some central textbooks is highly problematic, not least on the relation between religion and human rights. Even though a simplified narrative to some extent makes it easier to promote human rights, instead of repeating a simplified history there is need to present the history in its complexity. This article gives examples of how the relation between religion and human rights is more complicated than most often argued. The judicial and educational context of the paper is the situation in Sweden.

7.1 Introduction

When the history of human rights is taught to students and written in textbooks, it often starts out from the view that human rights have long been present in world history. They were, however, not always called human rights, but sometimes they have been labelled otherwise, such as human value or human dignity. Even though different terms are being used, it is argued that these labels all point towards the same thing. It is argued that we have to uphold the distinction between term and concept, where the concept of human rights could be present without the term human rights being used (Ishay 2008; Bauhn 2006).

Another aspect of the writing of the history of human rights is the role of Enlightenment. In textbooks on human rights, Enlightenment is described as the

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breakthrough for human rights as we know them and religion is, to a large degree, described as its counterpart (Nowak 2003; Orend 2002). The peak of human rights as we know them originated in 1948 with the United Nations Universal Declaration of Human Rights.

The consistency of human rights often rests on an idea of a rather unified history. This history seems to work both as an explanation and a legitimation of human rights. Human rights and their universal claims are justified through the writing of the history of human rights.

With such an understanding, it is possible and necessary to trace human rights in history even before the term was coined. A look at different epochs and in different world religions shows variations of human rights in the most different contexts. With such a perspective, human rights could be said to have been on a journey through history and marked their presence at different places in different times. It is almost as if human rights are seen as something that have some kind of agency.

Given that human rights are quite radical in many aspects, and the fact that there are conflicts between rights perspectives and perspectives in other traditions of moral philosophy (such as utilitarian perspectives), it is surprising that human rights are defended so vigorously in public debates. If you add to this the potential conflicts between different forms of rights claims, the massive support for human rights becomes even stranger. Not least when it comes to religion and human rights in different constellations.

Thus, no one seems to be against the emphasis on human rights. It seems like this unity on human rights also covers the history of human rights. Even though it is often said that there should be an overlapping consensus on human rights where the foundation could differ, in reality the "real" foundation seems to come from the Enlightenment.

I will argue in this text that this is highly problematic. The history of human rights is a complicated matter. In several textbooks used in the education of human rights studies, the relations between Enlightenment, religion and human rights are oversimplified to such a degree that there is a risk that students are given a false, untruthful and fabricated understanding (e.g. Bauhn 2006; Bring 2011; Ignatieff 2001; Ishay 2008; Lauren 2003; Nowak 2003; Orend 2002).

A more honest and diverse history will make human rights stronger. There is no such thing, I would argue, as a foundation for human rights that gives it a universal trump. Instead, the eventual agreement on human rights has to be negotiated from time to time and place to place. There is a potential weakness, of course, in such reasoning, but I would argue that it is the most successful way in the promotion of human rights.

In this article, I will argue my case by giving examples of how the relation between religion and human rights is more complicated than often argued. Not least in the Swedish context.

7.2   The History of Human Rights in Textbooks

Human rights have become close to a moral lingua franca in a global context. They have become an ethical, political and legal language for expressing claims and complaints and for measuring development. They are being used in political rhetoric, and most universities around the world offer courses on the topic; moreover, they are one of the most important issues of international affairs, especially international public law. Many have strong interests in human rights being given a strong and unified justification and foundation. Not only the individual person seeking for deliberation.

When it comes to teaching of human rights, the justification of and foundation for human rights is complemented by the function of also explaining human rights and why they look as they do and have the strength that they have in our time. This explanation follows a common track where history initially plays a crucial part. The history is described as a linear process where the history is there to confirm and justify the modern phenomena of human rights in our contemporary situation. Our present human rights are seen as the culmination of a historical process towards an ever-improving world, especially and foremost in Europe (or the Western world). According to this history, it is possible to trace the tradition of human rights back to the very beginning of human civilisation (Lauren 2003; Bring 2011). They are said to "evolve" through history (Pogge 2002) and are given almost "a life of its own, sui generis, beyond the speeches and writings of progressive thinkers" (Ishay 2008: 2). There are small variations in what is being emphasised and focused on, but they all seem to share the view that there has been a gradual evolution of human rights that has a peak in the Universal Declaration of Human Rights in 1948.

Besides this historical explanation and justification of human rights, there is also a tight connection to what is called Enlightenment thinking, Western thinking and sometimes European thinking (Ishay 2008: 64–116; Orend 2002: 210–211). Orend, for example, points out that "from the fact that the human rights idea originated in Western Europe, it does not follow that Western European culture is thereby revealed to be a blessed, and utterly superior, cultural form" (Orend 2002: 158). In this quote, he, on the one hand, takes a stand against strongly connecting human rights to Western Europe, but on the other hand, he says that human rights originally come from Western Europe and that being in line with human rights is to be "blessed" and "superior". According to Orend, the ideas emerged in Europe after the "Dark and Middle Ages".

Orend is not the only one who embraces an understanding of human rights as something that has been travelling through history, been formulated in Western Europe by Enlightenment thinkers and then reached its peak in 1948. Rather, he is a good example of how most scholars and their textbooks relate to the history of human rights. My argument is not that this understanding and explanation of the history of human rights is wrong. There is much truth in the statement that human rights evolved in Western Europe during the Enlightenment and that this history or tradition can explain and even justify our contemporary concerns. Rather, I question

the easiness and simplicity in this tradition or history when it comes to the issue of religion and human rights.

7.3   Religion and Human Rights in Sweden

In the Swedish context, the overarching story about the history of human rights is complemented by the story of how Sweden went from being one of the poorest countries in Europe to one of the richest countries in Europe in 100 years. The epicentre of this story is the Swedish welfare state and how it fulfils the more overarching transformation in Western democracies (Berggren and Trägårdh 2006).

This general view is perhaps most visible in how religion and human rights relate to each other in the Swedish context. The overall dominating perspective is that religion gradually has been pushed back and Swedish society has become more and more secularised. The Swedish welfare state is built not on religion but on democracy and human rights. Sweden is quite often declared by Swedes to be "the most secularised country in the world". What is actually meant by "secularised", "democracy" and "human rights" is rarely specified, but it is taken for granted that this is the proper way to describe the evolution.

The story told in Sweden begins in the late nineteenth century. Before this time period, the situation is described as very bad. It is first and foremost in the era of the peoples movements: temperance, labour, women, peace, free-church and so on, and based on these movements a welfare state was built from which Sweden became a modern, rational, effective, secular, social and peaceful society (Wiklund 2006). The opposite of this Swedish welfare state is often described in terms of chauvinistic, traditional, conventional, religious, moralistic, conservative, hierarchical and superstitious. During the last century in Sweden, these "opposite words" have been associated with Christianity, church and religion.

It is, of course, not possible to deny this grand narrative on the secularisation of the Swedish society. To a large degree, it is a trustworthy narrative. The roles have, however, shifted during the years. During the first half of the twentieth century, the role of the "opposition" was played by the Swedish Lutheran (State) Church. Gradually, this role has also been played by the Roman Catholic Church and by Muslim and Jewish congregations.

My point here is not to fully describe how the history of human rights is thought of in Sweden, which would of course not be possible. My point is that this view on a unified human rights tradition is problematic, because it cannot handle contradictions within its own narrative. I will now turn to give some small examples of where the relations between religion and human rights are more complex than the narrative states.

7.4   Examples of Discrepancies in the Narrative of the History of Human Rights

7.4.1   Enlightenment Thinkers and Religion

According to the grand narrative of the history of human rights, the major source is the Enlightenment. One of those giants on whose shoulder we are standing is John Locke. According to Brian Orend, John Locke's "Second Treatise of Civil Government", published in 1690, marks the start of the human rights discourse as we know it (Orend 2002: 201–206).

John Locke's views on freedom of religion and religious rights are first and foremost expressed in his "A Letter Concerning Toleration" from 1685 (Locke [1685], 1993). John Locke states that different Christian denominations have to tolerate each other and that the state has to be neutral in relation to different faiths. He even includes Jewish and Muslim congregations in his plea for tolerance. The relation to the Roman Catholic Church is complicated due to what Locke sees as the risk of double loyalties; nevertheless, the "letter" forms the start of what today is known as freedom of religion.

When you get to the end of "A Letter Concerning Toleration", most readers would probably become rather surprised. After arguing in favour of the right of the individual to work on his or her salvation and enjoy freedom of religion, he states that:

> Lastly, those are not at all to be tolerated who deny the being of a God. Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist. The taking away of God, though but even in thought, dissolves all (Locke [1685], 1993: 426).

Besides stating the right for the individual to work on his or her salvation, Locke states that for human society it is necessary that human beings fear (or trust) God. Therefore, a human being that does not recognise the power of God and therefore fears God cannot be trusted and cannot enjoy freedom of religion. Toleration does not embrace an atheist.

When reading John Locke's "A Letter Concerning Toleration", one could see the intolerant remark on atheists in the end of the text as a sign that Locke almost went all the way towards human rights in its "pure form". He only lacked this last step when it comes to trust. For him, in that time, it was impossible to think the whole thing through, as we can now in our highly secularised world.

But a reading could also take as its point of departure that the only way we could understand John Locke is to take his late remark in the Letter as foundational for his thinking. His thinking could be seen as being built on theological arguments and, therefore, that his understanding of toleration is completely dependent on the fear of, or trust in, God.

I do not intend to solve this issue. One can read John Locke without taking much notice of his remark at the end. Empirically, one could say that John Locke was wrong. It seems, at least to some extent, that you can trust an atheist. My point here

is rather that Enlightenment thinkers, at least John Locke, in his thinking, were more dependent on theological arguments than is most often recognised. The relation between religion and human rights is more complicated than a simple confrontation between two opposing traditions. In the case of John Locke, they rather seem to go hand in hand.

7.4.2   Swedish Constitution and Religion

The general narrative of the secularisation of Sweden has some truth to it. It seems as if the power of the Church of Sweden has declined over the last two centuries and not least during the last century. Whether this secularisation follows a non-reversible process that started in or during the Enlightenment period is a totally different matter I would say. Thus, in order to understand the extent to which the story told about Swedish secularisation is true or not, we must sort out what the preconditions of the story, its inner logic, are. My guess is that a lot of argumentation starts out from some kind of a-historic essentialism.

There are some peculiar facts about Sweden that have to be taken into account when sorting out the relation between human rights and religion in Sweden. The divorce between state and church took place as late as 2000. Still, the Church of Sweden has special laws. The church is still ruled by elected politicians. Moreover, since, Sweden is a monarchy, the Head of State has to be of "pure evangelical faith". This is how it is stated, at this date, in the Act of Succession, which is part of the Swedish Constitution:

> Art. 4.: In accordance with the express provision of Article 2 of the Instrument of Government of 1809 that The King shall always profess the pure evangelical faith, as adopted and explained in the unaltered Confession of Augsburg and in the Resolution of the Uppsala Meeting of the year 1593, princes and princesses of the Royal House shall be brought up in that same faith and within the Realm. Any member of the Royal Family not professing this faith shall be excluded from all rights of succession (The Constitution of Sweden, 2016).

I do not know how this part of the Swedish Constitution survived the divorce between church and state in the year 2000 in the "most secularised country in the world". Maybe it is still there to remind us that we live in a land of fairy tales. My point with this example is to show that the relation between religion and human rights is much more complicated than just being one of a simple confrontation. Obviously, this writing in the Act of Succession survived the Swedish Parliament (Riksdagen) even though it means that if the Head of State converts to another faith than the "pure evangelical faith" or comes out as an atheist, he or she has to abdicate, just as queen Kristina had to in 1654 when she converted from the "pure evangelical faith" to Roman Catholicism.

7.4.3 *The Abolition of the Death Penalty in Sweden*

The death penalty in peacetime was abolished in Sweden in 1921 after a very long discussion and after becoming more and more controversial. Sweden followed an international trend, and the abolition was in line with what several of our neighbouring countries did around the same time. In Sweden, the discussions were initially started in 1778 by the Swedish Head of State, Gustav III, who wanted restrictions on the punishments for infanticide. Gustav III expected the strongest resistance from the clergy, which were one of the four estates (nobility, clergy, burghers and peasants) in the Riksdag of the Estates. He even included a theological reply already in his suggestion because he expected critique to follow his initiative (Anners 1965). Questions concerning the death penalty have, however, continued to be controversial, and even today there are discussions whether it is right and reasonable that states are executing persons for crimes they have committed.

There has been legitimate critique of the role of the Church of Sweden concerning previous views on the death penalty in Sweden, both from the surrounding society and from within the Church of Sweden itself. The self-criticism of the church has been described by representatives as an example of how its Christian faith has become more in line with human rights standards. Using this example, it is evident that the ideals of Enlightenment influenced the Church of Sweden to eventually do the right thing. Those who use this example in this way argue that Christian beliefs and faith were wrong, but thanks to outer pressure for Enlightenment and secularisation, the Church of Sweden has in our time become better.

It is not hard to find texts from late eighteenth century and early nineteenth century where theologians argue in favour of upholding the death penalty and that it is in line with, and even demanded by, the holy scriptures. If the death penalty were not carried out for certain crimes, not least infanticide, a "blood debt" would fall upon Sweden. The death penalty was seen as necessary for the reconciliation process between men and God to work (Bergman 1996: 19–29).

Nonetheless, there are also theologians arguing against the death penalty. There are those who argue that reconciliation with God cannot be achieved by human blood, but that the death penalty is there only for the sake of refraining others to do the same. Since that is the only purpose, then there probably are more effective punishments. There are also those who argue that the Scriptures give examples of where it is obvious that God gives the right to use death penalty only for himself, such as in the case of Cain and Abel. As God can dispense the death penalty, so can man (Bergman 1996).

There is no clear and simple unity among priests of the Church of Sweden when it comes to the view of the death penalty. Rather, there seem to be different views among representatives of the Church of Sweden. The same thing could be said of the Enlightenment philosophers among whom different views are represented. One of the most prominent Enlightenment philosophers, Immanuel Kant, argued in favour of the death penalty stating that it was legitimate (Kant 1991a, b: 156–159). Kant had different forms of arguments for his view. One argument was built on the

idea of reconciliation of the society. Another was built on the rights of the King to form the laws he found necessary for upholding order in society. But most central for his argumentation is justice as such.

> Even if a civil society were to be dissolved by the consent of all its members (e.g., if a people inhabiting an island decided to separate and disperse throughout the world), the last murderer remaining in prison would first have to be executed, so that each has done to him what his deeds deserve and blood guilt does not cling to the people for not having insisted upon his punishment; for otherwise the people can be regarded as collaborators in this public violation of justice (Kant 1991b, s. 142 [333]).

Kant's thinking and writing on the death penalty are manifold and somewhat ambiguous, but it shows that there is no clear line between those in favour of and those against the death penalty during the so-called Enlightenment period.

It is obvious that the image of priests standing on one side in the debate and the Enlightenment thinkers standing on the other side is over-simplified. Instead, it is a much more complex picture where different traditions within both the Church of Sweden and the Enlightenment tradition emerge (Bergman 1996). The debate has been ongoing in several sectors of the Swedish society, and the way to a broad questioning of the death penalty in the late 19th is not at all obvious. In the debate, priests, lawyers and (Enlightenment) philosophers argued in favour of and against the death penalty.

I am not arguing that the abolishment of the death penalty cannot be used in the general narrative of the history of human rights. Rather, it seems to play a different role for different groups that argue that Enlightenment changed the role of the church. On the one hand, the story is good for those who want to oppose Enlightenment and secularisation against religion. But on the other hand, it also suits those within the Church who want to describe the Church as being willing to change and that change can make the Church better. The narrative on how the Church was opposing human rights standards therefore serves the narrative of both those who argue that the Church was against Enlightenment, but also those who from within the Church argue that Enlightenment helped or forced the Church to reform.

It is maybe not surprising that the abolishment of the death penalty is being used as an example of how the church was changed by Enlightenment. It is, however, more surprising that the history, or histories, of human rights are so focused on this simplified presentation. It is upheld by critics of religion and Church but also by representatives of the church and religion. Why is that so and what are the consequences of understanding the relation between religion and human rights?

7.5   Conclusions

There are several reasons for the easiness and simplicity in the description of the history of human rights. First, there is a pedagogical issue. A defence for this unified and simplified description of the history of human rights is that it is easier for new

students to get hold of the complexity. In order for students to get a brief understanding of the history of human rights before they go "out there" and save the world, it needs to be simplified. Before you can run, you need to learn how to walk.

Secondly, there is the idea of human rights being trumps. For something to become a trump, it does not need to be complicated. In order for a trump to work, the reason behind it being a trump needs to be simple and easy. Therefore, trumps are strongly connected to a unitary and simple foundation. The Enlightenment and its heritage have served as a simplified foundation for these trumps. This foundation has, however, come to be questioned.

Thirdly, and connected to the idea of human rights as trumps, is also the political reality of human rights. Since the end of the Cold War, human rights have to a much larger degree been connected with power politics and gone from being first and foremost a tool in the hand of individuals and citizens to being a tool for state leaders in international politics. Human rights have become a reason for states to perform international boycotts and even wage war. To be able to do that, a unified and simple foundation is needed.

Fourthly, there is the fear of what would happen if you do not have a proper foundation for human rights. If it cannot be argued that human rights stand on a solid and unified ground and thus are valid for everyone and everywhere, but that they are dependent on time and place and therefore the foundation has to be negotiated, the status of universal human rights will be much weaker. Therefore, the potentially complex and multi-layered understanding of the history of human rights poses a threat to the whole idea of universal human rights.

The general understanding of human rights, not least in textbooks for students of human rights, is problematic for several reasons. First, they very rarely point at the great complexity of the history of human rights. There are so many discrepancies in how the history of human rights is told that it is easily possible to give the students a false understanding. Secondly, due to that complexity, it is not considered that students of human rights will have a harder time dealing with the obvious discrepancies between, this simplified presentation, and the actual complexity between the church and the history of human rights. Thirdly, by marking the church only as being in opposition to human rights, one misses the opportunity to form an understanding of how religion has been, is and could be a foundation for the constant discussion of what constitutes the human and which rights he or she and their communities should hold. The simplified understanding of the relation between Christianity and human rights will probably make it harder to relate to other religious traditions and their relations to human rights.

In the future, we have to consider how to write and teach the history of human rights. A more diverse teaching and writing of the history of human rights will in the long run make human rights stronger. We should not deliver the impression that human rights are a set of constant values tightly connected to Enlightenment. Instead, the eventual agreement on human rights has to be negotiated from time to time and place to place and that is a rather complicated matter. Why should we lie about that?

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Chapter 8
Religion in School – A Judicial Perspective

Victoria Enkvist

This chapter analyses how freedom of religion is interpreted and applied in Swedish schools. Human rights applies to both adults and children, but Swedish courts and the European Court of Human Rights have established that the school environment is "a special environment" when it comes to human rights. This approach has resulted in a lacuna regarding the meaning of pupils´ human rights in school. The chapter concludes that the examples discussed here illustrate that the Swedish Education Act may be in conflict with the human rights chapter in the Instruction of Government.

8.1 Introduction

There are many ways to approach questions about law and religion. The approach taken in this article reflects one way. The point of departure in this text is freedom of religion, a human right that sometimes is described as a fundamental right in a democratic society (Kokkiniakis v. Greece, application 14307/88, court). Though the actual meaning of this statement is not entirely clear from the legal point of view, it is obvious that religion and questions concerning law and religion and the relation between them sometimes gives rise to conflicts. Consequently, this relation is important to discuss in religious as well as secular societies. One important but complex question is how to define religion in different situations. Is a definition from a judicial perspective needed?

Both the concept of religion and law can be understood in several ways. In this chapter, the meaning of religion will be discussed and problematised, but no suggestions will be made for alternative definitions. Norms can here be understood as

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rules and regulations, which are decided by the institutions that are mentioned in chapter 8 in the Instrument of Government (IoG) and law as a norm that is decided by Parliament.

The interaction between law and religion can be illustrated by a variety of everyday situations in society. Sometimes, regulations in laws can come into conflict with religious norms and guidelines, which can cause different kinds of problems, both legally and practically. Non-medically motivated circumcision of boys and different preferences concerning food and clothes are some practices that become ensnared in a conflict between law and religion.

Human rights are both in practise and in theory constructed and applicable for all human beings (sometimes restricted for certain geographical areas). In practise, human rights often serve as a protection for minorities, and must, therefore, be understood in that context. Expressions and manifestations of the majority culture seldom need protection because the legislation in democratic societies is often an expression of the majority culture, according to the principle of majority. One question is if certain groups of minorities are more protected than other groups and if so, on what grounds? Are human rights always understood in a certain way? We will see that this is not always the case and maybe especially regarding pupil's rights in school.

The subject of the present chapter is freedom of religion for pupils in the *Swedish* context. The point of departure is the IoG, but I will also address caselaw from the European Court of Human Rights (ECHtR) regarding the European Convention on Human Rights (ECHR).

The purpose of this chapter is to highlight one of the ways in which 'religion' is dealt with and understood in Swedish legislation that affect schools, especially the Education Act (2010: 800) and IoG. Now, there are several areas in Swedish law that also concern schools and pupils in schools, where 'religion' is engaged with, for example, the Act on Discrimination (2008: 567) and the Act concerning hate speech (1962: 700). However, in this chapter the focus is the IoG, the Education Act (2010: 800) and the ECHR.

8.2   Religion in Law, Law in Religion

Religious beliefs and practises play an important role in the shaping of an identity for the religious adherent. Both historically and in modern times, religion and freedom of religion, have been given a special place in constitutional law in Sweden, in comparison to other beliefs. In the IoG from 1809, freedom of religion was one of the very few rights stipulated in the constitution itself. In the IoG from 1974, freedom of religion was the only right in Article 2:1 of IoG that could not be restricted. The practical consequences of this construction will be addressed later in this chapter.

In a legal context – first and foremost in a human rights context – religion is considered to be more worthwhile to protect than other convictions. This can partly

be explained by looking into our history. The ECHR was created in the 1950s as a result of the Second World War because the European states wanted to make sure that the persecution of Jews should never be repeated again (Collected of the Travaux Preparatoires Vol 1 p. 168).

Given the statements in the preparatory works concerning the human rights chapter in the IoG, one can assume that religion has been considered to be more profound than other beliefs (SOU 1975: 76). However, the reasons for the special treatment of freedom of religion in the human rights chapter in the constitution can be discussed. It can, for example, be questioned if there is a factual and meaningful difference between secular beliefs and religious interests.

In the European Convention of Human Rights, freedom of religion is protected in Article 9. The article states that:

1. 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 worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

The first paragraph in Article 9 is absolute, meaning that when it comes to the right to hold a religious conviction it cannot be subjected to any restrictions (Kokkiniakis v. Greece, application 14307/88,court. See also Evans 2001, p. 40).

The second section can be restricted, given certain circumstances that are stated in the second paragraph. Notice that Article 9 is a right for everyone, without exceptions. This indicates that pupils in schools are also protected by the protection of freedom of religion in the Convention. ECtHRs decision in *Vejdeland v. Sweden* also gives support to this conclusion. That decision addressed a request for an asserted right of persons not enrolled or employed by a school to place leaflets with religious contents in student lockers, after convictions of such persons for agitation against a group had been upheld by the Supreme Court of Sweden. The ECtHR took into consideration that the leaflets were left in the lockers of young people who were at an impressionable and sensitive age, with no possibility to decline or to accept them. Moreover, the court concluded that distribution of the leaflets took place at a school which none of the applicants attended and to which they did not *have free access* because the school is not a public space (Case of Vejdeland and others v. Sweden, 1813/07, 2012).

In the court proceedings in Sweden, the Supreme Court also found that statements in the leaflets had been unnecessarily offensive. It also emphasised that the applicants had left the leaflets in or on the pupils' lockers, thereby imposing them on the pupils (NJA 2006, p. 467).

In the Swedish constitution, Section 2:1 p 6 of the IoG, we can find a similar regulation to Article 9 of the ECHR. Freedom of religion in the IoG is formulated as follows: "Everyone shall be guaranteed the following rights and freedoms in his or

her relations with the public institutions: freedom of worship: that is, the freedom to practise one's religion alone or in the company of others".

In this regulation, it is also stated, that "everyone" has a right to the freedoms in the second chapter in the IoG. Freedom of religion in the IoG is an absolute right, which means that it cannot be limited. It is quite unclear what is protected by Section 2:1 p 6 of the IoG, partly because there is no definition of the word religion and the word manifestation can be interpreted in several ways. The preparatory works lack information about these questions.

The relation between the articles in the IoG and the corresponding article in the ECHR is quite unclear. In Sweden, the IoG is of higher judicial value than the Convention because it is one of four constitutional laws. The status for the convention was changed in 1995, when the Convention became Swedish law and Article 2:19 in the IoG came into force. Section 2:19 in the IoG states that no law that is in conflict with the ECHR can be admitted by the Swedish parliament. According to Section 2:19 in the IoG, Sweden is obliged to draft a legislation that is in compliance with the Convention. One question that will be discussed in this chapter is if the Education Act from 2010 is compatible with both the Instrument of government and the ECHR.

8.3 The Relation Between the Constitution and the Convention

Much can be said about the relation between the regulation in the IoG and Article 9 of the ECHR. Besides the fact that the IoG is of higher judicial value than the Convention and because of the wide margin of appreciation that surrounds Article 9 in ECHR, the regulation in the IoG remains of great importance when discussing freedom of religion in Sweden. A few words need to be said about the margin of appreciation. The ECtHR has tended to give the states, in cases concerning Article 9, a wide margin of appreciation.[1] In *Wingrove v. the United Kingdom*, the Court held that the states were in the best position to determine what restrictions could be made. And yet, even though the states are given a wide margin of appreciation in the cases that originate from Article 9, the states do not have the final authority to determine when restrictions can be made in freedom of religion (Evans 20, p. 143). The Court has the final say.

A judge at the ECHtR, Judge Letsas, drew a distinction between two different ways the ECHtR has used the margin of appreciation doctrine. He calls the first way the substantive concept of the doctrine, meaning that it addresses the relationship between the freedoms and the collective goals. The second way, he calls the structural perspective, which is to address the limits of intensity of the review by the European Court of Human Rights (Letsas 2007, p. 80 and 84 ff). Much more can

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[1] Otto Preminger v Austria, and Wingrove v the UK.

and has been said about the margin of appreciation, but for now we can proceed with the understanding that the doctrine of margin of appreciation plays an important role concerning the meaning and implementation of freedom of religion.

Given the fact that the regulation in the IoG is open for quite wide interpretations, and the fact that one of the most important methods when it comes to the rights in the Convention and their impact in Sweden is the fact that Swedish law must be interpreted in light of the case law from the ECHtR; the two regulations are closely intertwined with each other. In the case of freedom of religion, this system can be described as a catch-22 situation. The European Convention is Swedish Law since 1995[2], which means that Sweden as a country is bound by the caselaw from ECHtR.

In the IoG freedom of religion is, as mentioned, constructed as an absolute right, which means that it is not possible to limit the right. This construction makes it important to define "what religion is" because if an act falls within the protected area of the right in the instrument of government, it has full protection in the constitution. Freedom of religion in the ECHR is, on the other hand, constructed as a relative right, which means that it can be limited. Nevertheless, Sweden as a state is bound by both of these regulations. In Section 2:19 of the IoG, it is stated that Sweden is obliged to make legislation that complies with the ECHR. This regulation gives the Convention a strong position in the legal hierarchy.

The European Court of Human Rights has produced case law addressing the same question under Article 9, but its caselaw is also limited by the so-called margin of appreciation, which makes it difficult to apply, as a rule, to countries other than those from which the cases originated.

In sum, to be able to discuss freedom of religion in schools in Sweden, it is important to understand the legal constructions of freedom of religion, which differs between the two legal sources in hand (the IoG and the ECHR). The two regulations are similar in some ways, but they differ in one profound way, and it concerns the ways to restrict the right. The right in the ECHR can be described as a relative right, meaning that it can be restricted if the requirements in the second paragraph are fulfilled. The regulation in the instruction of government is an absolute right, which means that freedom of religion according to the IoG cannot be restricted.

8.4   Freedom of Expression or Freedom of Religion – Two Rights Closely Linked to One Another

Freedom of religion and freedom of expression are two rights that are closely linked to each other. Partly because both of the rights are stipulated in Section 2:1 of the IoG and partly because some of the religious manifestations fall under the

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[2] See Lag (1994: 1219) om den europeiska konventionen angående skydd för de mänskliga rättigheterna och de grundläggande friheterna. See Law (1994: 1219) about the European Convention regarding protection of the human rights and the basic freedoms.

protection of freedom of expression. In the preparatory works for the second chapter, it is stated that for those religiously motivated acts that can be seen as "flows" from other rights, the conditions for limiting that other right will be actualised. What are the consequences of this construction?
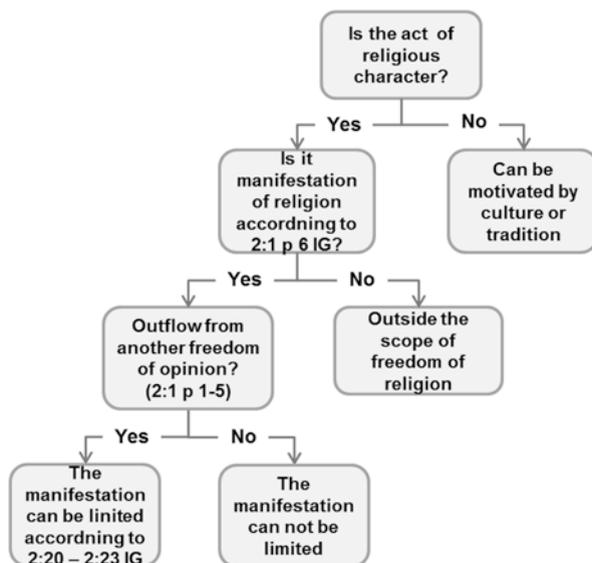
Clarification process structure

The first question that has to be asked is if the act in question is of religious character. Depending on the answer to that question, you follow the flow in the figure and try to answer the specific questions. This means that the core of freedom of religion, e.g. "to have a faith", has strong protection, but the manifestations of religion are not protected in the same way if the manifestations can be seen as flows from the other freedom of opinions, for example, freedom of expression and freedom of assembly (opinionsfriheterna).

To decide if the manifestation falls within the protected area of freedom of religion, it is crucial to decide if a manifestation is religiously motivated (see picture above). But who will decide this and on what grounds? The Legislator? The Courts? And if an act is identified as religiously motivated, the second step is to judge if the manifestation in hand can be seen as flowing from the other freedom of opinions in Article 2:1 in the instrument of government. If it is such an "outflow" – the manifestation can be restricted, but if not – the manifestation cannot be restricted.

The construction of the article in the IoG is technical, but the practical consequences of the construction are severe, a fact that will be illustrated in part II of this chapter. But first, a few words must be said about human rights in the school context.

8.5   Human Rights in the School Context

As we have seen, freedom of religion is a right that is complicated in general. It becomes even more complex when it concerns the application and interpretation of human rights in schools in Sweden, partly because of the fact that the school is considered to be a special environment from a judicial perspective. What does this mean, and what is the motive for giving the school environment a special status in a legal context?

The idea that the school is considered as a special environment is probably based on several different perspectives. One such factor is that the school environment is not a public space such as, for example, a state agency (Vejdeland and others v Sweden, application 1813/07, 9th 2012, court and NJA 2006, p. 467). Another important factor, probably a decisive one, is that in Sweden, the pupils have a duty to attend school. This is stated in Section 2:18 of IoG. The right that is given in Section 2:18 of IoG has a weak protection because the definition of the right can be found in the Education Act (Bernitz).

To be clear, from a legal perspective, there exists a right to education as well as a duty to attend school. In which way does this affect the definition and understanding of rights in school?

In the preparatory work concerning the IoG from 2010, it is stated that the rights are formulated in a way that it is clear that they are applicable to everyone, with no limitations with regard to age. With the exemption from the duty to attend school and the right to citizenship, children and grown-ups are equal from a human rights perspective (Prop 2009/10:165, p. 187).

No case law from Swedish courts regarding pupils' freedom of religion in school is yet to be found, but decisions from the courts and Justitieombudsmannen (JO) have addressed both freedom of expression and the right to information as well as protection against bodily interference in the school. The case law gives no clear indication on how to interpret human rights in schools. In some JO – cases, the special environment seems to make the rights of the pupils in schools stronger and in some cases weaker.[3]

8.6   A Practical Example – The Wearing of Full Veil in School

Sometimes regulations in law come into conflict with religious norms and guidelines, which can cause different kinds of problems, both legally and practically. One question that concerns freedom of religion in schools is the possibility for pupils to

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[3] NJA 2009, p. 776 and NJA 1988, p. 586. JO 1988/1999 p. 352 and JO 2004/2005, p. 340 f. compare with JO 1978/1979, p. 396. JO was of the opinion that it was correct to open a pupil´s locker with reference to public safety and order. For an in depth analysis of the school as a different environment, see Lerwall L, Skolan och världen utanför – same, same but different. pp. 199–231.

wear a full-face veil at school. This question has been subject of discussions all over Europe (Borevi et al. 2016).

This part of the discussion in this text revolves around the possibility for pupils to wear full-faced veils in school. The point of departure for the discussion in this part of the text is the legal (and political) documents/guidelines that were produced by the National Agency for Education (hereby called SNAE) between the years 2003–2012. The Agency modulated its posture regarding the "possibility" to restrict the wearing of full-faced veils in schools during this time. The first text from 2003 originated from a situation where two pupils showed up at school dressed in full-faced veils. The headmaster turned to the Swedish National Agency of Education for legal guidance. SNAE stated that the school could prohibit the wearing of full-faced veils, if it disturbed the order or had influence on the security or if it was necessary to fulfil the schools pedagogical task (SNAE 2003. See also Borevi et al. 2016). According to SNAE, the case actualised both the positive and negative freedom of religion, meaning that the girls' right to manifest their religion had to be taken into consideration but also the other pupils' right not to be subjected to religious manifestations (SNAE document Dnr 58-2003: 2567, p. 2). In this case, SNAE regarded the negative freedom of religion to be higher than the positive right.

The second document of interest is from the year 2006. In this document, SNAE criticised a school called "Minervaskolan" because the school had forbidden a pupil to wear a veil. In that decision, SNAE found that the school had failed its responsibility to be open to all (SNAE decision Dnr 52-2006: 689, p. 1).

The third document of interest is a judicial guidance from SNAE issued in 2012, where the agency gave its opinion on the wearing of full-faced veils in schools. This guidance is the most detailed document from SNAE regarding this question. In this document, SNAE raises the question regarding freedom of religion according to ECHR and the Swedish constitution (SNAE guidelines 2012). Unfortunately, it does not discuss all the questions that need to be discussed (Enkvist 2013). SNAE discussed the relative freedom of religion in the ECHR but not the absolute right in the constitution and the possible implications of this construction. For example, the borderline between freedom of religion and freedom of expression is not discussed at all. As I have shown earlier, this is a demarcation that has to be done.[4]

Another question that also should have been discussed in the guidelines is if the Education Act allows for limitations of human rights when done so with the Education Act as a legal base. The preparatory works for the Education Act is quite clear regarding this question. In the preparatory works, it is stated that the Education Act cannot be seen as a ground for limitations of this sort (Prop 29/10:165). The only kind of restrictions for freedom of expression that can be allowed according to the Education Act are those that are done in particular cases to keep order in schools.

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[4] See the illustration on p. 6.

8.7   Conclusion

One of the questions of interest in this text is if the Education Act from 2010 can be seen as a legitimate ground for limitations of freedom of religion and freedom of expression. In the preparatory works (prop. 2009/10:165) to the Education Act (2010:800), there are no explicit discussions concerning this question, and the lacuna suggests that the Education Act cannot be seen as a ground for limitations of the rights and freedoms in the second chapter in the IoG. If the religious act falls within the protection of freedom of religion according to the IoG, it cannot be limited at all, but if it falls within the protection of freedom of expression it can be limited according to the rules in Section 2:20–23 of the IoG. According to the figure above, the wearing of full-faced veils can be seen as an expression and is therefore protected by the freedom of expression, which can be limited by law.

It can, as we have seen, be questioned if the Education Act fulfils the requirements that are given in Section 2:20–23. What legal boundaries exist concerning the clothes that pupils wear in school? This question cannot be answered easily, but when clothes express a message of some kind it can be protected by the freedom of expression (Bull and Heiborn 1996, p. 328 and Persson 2009, p. 59). To be granted constitutional protection, it depends on if and how the full-faced veils can be viewed as expression.

What about the ECHR? According to Section 2:19 of the IoG, new legislation in Sweden has to be in compliance with the ECHR. There are a number of cases that have been tried before the ECHtR concerning the wearing of full-faced veils in public spaces. The main question in these cases is, however, if the prohibitions of wearing headscarves are legitimate according to Article 9 of the ECHR. Most of the cases concern people that are working in public spaces such as universities or schools, not pupils. Dogru v France is, however, about a girl in a school in France that was wearing a headscarf in school. The school restricted her right to wear the headscarf with regard to health and safety regulations. Dogru complained that her right to freedom of religion was restricted. The court opined that due to the margin of appreciation, it must be left to the member states with regard to the establishment of the relations between the churches and the state. Even though the wearing of headscarfs can be recognised as falling within the protected area of freedom of religion according to Article 9 of the ECHR, the restriction of the right that was executed in order to fulfil the requirements of secularism appeared legitimate in light of the values underpinning the Convention.

First, it can be said that there is a gulf between reality and ideal when it comes to the line of thought concerning human rights, in general, but especially when it comes to human rights in the school environment. From a theoretical point of view, it seems as if children have strong rights or at least the same level of rights as adults. The truth is that reality isn´t that clear-cut.

It is difficult to realise pupils' rights in school, especially when it comes to freedom of religion and freedom of expression. These are rights that are difficult to define. In the case with the veil, it is important to discuss both freedom of religion

and freedom of expression because of the differences in the requirements on how to limit the rights in hand. The documents from SNAE lack a discussion concerning these questions, which is a problem. SNAE is a state agency that gives recommendations to the schools in Sweden on how to act in certain situations.

Another important observation concerning the SNAE documents is that even though the idea that freedom of religion is fundamental in a democracy is pointed out in various human rights catalogues, religious manifestations are described as a problem in the documents from SNAE. In my opinion, the main problem with SNAEs documents is that they, in different ways, express a cultural bias concerning the full-face veil.

From a strictly judicial perspective, it is possible, with regard to the arguments that have been stated above, to question the Education Act according to Section 11:14 of the IoG, which is a form of *judicial review (constitutional review)*.

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Chapter 9
How Young Muslims and Christians Structure Human Rights: An Empirical Study in Germany

Hans-Georg Ziebertz

Human rights are understood as universal; in other words, they are regarded as valid throughout the world; as such, they should not be abbreviated nor subject to any particular cultural tradition. Given this objective, in 1948, the United Nations (UN) approved the Universal Declaration of Human Rights, followed by the legally binding documents, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both of these documents were signed in 1966). The vast majority of states have ratified these documents, although several associations have deemed it necessary either for ideological (e.g. Islam: Cairo Declaration on Human Rights in Islam 1990) or geographical reasons (e.g. African Convention of Human Rights 1981; Asian Declaration of Human Rights 1993) to enact their own documents (which refer to the United Nations Declaration). Since 1948 and 1966, the UN has published additional declarations and amendments and has thus considerably broadened the contextual range of its laws. This process (i.e. of amendments) also shows the need for the interpretation of rights and the need for the extension of these rights. Interpretation, by its very nature, includes evaluation; this means that some rights are given more and others less importance. This paper focusses at what happens on the individual level and assumes that what happens at the political level reflects reality at an individual level. Human rights are interpreted and reviewed by individuals. People will see "family resemblances" between some rights, while others will remain as separate rights. This situation is problematic for human rights education when it comes to justifying and defending the idea that all human rights are to be understood as egalitarian and indivisible.

In this paper, the problem will first be outlined theoretically; this is followed by an empirical analysis of how young people structure human rights, and the paper will end with a discussion of the findings.

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9.1 Disputes About the Modern Shape of Human Rights

9.1.1 Extending Rights

Significant European roots underlying the contemporary concept of human rights can be detected at the beginning of the modern era, especially those concepts concerning the protection of groups or institutions from those in power. Examples here are the *English Bill of Rights* (1689), which granted parliament certain rights that weakened the powers of the monarch. During the French Revolution, the Declaration of the Rights of Man and Citizen (Déclaration des Droits de l'Homme et du Citoyen) (1789) was proclaimed. This Declaration had a significant influence on both the European and western understanding of liberty. After centuries of feudalism and absolutism in Europe, the foundation for an extensive legal protection – including religious freedom and freedom of opinion – was established. Experiences during Nazism and Stalinism obviously constituted a breach in the development of human rights. The atrocities perpetrated by these regimes against individuals and various population groups made it obvious that a vital issue had not been considered: the possibility that a state would mistreat and oppress its own citizens. Experience proved that the phrasing of human rights could be very imprecise and the interpretation subject to the whim of the state; in short, the state could define what human rights actually meant and how they were to be applied. The UN *Universal Declaration of Human Rights* 1948 (UDHR) can therefore be regarded as a response to the atrocities of World War II, especially the atrocity of the Holocaust. The Declaration now states that human rights are seen as individual rights within international law; thus, they are outside the sovereignty of a state. Human rights no longer address the state *per se,* but individuals. Individuals can now enforce their rights and, if necessary, even sue a state – even their home country. This reform marks a significant change in the interpretation of international law, and particularly human rights (cf. Schmahl 2015; Haas 2008).

In modern understanding, human rights are based on three principles. First of all, human rights are not just humanitarian appeals, but incorporated in political-legal institutions and therefore implicate methods for their realization. Secondly, inherent to the declaration of human rights is the claim of their universal validity. Thirdly, human rights are grounded on the inherent dignity of the human person, which is inextricably linked with the concepts of liberty and equality. The dignity of the human person has to be respected and protected by the state and the function of the state is determined by the dignity of the individual. Furthermore, human rights are equal rights, notwithstanding any special characteristics such as ethnicity, religion or gender (Bielefeldt 2009).

The 1948 *Universal Declaration of Human Rights* has led to several consecutive documents being passed by the UN. These legally binding documents cover three judicial sectors: first, negative freedoms, i.e. the right of the individual person to defend him- or herself against any acts of violence by a state. Second, positive participation rights, which ensure that individuals have the right to join any political

and/or social party. Third, there is a group of social participation rights that grant equal living conditions as a human right (Lohmann 2008, 53). Schmahl (2015) argues that there is no given order of precedence of human rights regarding their dimensions and functions. Every single right had to be fought for, thus they are all a victory over state oppression and a victory of freedom. The UN Conference in Vienna confirmed, in 1993, the indivisibility of human rights. The former Federal Government Commissioner for Human Rights Matters in Germany, Günter Nooke (2008), has reasons to rate the sectors differently and to question the expansion of the canon. The difficulty of the coverage of human rights is expressed in the different judicial sectors: there are civil and political rights as well as social, economic and cultural rights. According to Nooke, the first problem caused by the expansion of the canon results from the redefinition of the original idea: the UDHR was a reaction to the experience of the gross injustices perpetrated in World War II, and led to the promulgation of the protective rights of the individual. However, these rights were later expanded to include rights for individual fulfilment. Nooke now fears that the whole concept of human rights has been exploited to include everything desirable and worthwhile, thereby threatening their foremost function, which is to protect life; any further claims should be regarded as secondary. The protection of life must apply to all people; the precise form, though, can differ according to cultural circumstances. The second problem Nooke perceives lies in the character of the collective rights. While human rights were originally devised as individual rights, the third generation now consists of collective and solidarity rights. He does not question their value, but instead asks whether these rights are on par with the original ones or whether they are only used to further specific political goals. Nooke doubts that they can be characterized as *human rights* and states that special rights for particular groups only result in a debate about the universal idea of human rights. Individual rights must not depend on collective rights (rights for special groups), but *vice versa*. When collective rights are promoted, the whole issue of cultural relativity comes into question (c.f. Nooke 2008, 35–40; also Di Fabio 2008, 73–75).

These views imply that the first group constitutes fundamental basic rights; these rights consist of the protection of individual rights against intrusions of the state, guarantee every citizen political freedom, equality, the right to life and protection against assaults on life (i.e. torture). These rights were defined in more detail and expanded when the United Nations General Assembly adopted two additional treaties in December 1966. While the *International Covenant on Civil and Political Rights* (ICCPR) mainly defines the rights of the UDHR, new rights are introduced by the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). These documents thus challenged the state to ensure positive rights of freedom, such as the right to work and the right to social security (including social insurance). In the 1960s, at the time of the independence efforts of the various European colonies, specific human rights were sought, not just of individuals but of particular groups also (i.e. the right of peoples to self-determination). These demands indicated that the concept of human rights had undergone an alteration in meaning. During the second half of the twentieth century, this group of rights was further

expanded by the right to development, the right to peace and the right to a clean environment.

Even though the expansion of the content is a positive signal, because it gives an answer to human needs in an increasingly complex world, certain problems have arisen. Rights regarding economic, social and cultural protection are part of the *Declaration on the Right to Development*, which was presented to the plenary assembly of the United Nations in 1966.

The canon consists of eight articles regarding an adequate standard of living and material warranties of the state towards its citizens. The declaration insists, however, that the state is responsible for the realisation of these rights, because these rights cannot, by their very nature, be enforced. Nooke points out that it is difficult to enforce a right when the essential resources to do so are missing; intention alone is not sufficient when action is, in practice, impossible (Nooke 2008, 18). The most recent group of rights covers questions of peace, safety, development and the environment. These rights are also summarised as solidarity rights. They are, however, somewhat unspecific and their legal function is doubtful. It is not certain, for example, who can claim these rights and who has the duty of ensuring them (Schmahl 2015). According to the UN, these rights are not consecutive rights, but are considered as parallel rights.

9.1.2   Universal Validity and Cultural/Contextual Interpretations

The claim of human rights and their amendments of universal validity is – in the first place – a normative proclamation of an international institution. Their validity also depends on the degree of commitment from the various nation states. Their actual realisation is a matter of practical policy and reveals whether that claim is still regarded as an ideal concept or as reality. Practical application in terms of social and international life demonstrates to what extent states strive to acknowledge human rights. A state should be ready and willing to not just question, but also to adjust its policy if the community of nations concludes that specific human rights are not observed in that state.

Legally, universal validity means that use of those rights and their granting are not subject to matters of race, sex, religion, language or nationality (cf. Bielefeldt 1999). In reality, universality is demonstrated by the way the rights are translated into public policy by the various states and the community of states. The simple act of approval is already policy; such approval is the result of a logical process of communication and discussion about the right balance between freedom and security, individualism and communitarism, traditional and liberal ethics (Schmahl 2015). In analysing the process of recognition, one has to remember that, in 1948, only 56 states were members of the UN and of these states only 48 actually signed the declaration. African and Asian states were underrepresented. Since 1948, the number of

members has increased to 190 states, all of which claim to have accepted the notion of human rights. The UN consistently refers to human rights in its various documents, another proof of their universal recognition, and even international court rulings now apply these rights to their judgements. The decision of the UN on the *International Covenants on Human Rights* (in 1966) was signed by 106 states, a fact one can interpret as a gradual process of human rights becoming universally accepted (Schmahl 2015).

There is, however, another side to all this: at the UN World Conference on Human Rights in Vienna in 1993, the participating states confirmed the universality of human rights but conceded, at the same time, that historical, regional, cultural and religious distinctions have to be considered, whatever that implies. Even today, there are still states, mainly in the Islamic world and in Asia, that do not accept human rights on the whole but exclude certain concepts when it comes to their legal practice. This results in different understandings and practices, depending on the region in question, and is particularly true of women's rights. The more selectively the whole concept of human rights is applied, the more the universal character of these rights is questioned. There exists no power above any national state to force a state to accept the concept of human rights in its entirety. Schmahl (2015) argues that any attempts to do so would only result in a termination of the whole treaty.

Given this situation, human rights are sometimes regarded as a minimum consensus by the world community. Within the canon, certain rights are deemed as essential, rights that directly influence human dignity, such as the prohibition of torture and slavery and racial discrimination.

The canon of the values representing all humans and their social interaction as expressed in the notion of human rights is still subject to criticism. If all the common and universal characteristics expressed by the notion of human rights are considered as western and then this is regarded as normative – then the concept becomes highly negotiable. What about the many other, non-western, cultures? An agreement has to be reached within the world community between regional cultures to settle those questions that deal with human life itself. As soon as specific cultural characteristics with normative relevance are involved, only very particular and specific interests are emphasised; the common interest of all nations becomes secondary. Even though there is still no common ground, a comprehensive commitment as a designated target for all nations is regarded as desirable. The preamble of the UDHR therefore uses the term "ideal" and if this ideal is aspired and signed by all nations, the criticism that strange and foreign principles are being imposed on a nation state are void.

When cultural reasons come to the fore, one has to ask what interests are behind them. Culturalism is particularism and the "culture" argument is often used to cover up any political deviances (Schmahl 2015). Nooke believes that it is evident that human rights are a matter of power politics; any criticism would therefore be rather pointless. He deems it more important to ascertain whether the priority of individual rights is agreed on by every state (Nooke 2008, 25).

9.1.3 Religion and Human Rights

Theological doctrines, norms and values influence most societies' cultures. Every religion has a more or less rigid concept of the exclusive validity of its doctrine, and religious claims are usually universal. The truth a religion claims to represent not only influences its own members, but involves the whole world. This remark obviously applies to Christianity and Islam, the two religions we will concentrate on in this paper. Both religions claim the same form of validity for their beliefs as do human rights. Indeed, perhaps this is the cause of the competitive relationship between religious beliefs and human rights (Gearon 2002).

Human rights in their modern face are independent of any religious revelations or legitimisations and arise out of a certain understanding, an understanding that has its roots in the European Enlightenment of the eighteenth century. Even though an analysis of the relationship between the religions (Christianity and Islam) and human rights reveals both restrictions and single-minded interpretations (Runzo et.al. 2003) i.e. by describing human rights as a fruit of religion.

It is quite often suggested that Christianity contains basic ideas that lead to the development of the notion of human rights (cf. Hilpert 1991). For example, the claim that the Jewish-Christian tradition (Old Testament: Genesis 1,26f) implies a respect for the dignity of man that cannot be topped theologically: man is made in God's image, after His likeness. Paul pursues this concept in the New Testament (Galations 3,28) when he writes: "There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for you are all one in Christ Jesus." Notwithstanding this, up until the middle of the twentieth century, churches were sceptical about human rights or even rejected them: Pope Pius IX announced, in the *Syllabus Errorum* (1864) in the aftermath of the French Revolution, that freedom of religion and opinion was incompatible with the doctrine of the Catholic Church. During the whole time of the period of Ultramontanism in the Catholic Church, between 1850–1950, the Catholic Church opposed both civil liberties and equal rights including, of course, freedom of religion (cf. Hilpert 1991, 138ff). Indeed, it was only in 1963, in *Pacem in Terris,* that Pope John XXIII became the first pope to declare the UDHR as a particularly significant act. Shortly afterwards, in 1965, Vatican II finally accepted the concept of human rights together with the freedom of religion in the decree *Dignitas Humanae.*

The concept of human rights was not just rejected by the Catholic Church: several German Protestants disapproved of the notion, mainly because of the optimistic Enlightenment view of man, a view that opposed the Protestant view of justification by belief alone (cf. EKD 1979, 13).

Islam can also contribute to the basic notions supporting the concept of human rights; the Qur'an (Qur'an 2,256) itself makes specific mention of the dignity of the person, and states that the use of force in religion should be prohibited. The preamble of the *Universal Islamic Declaration of Human Rights,* published in 1981 in Paris, states that 1400 years ago Islam had already established comprehensive and profound human rights by law. In other words, human rights and Islam are perceived

as being two sides of the same coin. The *Cairo Declaration on Human Rights* in Islam (1990) also gives an insightful statement: Various representatives of Islamic states declare that human rights are considered as a function of Islamic judicial principles and therefore subject to the Shari'ah, as stated in the articles 24 and 25: "All rights and freedoms stipulated in this declaration are subject to the Islamic Shari'ah. The Islamic Shari'ah is the only true source of reference for the explanation or clarification to any of the articles of this declaration." Thus the Islamic Shari'ah has the final say – not a common understanding, based on consensus. However, the fundamental question here remains unanswered, namely, what school of Islamic law should prevail? There are significant differences between those that are fundamentalist in approach and those Islamic schools that are more pragmatic in orientation (c.f. Bielefeldt 2009).

For some time now, from an Islamic point of view, human rights have been regarded as the "house rules" of Europe or the western world. During the Islamic Revolution in Iran, the revolutionary leader Ayatollah Khomeini criticized individual freedom rights and, in fact, condemned them as the work, by the West, of a devil, and one that was intent on harming Islam (c.f. Amirpur 2003, 165f). Said Abul Ala Mawdudi has a more moderate view: he comments positively on human rights, but maintains that they are an achievement of Islam and demands a special Islamic conception of human rights based on the Qur'an and the Sunna (c.f. Bielefeldt 2003, 133). It also needs to be said that some Islamic states regard human rights as not their responsibility, even though they have signed human rights declarations for reasons of political power.

This leads to several problems regarding the contextual interpretation of human rights as perceived by Islam (c.f. Bielefeldt 2003). For instance: What about the right of physical integrity when the Shari'ah commands severe corporal punishment for certain crimes? How can gender equality be interpreted when the Shari'ah does not acknowledge any equality? How can freedom of opinion and religion be realized when the Shari'ah prioritizes Islam? These are not rhetorical questions; they have a definite effect on politics in practice. Several Islamic states were extremely reserved at the ratification of the *International Convention on the Elimination of All Forms of Discrimination against Women* (in 1979) (c.f. Mayer 2003, 101–122). Article 10 of the *Cairo Declaration* states that it is prohibited to convert to another religion or to atheism. While everyone is welcome to convert to Islam, leaving the faith is an indictable offence that may result in the death penalty itself (c.f. Khoury 1993, 438–441). Bielefeldt therefore regards the *Cairo Declaration* as a political document that is not on a par with the universal human rights standards set by the UN (Bielefeldt 2003).

This critical summary should not ignore the fact that Islam has many faces. The two options for an understanding of human rights, as secular or as deductions of the Shari'ah, are worlds apart (vgl. Bielefeldt 2003). In some Islamic states, punishments asked for by the Shari'ah are annulled by secular laws; and there are several schools of Islamic law that have already developed alternative paradigms for interpreting Islamic law (An Na'im 2003, 31–49). In this, Islam is not unlike a Christian understanding of the divine revelation; the deistic origin of the Shari'ah is

distinguished from judicial casuistry that is perceived as a historical and social product and is therefore subject to criticism.

There are, without question, a large number of religious concepts that are related to human rights, but there are also many antagonisms. History is not made up of sudden bursts of new eras characterised by eruptions of new philosophies. These philosophies have a history of their own. However, an analysis of developing ideas through time is not, by itself, an adequate explanation of human rights; in other words, the concept of human rights is not simply the result of a reconstructable history of ideas. The decisive point for the modern understanding of human rights is an awareness of the need to reduce the injustice that has caused social and political conflicts, and the need to introduce legal certainty for all people, simply because they are human. We need to keep all this in mind when we discuss the social and political struggle of realizing human rights in public policy.

9.2   The Empirical Study

9.2.1   Context of Research

The outlined discourse about the form, content and range of human rights emphasises that they are still an unfinished project, just as Fritsche (2009, 96) rightly points out. Problems remain, especially regarding their contextual extension. Can such an extension be seen as an improvement, or does it lead to a dilution of the original rights (rights of defence and protection), intended as a response to the experience of inhumanity? Or should all human rights be treated as equal to prevent a classification into first- and second-class rights? Another problem affects the expansion of human rights regarding social groups and societies. Is this an advantage since it corresponds to the proceeding differentiation of the world community? Or does it present a problem, since the main issue of human rights – to protect the individual from discrimination – might then disappear from focus? Finally, the interpretation from a regional and religious point of view is discussed. On the one hand, it is natural that all societies and social groups will ponder on how to interpret and realize those rights, on the other hand there is the risk that human rights will become corrupted because any interpretation is subject to certain interests. These interests may be political, ideological or religious, but they all involve a normativity that – explicitly or implicitly – will then determine the meaning of human rights.

The discussion shows that there are controversial opinions, politically as well as academically, regarding the canon and the claim of validity. The empirical question today is: what is the attitude of young people towards human rights in Germany? Most adolescents will have heard of human rights, but only a few probably know what they imply and intend. Perhaps the majority of the questioned youth will see almost the whole list of human rights for the first time when they read through the questionnaire. We assume that most of them have not yet dealt with human rights

intellectually, i.e. their answers should be spontaneous and not according to any textbook. The purpose of the empirical research that forms the basis of this paper is to ascertain how the youth in Germany structure different human rights, how they range them in groups according to their content, and how this arrangement can be interpreted in the light of the preceding discussion. Then we ask whether their religious roots (Christian or Muslim) result in different conclusions, thus touching the topic of cultural contextuality discussed above. Finally, it will be researched whether German youth approve of all groups of human rights to the same extent or whether they grade them differently, and if so, to what extent.

9.2.2   Research Questions and Assumptions

Respondents received a questionnaire with 30 statements about human rights – among other items. The overall research question is: *What kind of structure can be detected when the answers to the 30 statements regarding human rights are analysed?* The beginning of this paper discussed the claim that all human rights are equal and universal, indivisible and interdependent. They are complementary and as a unity express the modern understanding of humanity and predictability of social and societal relations. This marks an important step for an understanding of human rights for the life of individuals and states in the modern world. However, looking back on the extension of these rights over the last 50 years, the question is if this approach mirrors people's understanding of human rights. Do civil, political and judicial rights form the core group of rights because they represent the early spirit of the development of human rights, meaning that the primary concern is the life of the individual? Because even these rights have a wide ranging content, will young people perceive them as a unity or identify them as belonging to different subgroups? The empirical analysis can show if and how the normative claim of unity is reflected in empirical perception (Van der Ven et al. 2004, 117).

A further research question asks: *What are the differences and/or commonalities between Muslims and Christians according to the structure of human rights?* At the beginning, this paper discussed the relationship between human rights and religious convictions. It was said that there are reservations, for instance, regarding the modern understanding of individual liberty and autonomy and values regarding the right to life. If respondents are religiously socialised, they probably adopt attitudes that are common in their religious group. Cultural reasons for differences may be the result of the fact that Muslims in Germany regard themselves not only as a religious but also as a cultural minority. Identification with religious and cultural commonalities within the minority group is therefore important. This can lead to different views compared with the views of the religious and cultural majority; we can therefore assume that Christians and Muslims will structure human rights differently.

The final question is: *How do Christians and Muslims evaluate their core concepts of human rights?* If Christians and Muslims have concepts in common, it is

possible to compare the agreement or disagreement with rights. If both groups structure groups of rights differently, agreement and disagreement cannot be compared and the analysis will then be undertaken for each group separately.

9.2.3 Instruments, Method and Sample

The quantitative study was undertaken in 2007. The central part of the study consists of a list of 30 items. This research instrument included 18 items dealing with civil rights (question 31 in the questionnaire), six with rights to life (questions 32 and 33), four political (question 34) and two judicial rights (question 35). This organization of the questions mirrors the historical development of human rights. Civil rights and rights to life were the focus of the 1948 declaration, while political and judicial rights were implemented in the 1966 conventions.

In the list of civil rights, several aspects – all to be found in UN publications about human rights – are collected. First, there is the right to life which is elaborated in two directions: when and under which circumstances may the right to life be touched by abortion and euthanasia? Both issues are relevant subjects in current societal public debates. Furthermore, the issue of religion is included, which is subdivided into three groups: separation of state and church, freedom of religion, and freedom of religious speech. The protection of the individual in regard to religion was an issue in any discussion of human rights. The liberation of the individual is further expressed by the freedom of moral speech, freedom of lifestyle and the right to privacy. From a public perspective, freedom of assembly and freedom of press are relevant issues that underpin the modern approach of individuality and liberty.

Political and judicial rights are measured by two items about the protection of refugees and two items about the right to public protest and demonstration. In Germany (as in other European countries) the status of refugees is under discussion. Right-wing parties in particular have brought this debate to the fore.

The answering scheme uses a five-point Likert scale: 1 = strong disagreement, 2 = disagreement, 3 = uncertain, 4 = agreement and 5 = strong agreement.

In addition to the human rights items the questionnaire included socio-demographic variables, items about value orientation and items about religion and worldviews. These variables, however, will not be used in this study (Table 9.1).

The statistical operations were done with SPSS 15. The measurements in this chapter have mainly been based on factor analyses. In a further step, the factors were transferred into scales and reliabilities were inspected. Finally, the mean values were analysed and significant differences determined by Anova-Scheffé tests.

The sample is based on N = 1785 adolescents with an average age of 16 years. Altogether, the study consisted of 13 schools from Bavaria, (Nürnberg) and North-Rhine-Westfalia (Duisburg, Köln, Dortmund, Bochum). The study was primarily interested in commonalities and differences between Christian and Muslim students. The only respondents selected, therefore, were those who indicated that

Table 9.1 Human rights

31 Civil rights (CR)	
31-1	Our laws should protect a citizen's right to live by any moral standard he/she chooses
31-2	In regard to euthanasia politicians should decide irrespective of any religious leader's will
31-3	Making fun of religious people in cabarets is a legally protected right
31-4	The community's moral standards should be critically debated in schools
31-5	Minority groups should be free to use the town hall to hold protest meetings
31-6	Newspaper columnists should be free to express radical convictions
31-7	Police searches of private homes without a search warrant are prohibited
31-8	Politicians are not allowed to interfere with religious communities
31-9	Imposing inhuman mental treatment on people accused of mass murder is forbidden
31-10	Any form of sexual relations between consenting adults should be their individual choice
31-11	In regard to abortion politicians should take decisions independently of religious leaders
31-12	Making fun of atheists in public meetings is permissible
31-13	Children should be free to discuss all moral ideas and subjects in schools, no matter what
31-14	A cabinet minister should allow his striking officials to meet in a ministerial building
31-15	TV journalists with radical ideas have a civil right to employment
31-16	The police are only allowed to inspect people's cars under strict judicial conditions
31-17	Prayers in public schools should be forbidden
31-18	Inflicting severe physical suffering on potential terrorists is prohibited
32 Right to life (prohibition/permission of abortion) (RL-Ab)	
32-1	There is a strong chance of serious defect in the baby
32-2	Economically she (the woman) cannot afford any more children
32-3	The woman's own health is seriously endangered by the pregnancy
32-4	Psychologically she (the woman) cannot afford any more children
33 Right to life (prohibition/permission of euthanasia) (RL-Eu)	
33-1	The doctor is allowed to do this
33-2	The doctor is allowed to do this, only if palliative care is exhausted
34 Political rights (PR)	
34-1	The police should not use force against political demonstrators
34-2	The government is obliged to guarantee political refugees' freedom to travel
34-3	The government should not pass a law forbidding all forms of public protest
34-4	The government is obliged to provide a decent standard of living for political refugees
35 Judicial rights (JR)	
35-1	Guaranteeing terrorist's access to a lawyer is necessary to protect their individual rights
35-2	A mass murderer should be informed of his/her right to keep silent before the court

they belong to either the religion of Christianity or Islam. This adds up to N = 782 Christians and N = 422 Muslims (total N = 1193) participants in the following analyses.

9.3 Empirical Findings

A first step is to explain how the different factor analyses have been conducted. In a second step, the findings of a series of factor analyses among Christians and Muslims will be presented. What follows is a description of the commonalities (third step) and, fourth, the differences between Christians and Muslims. Commonalities and differences are analysed by factor analyses and comparisons of mean values.

9.3.1 Processing Analyses

This paper presents the research relating to respondents' conceptual structure of human rights. The factor analyses enable us to see the concepts behind a set of items. To begin with, it is important to define how the analysis was done: first, we ran the principal component analysis with varimax-rotation. Accepted factors have an Eigenvalue of 1,0 or higher and the load of items on a factor should not fall below .50. In exceptional cases, .40 was taken as a minimum load if the item had no higher load on another factor. If items loaded on two or more factors, the difference between the strongest and the next highest load had to be at least .20. If the difference between two loadings was smaller, the item was excluded from the analysis.

As was said above, this analysis is focused on two groups (Christians and Muslims), and factor analyses will be run for both groups separately. Based on the criteria mentioned above, several analyses were done for every group until the factor structure was clear and all remaining items sharply differentiated the loadings. To test the reliability of the final factors, a Cronbach's alpha was measured as well as the (dis-)agreement (means). The decision for a sufficient alpha depends on the number of items and respondents. In this study an alpha below .60 is low, between .61–.79 sufficient, and below .80 high (Nunnally and Bernstein 1994).

All in all, seven factor analyses were run. We have decided to come straight to the point and present only the final one. Table 9.2 shows that three analyses were necessary for the Christian group to reach the criteria mentioned above. The explained variance of the third analysis is 58.3%. For the Muslim group, four analyses were done. The fourth had an explained variance of 62.5%. Table 9.2 also shows which items had to be excluded after every analysis. In the Christian group, seven items were deleted and 23 items remained in the final analysis. In the Muslim group, eleven items were deleted and 19 items remained.

In the following paragraphs, the result of the third factor analysis for Christians and the fourth analysis for Muslims will be described in detail.

Table 9.2 Number of factor analyses and explained variance

Groups		Number of factor analyses			
		1st	2nd	3rd	4th
Christians	Explained variance	56.99%	56.3%	**58.3%**	—
	Items after FA-analysis excluded	31-3	31-4	31-18[a]	—
		31-9	31-12	34-1[a]	
		34-3			
Muslims	Explained variance	59.9%	63.7%	57.6%	**62.5%**
	Items after FA-analysis excluded	31-1	34-1	31-2	—
		31-5	34-3	31-4	
		31-9		31-8	
		31-10			
		31-14			
		31-18			

Note: Bold values: Only these analyses are described in the following
[a]Items remained in the factor analysis but have been deleted after testing the reliability of the items when establishing a scale

9.3.2 Christians and the Structuring of Human Rights

The third analysis (Christians only) was in accordance with the statistical criteria mentioned earlier. Eight factors could be extracted (see Table 9.3). The factors show a clear content-related structure.

Factor 1 *(right to life–abortion)* includes all four items of the rights to life in relation to abortion. The items present reasons for an approved abortion. Particularly in countries with a Christian majority, abortion is a public issue. Debates in Spain and Italy, but also in Germany, during the last few years emphasize the importance of abortion as a topic in discussions concerning the right to life. The EU granted Ireland the retention of their strict abortion laws (in comparison with EU standards) when the country voted in favour of the EU Lisbon contract in 2009.

Factor 2 *(rights to moral liberty)* is established by two items about the separation of church and state. These items state that politicians should come to their own conclusions about euthanasia and abortion, regardless of any religious interests. Two items contain statements about sexual freedom as part of the freedom of lifestyle, and one item expresses the freedom of moral speech. This factor is probably dominated by the idea of self-responsibility; people should be able to make their own decisions about certain, basic aspects of life.

Factor 3 *(freedom of speech and assembly)* includes two items about freedom of the press and two items about freedom of assembly. Both issues can be understood as the essence of the modern democratic state and these rights should be self-evident for all Europeans.

Table 9.3 Structure of human rights among Christian respondents (explained variance =58,3%)

	Components							
	1	2	3	4	5	6	7	8
32-2 Economically she cannot afford any more children	**.822**							
32-4 Psychologically she cannot afford any more children	**.788**		.125					.142
32-3 The woman's own health is seriously endangered by the pregnancy	**.691**	.302						
32-1 There is a strong chance of serious defect in the baby	**.656**	.254	−.153		−.139		.143	.138
31-2 In regard to euthanasia politicians should decide irrespective of any religious leaders will		**.685**					.305	
31-11 In regard to abortion politicians should take decisions independently of religious leaders	.172	**.637**			.172	−.122	.217	.173
31-10 Any form of sexual relations between consenting adults should be their individual choice	.171	**.618**				.141	−.257	
31-13 Children should be free to discuss all moral ideas and subjects in schools, no matter what		**.613**	.197			.154	−.247	
31-1 Our laws should protect a citizens right to live by any moral standard he/she chooses		**.569**	.103	.249	−.103	.174		−.110
31-15 TV journalists with radical ideas have a civil right to employment			**.744**	−.140		.196		
31-6 Newspaper columnists should be free to express radical convictions		.135	**.725**	−.107		.140	.118	
31-14 A cabinet minister should allow his striking officials to meet in a ministerial building		.142	**.607**	.375				
31-5 Minority groups should be free to use the town hall to hold protest meetings		.179	**.567**	.382				.139

(continued)

Table 9.3 (continued)

	Components							
	1	2	3	4	5	6	7	8
34-4 The government is obliged to provide a decent standard of living for political refugees				**.811**	.211	.144		
34-2 The government is obliged to guarantee political refugees freedom to travel				**.797**		.115		
35-2 A mass murderer should be informed of his/her right to keep silent before the court					**.831**			
35-1 Guaranteeing terrorists access to a lawyer is necessary to protect their individual rights					**.787**	.185		
[a]31-18 Inflicting severe physical suffering on potential terrorists is prohibited				.269	**.624**			
31-7 Police searches of private homes without a search warrant are prohibited		.164			.111	**.722**		
31-16 Police are only allowed to inspect peoples cars under strict judicial conditions			.165		.103	**.709**		
[a]34-1The police should not use force against political demonstrators				.323	.125	**.509**		.157
31-17 Prayers in public schools should be forbidden							**.769**	
31-8 Politicians are not allowed to interfere with religious communities			.165			.250	**.600**	
33-1 The doctor is allowed to do this				.104				**.800**
33-2 The doctor is allowed to do this, only if palliative care is exhausted	.214	.178						**.696**

Note: Bold values: factor loadings of principal-component analysis. Rotation: varimax (Kaiser)
[a]Item later deleted when factors were tested for reliability. All other factors reach a sufficient alpha

Factor 4 *(refugees rights)* is a two-item factor with statements about political rights, elaborated as rights for refugees. In Europe, this is a "hot" issue, and not just for those countries that boarder on so called third-world countries. In many European states, the way of dealing with refugees is major election issue and one that has put European integration to the test. The media reports continuously about refugees arriving by boat from Syria, Afghanistan, Africa and other countries to Europe – and also reports on the reactions of politicians and the people themselves about this influx of migrants.

Factor 5 *(judicial rights)* includes two items about judicial rights that guarantee individual rights to those that violate the actual law (murderers, terrorists); this presents something of a challenge for the modern state. From the perspective of human rights, the state is legally bound to defend the rights of those individuals that have assaulted the community and the state. Most people, however, would prefer that their governments take drastic measures; however, this is a field where the state can demonstrate its practical application of human rights. The third item relating to this factor concerns the prohibition of torture which refers to the content of this factor, but actually belongs to the group of civil rights. When the factors are transformed into scales, this item has to be excluded since it raises the reliability of the scale from .66 to .72.

Factor 6 *(right to privacy)* raises issues of privacy. The two items cover the prohibition of the police from searching certain private areas. A modern topic of the right to privacy is the prohibition of any activities by the government to spy on internet data. A new party (The Pirates) made this problem the key issue of their programme and actually received more than 2% of the votes. This illustrates the real relevance of those rights in current public proceedings. Perhaps the use of the term "police" in both items led to the addition of a third item, which related to the use of force, by the police, during demonstrations. The focus here is not privacy, but the right of protest. Again, when this factor is transformed into a scale, the item has to be excluded since it raises the reliability from .51 to .55.

Factor 7 *(freedom of religion)* considers two items about issues of freedom of religion. Prayer in public schools should be forbidden and politicians should keep their distance from religious communities. The second item is rather unfamiliar for German society, since the state and the church have considerable contact. But the first item received considerable publicity in 2009, when a court in Berlin decided that schools had to provide a prayer room for a Muslim student who fought for his right to pray during the day.

Finally, factor 8 *(right to life–euthanasia)* includes two items about the right to life, operationalized as the right to euthanasia. The question whether euthanasia should be allowed or prohibited and, if allowed, under what conditions is an ongoing debate. Economic reasons have to be considered as well, when the expectation to survive is balanced against the costs of life-support machines. In 2008, a case in Italy got international attention when a patient in a persistent vegetative state was disconnected from life-support machines after 15 years. Nonetheless, the pope publicly expressed his protest against this decision.

9.3.3 Muslims and the Structuring of Human Rights

The fourth factor analysis (Muslims only) was in accordance with the statistical criteria mentioned above. Six factors could be extracted (see Table 9.4) that also show a clear content-related structure.

Factor 1 (freedom of religion and press) represents a combination of different civil rights. This factor covers freedom of religious speech, freedom of religion and freedom of the press. The content of the items states that the press should be allowed to make fun of religious and atheist people, that prayer should be prohibited in public schools and that radical statements in the press should be allowed. In the context of "political correctness", the press making fun of different groups and publishing radical ideas could be evaluated as non-correct.

Factor 2 (right to life–abortion) includes four items concerning the right to life in relation to abortion. In this factor, social- and health-related items are combined, both of which can be regarded as leading to the approval of abortion in certain cases.

In factor 3 (freedom of private life), we find 1 item about the freedom of lifestyle and one item about the freedom of moral speech. There are also two items about the right to privacy. Everyone should be able to choose their own moral standard and children should be allowed to discuss any moral ideas at school without restriction. Both items represent a concept of moral liberty that is connected to the protection of privacy. The executive of the state (the police) must not interfere in anyone's private affairs unless they have a search warrant. Freedom is expressed as individual liberalism in this factor.

Factor 4 (refugees rights) includes two items about political rights. The items concern the rights of refugees.

The content of factor 5 (right to life–euthanasia) is related to euthanasia representing (next to abortion) the group of right to life. According to the items, a physician can either principally support euthanasia or support it only if all medical solutions have been exhausted.

The final factor 6 (judicial rights) includes two judicial rights. Mass murderers and terrorists are taken as an example that everyone can claim principal basic rights.

Muslim students in this study could sort the items about human rights into those six patterns described above. All loadings adequately discriminate between the different factors.

9.3.4 Commonalities Between Christians and Muslims

After describing the outcomes of the factor analyses separately for Christians and Muslims, we have compared the results, and focussed on commonalities relating to the structuring of human rights. An important result is that – except for the group of

Table 9.4 Structure of Human Rights among Muslim respondents (explained variance =62,5%)

	Components					
	1	2	3	4	5	6
31-3 Making fun of religious people in cabarets is a legally protected right	**.752**		−.159	.204	.122	
31-17 Prayers in public schools should be forbidden	**.700**	.232	−.166	.120		
31-6 Newspaper columnists should be free to express radical convictions	**.668**		.217			.114
31-12 Making fun of atheists in public meetings is permissible	**.666**	−.150	−.107	.254		−.115
31-15 TV journalists with radical ideas have a civil right to employment	**.596**		.383	−.288		.137
32-3 The woman's own health is seriously endangered by the pregnancy	−.116	**.764**	.168			
32-1 There is a strong chance of serious defect in the baby		**.759**				
32-2 Economically she cannot afford any more children	.196	**.725**		.171	.204	
32-4 Psychologically she cannot afford any more children	.308	**.691**	−.113	.166	.220	
31-1 Our laws should protect a citizen's right to live by any moral standard he/she chooses	−.145		**.648**			
31-7 Police searches of private homes without a search warrant are prohibited			**.647**	.181		
31-13 Children should be free to discuss all moral ideas and subjects in schools, no matter what		−.182	**.581**		.141	
31-16 The police are only allowed to inspect peoples cars under strict judicial conditions	.295	.228	**.547**	.205	−.135	−.129
34-2 The government is obliged to guarantee political refugees freedom to travel	.141			**.842**		.128
34-4 The government is obliged to provide a decent standard of living for political refugees	.119	.134	.237	**.765**		.176
33-2 The doctor is allowed to do this, only if palliative care is exhausted		.159			**.879**	
33-1 The doctor is allowed to do this	.183	.215		.172	**.829**	
35-2 A mass murderer should be informed of his/her right to keep silent before the court						**.884**
35-1 Guaranteeing terrorists access to a lawyer is necessary to protect their individual rights		.119	.158	.233		**.789**

Note: Bold values: factor loadings of principal-component analysis, rotation: varimax (Kaiser). All factors reach a sufficient alpha

civil rights – the structuring of human rights is the same among Christians and Muslims (see Table 9.5). It is therefore possible to compare mean values (including standard deviation) of Christians and Muslims, noting whether differences are on a significant level (based on Anova-Scheffé tests).

Both religious groups establish two factors about the right to life: the first includes the four items about the right of abortion and the second the two items about the right to euthanasia. The third factor both groups have in common concerns political rights for refugees and the fourth factor judicial rights, operationalised as equality before the court, for mass murderers and terrorists as well. We are now going to transfer the items of the four factors into scales and test them for their reliability, acceptance or rejection by the student participants (see Table 9.5).

The scale right to life–abortion has good reliability (alpha .75) and Christians and Muslims both show a positive ambivalence. The mean value of Christians (M = 3.23) is slightly higher than the mean for Muslims (M = 2.96). Both groups tend to be more positive than negative about permitting abortion. This difference is significant.

The scale right to life–euthanasia is reliable among Muslims (alpha .77), while the alpha among Christians is weak (.38). We will not concern ourselves with this scale in this paper; the remarks about reliability are therefore simply a descriptive information without any impact on further analyses. A reason for this low alpha can be found in the factor analyses (see Tables 9.4 and 9.5). Both analyses show that the load of the 2 items among Muslims was more similar than it was among Christians. The mean values show a negative ambivalence among Muslims (M = 2.82), and a positive ambivalence among Christians (M = 3.23). Especially within the Muslim group, the high standard deviation is obvious. This difference between Christians and Muslims is strongly significant.

The third scale about political rights–refugees is reliable among both groups (Christians .73; Muslims .74), but the mean differs. The mean of Christians is negative-ambivalent (M = 2.89) and the mean of Muslims positive-ambivalent (M = 3.28). The difference can be explained by the migration experience of many of the families of the Muslim sample, and by media reports, stating how refugees coming to Europe are treated. As a minority group, Muslims are more sensitive to these issues. The difference between both groups is significant.

In the fourth scale, we have a similar result. The reliability in both groups is good (Christians .72; Muslims .70); Christians show a negative ambivalence (M = 2.83) and Muslims a positive one (M = 3.12). Again, this difference is significant.

In short, the right to life operationalised in items of abortion shows the greatest commonality, while in all other cases Christians and Muslims differ in their evaluation. Christians have a slightly positive attitude about euthanasia and Muslims a slightly negative one. Muslims value political and judicial rights more positively than Christians. It is questionable whether this can be sufficiently explained by the religious roots of the student participants. It is probable that culture and the social milieu also have an impact on the outcome, especially when we consider the perception of political rights (refugees) that might matter more to Muslims than to Christians.

Table 9.5 Identical factors among Christians and Muslims

Right to life–Abortion (prohibition/permission)	
32-1	There is a strong chance of serious defect in the baby
32-2	Economically she (the woman) cannot afford any more children
32-3	The woman's own health is seriously endangered by the pregnancy
32-4	Psychologically she (the woman) cannot afford any more children
Christians: Alpha .75, M = 3.23, SD ,95	
Muslims: Alpha .75, M = 3.02, SD 1,05	
Sign. *	
Right to life–Euthanasia (prohibition/permission)	
33-1	The doctor is allowed to do this
33-2	The doctor is allowed to do this, only if palliative care is exhausted
Christians: Alpha .38, M = 3.23, SD 1,01	
Muslims: Alpha .77, M = 2.82, SD 1,34	
Sign. ***	
Political (refugee) rights	
34-2	The government is obliged to guarantee political refugees' freedom to travel
34-4	The government is obliged to provide a decent standard of living for political refugees
Christians: Alpha .73, M = 2.89, SD ,94	
Muslims: Alpha .74, M = 3.28, SD 1,04	
Sign. *	
Judicial rights	
35-1	Guaranteeing terrorist's access to a lawyer is necessary to protect their individual rights
35-2	A mass murderer should be informed of his/her right to keep silent before the court
Christians: Alpha .72, M = 2.83, SD 1,14	
Muslims: Alpha .70, M = 3.12, SD 1,22	
Sign. *	

Note: *M* mean value (on a 5-point scale); *SD* standard deviation

9.3.5   Differences Between Christians and Muslims

Differences between Christians and Muslims in the way they structure human rights is only noticeable when we look at the group of human rights categorised as civil rights. We will first describe the outcome for Christians and then for Muslims.

Christians arrange civil rights into four groups (see Table 9.6). The first group represents a liberal view on moral standards and the freedom of the individual to

Table 9.6 Differentiation of civil rights among Christians

Civil-1 (alpha .68; M=3.66)	
31-1	Our laws should protect a citizen's right to live by any moral standard he/she chooses
31-2	In regard to euthanasia politicians should decide irrespective of any religious leader's will
31-10	Any form of sexual relations between adults should be their individual choice
31-11	In regard to abortion politicians should take decisions independently of religious leaders
31-13	Children should be free to discuss all moral ideas and subjects in schools, no matter what
Civil-2 (alpha .65; M=3.00)	
31-5	Minority groups should be free to use the town hall to hold protest meetings
31-6	Newspaper columnists should be free to express radical convictions
31-14	A cabinet minister should allow his striking officials to meet in a ministerial building
31-15	TV journalists with radical ideas have a civil right to employment
Civil-3 (alpha .55; M=3.38)	
31-7	Police searches of private homes without a search warrant are prohibited
31-16	The police are only allowed to inspect people's cars under strict judicial conditions
Civil-4 (alpha .31; M=2.67)	
31-8	Politicians are not allowed to interfere with religious communities
31-17	Prayers in public schools should be forbidden
Items which are not part of Christians factor structure of civil rights	
31-3	Making fun of religious people in cabarets is a legally protected right
31-4	The communities' moral standards should be critically debated in schools
31-9	Imposing inhuman mental treatment on people accused of mass murder is forbidden
31-12	Making fun of atheists in public meetings is permissible
31-18	Inflicting severe physical suffering on potential terrorists is prohibited

Note: *M* mean value (on a 5-point scale)

choose his or her own way of life. The content can be interpreted as a distinctly western conviction about individual freedom. Transformed into a scale, the alpha is low but sufficient and the acceptance is clearly positive (M = 3.66).

The second group contains rights with a stronger public meaning: that minorities might use the town hall, that the media should be allowed to broadcast radical opinions, and that is allowable that strikes be organised in a ministerial building; all of these rights puts the issue of freedom in the public eye. Transformed into a scale, the alpha is low but sufficient; however, it is clear from the findings that the Christian students are cautious. They are neither positive nor negative about these issues (M = 3.0).

The third group concerns private issues again. The police must not enter private homes unless a search warrant has been issued (based on strong suspicions of the individual being involved in a serious crime). Transformed into a scale, the alpha is sufficient and the acceptance tends to the positive (M = 3.38).

The fourth group of items regards religion. Politics and religion should be autonomous and schools should be free of religious activities. Transformed into a scale,

Table 9.7 Differentiation of civil rights among Muslims

Civil-1 (alpha .53, M=3.79)	
31-1	Our laws should protect a citizen's right to live by any moral standard he/she chooses
31-7	Police searches of private homes without a search warrant are prohibited
31-13	Children should be free to discuss all moral ideas and subjects in schools, no matter what
31-16	The police are only allowed to inspect people's cars under strict judicial conditions
Civil-2 (alpha .72, M=2.56)	
31-3	Making fun of religious people in cabarets is a legally protected right
31-6	Newspaper columnists should be free to express radical convictions
31-12	Making fun of atheists in public meetings is permissible
31-15	TV journalists with radical ideas have a civil right to employment
31-17	Prayers in public schools should be forbidden
Items which are not part of Muslim's factor structure of civil rights	
31-2	In regard to euthanasia politicians should decide irrespective of any religious leader's will
31-4	The community's moral standards should be critically debated in schools
31-5	Minority groups should be free to use the town hall to hold protest meetings
31-8	Politicians are not allowed to interfere with religious communities
31-9	Imposing inhuman mental treatment on people accused of mass murder is forbidden
31-10	Any form of sexual relations between consenting adults should be their individual choice
31-11	In regard to abortion politicians should take decisions independently of religious leaders
31-14	A cabinet minister should allow his striking officials to meet in a ministerial building
31-18	Inflicting severe physical suffering on potential terrorists is prohibited

Note: *M* mean value (on a 5-point scale)

the alpha of the two items is low and the evaluation tends to be negative (M = 2.67). German Christian students do not agree with the restriction these items represent since, in practice, the major Christian churches and the state cooperate with each other. Confessional religious education in public schools is an example of this cooperation.

Five items out of the full number of civil rights are not included in the final factor structure. Two of them express freedom of religious speech, two political rights operationalised as protection from torture, and one freedom of moral speech.

Civil rights among Muslim students show only two groups (see Table 9.7). In the first group rights to privacy, freedom of lifestyle and moral speech are combined. These items represent not only a positive valuation of individual freedom, but also the protection of individual privacy from state executive's intervention. Transformed into a scale, the alpha is low and the content is accepted (M = 3.79).

The second group contains items of freedom of religious speech, freedom of religion and freedom of the press. Transformed into a scale, the alpha is good. However, the content is rejected (M = 2.56): Muslim students disagree with an interpretation of freedom that is likely to offend and that can stimulate tensions and conflicts.

Summing up, civil rights are subdivided into a positively and a negatively evaluated group.

Nine items in this analysis are not included: items about the separation of religion and state, about political rights as protection from torture, about freedom of assembly, religious speech and freedom of religion. Young Muslims do not consider these as part of the basic structure of rights.

9.4   Challenges to Human Rights Education

The debate about human rights is a normative discussion about which standards should be valid in the global world. The UN made an important step to come to an agreement with the declaration in 1948. In the first part of this paper, it could be shown that the list of rights and their adoption in different countries, continents and among religious groups is controversial. The amount of rights which have different character is questioned, just as if they are all equal. Without doubt, the approach is that all human rights are egalitarian, interdependent, indivisible and universal. In the political context it is obvious that the verb "are" is meant as "should be" and ideal and reality can be in conflict. On the one hand it is necessary that human rights are incorporated in national and international law. On the other hand human rights need a foundation in the conviction of the citizens. People must be deeply convinced that human rights mark an important step for individuals and states in a modern world.

This study has shown that Christian and Muslim students have their own perspectives on the stated egalitarian, indivisible and interdependent character of human rights. Beyond the list of 30 humans rights, Christians construct eight and Muslims six groups. They have in common that rights to life, political and judicial rights represent distinguished groups. But the acceptance of these rights differs between the two groups (Christian and Muslim). Christians and Muslims also differ strongly in their perception of civil rights. Scales which contain individual rights and the right to privacy are evaluated positively by both groups. Why are civil rights perceived so differently? The reason mainly lies in the influence of the societal status of majority and minority, mediated by religious and cultural patterns. The Muslim minority group pay greater attention to political and judicial rights as well as to rights regarding privacy and individual freedom. Probably the most plausible explanation is that a minority group has the greatest need for such rights, and for being assured of the fact that such rights are legally enforceable.

It is surprising that rights such as the protection from torture and rights of protest are partly out of the conceptual structure. This remark is made because, clearly, these rights do not concern the quality of life, but the right to life itself. Although German adolescents do not need to be afraid of benefitting from these rights, these rights are part of the core concept of human rights; indeed, certain elementary conditions of life are attacked if these rights are violated. Similarly, the empirical results about civil rights gives one pause for thought. Several rights are not integrated in the adolescents' concept of human rights. A reason could be that many of these rights

are taken for granted, in which case the student participants do not perceive them as seriously as, perhaps, they should.

Education plays an important role in establishing and developing cultural and political sensitivity about the importance of human rights. It provides young people with knowledge about, and insight into, human rights. It is the context and reality of inhuman politics that makes it understandable why human rights are regarded as an irreducible step of modern civilisation. Therefore education in human rights is not limited to the distribution of information but a problem based learning. It should influence the general attitude towards marginalised people, although public opinion partly works against this goal when it is questioned whether dangerous criminals should have equal rights in court, whether refugees and asylum seekers should be admitted "when the boat is full", whether there should be freedom of lifestyle (e.g. for homosexuals), etc. In several European countries these issues are highly controversial. There are particular situations that challenge the understanding of human rights. Education can develop, in young people, a responsible attitude towards human rights by initiating processes that encourage them (when adults) to take an active stance in supporting these rights and fighting their violation.

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Chapter 10
The Influence of the Socio-cultural Environment and Personality on Attitudes Towards Human Rights

An Empirical Analysis in Reference to Human Rights Education

Hans-Georg Ziebertz, Alexander Unser, Susanne Döhnert, and Anders Sjöborg

Human rights education (HRE) aims to promote knowledge about and support for human rights (Tibbitts and Fernekes 2011, pp. 87–88). Several strategies were developed to achieve this learning objective. However, many approaches of HRE are quite formal, concentrating on systematical knowledge about human rights declarations, areas of human rights, and institutions dealing with human rights issues (see e.g. Benedek 2012; Bajaj 2011, pp. 485–489). Such approaches neglect important empirical findings of human rights research revealing that the acceptance of human rights highly depends on social and individual factors (see e.g. Doise et al. 1999; McFarland and Mathews 2005).

In their comparative empirical research among youth in Palestine and Germany, Webb et al. (2012) showed that attitudes towards human rights depend on religion, values and the country of residence. The result of this study was that respondents' socio-cultural context was of significance when the same respondents were asked to value statements about human rights. That culture and society have a formative influence is supported by Margaret Archer's social theory on human action (1995, 1996, 2000, 2003). According to Francis and Robbins (2013), however, the theoretical and empirical weakness of this approach is that it neglects the importance of individual factors. In their study among British youth, Francis and Robbins made the point that personality is of major importance as far as attitudes towards human

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rights are concerned. Indeed, using Eysenck's Personality Scale (Eysenck and Eysenck 1991; Francis et al. 1992, 2001), Francis and Robbins showed that personality influences people's attitudes towards human rights. However, the limitation of Francis's and Robbins's study is that these authors failed to include socio-cultural factors in their conceptual model. Given this, Francis and Robbins may have been able to show that personality is significant, but they have no findings about the relevance of personality compared with socio-cultural factors (on attitudes towards human rights). This means that the question which is of more significance remains unanswered. This research study aims to fill this explanatory gap. Our empirical analysis includes both socio-cultural attitudes and personality characteristics. The general hypothesis is that respondents' socio-cultural contexts are of much more importance than personality characteristics. Our sample (N = 3982) is based on a selection of respondents from six different countries in Europe, Asia and Africa; this distribution allowed us to make a broad comparison of the influence of both socio-cultural contexts and personality. Our empirical findings confirm the hypothesis that, in all measurements, the explanatory relevance of the socio-cultural context is obvious and that the influence of personality is very low as far as the respondents' attitudes towards human rights are concerned. The results are relevant to the necessary contextualisation of human rights education.

In this article we argue that HRE should focus on and deal with real existing human rights issues in a specific socio-cultural context. Therefore, we give a brief outline about different approaches of HRE and refer to an ongoing discussion within human rights research about whether the social structure of a specific country or the personality of individuals is a stronger predictor for attitudes towards human rights. On the basis of our own empirical findings, we discuss both the relevance of a socio-cultural and a personality psychology approach for human rights research and their respective relevance for HRE.

10.1 Theoretical Background

10.1.1 Human Rights Education (HRE)

According to Lohrenscheit (2002, p. 176), two principal approaches of HRE can be distinguished: learning *about* and learning *for* human rights. While the first one aims for teaching "knowledge of the genesis, history and relevance of human rights and central human rights documents as well as internationally established instruments for their realization", the second one aims for developing "social competencies, including solidarity and collective action for the fulfilment of the basic needs of the community" (Lohrenscheit 2002, pp. 176–177; see as well Bajaj 2011, pp. 482–485). However, the primary task of HRE is not simply to provide information about human rights, but to ensure that the students gain comprehensive knowledge and become familiar with the essential meaning of human rights, a basic requirement for their future status as self-confident and responsible citizens (Tibbitts 2002, p. 162).

Nevertheless, many approaches of HRE focus exclusively on knowledge and the acceptance of normative goals by studying important documents and discussing the role of human rights (Tibbitts 2002, p. 163; Benedek 2012). Whether such methods are able to develop attitudes which motivate active support for human rights in society is under discussion. Tibbitts criticizes such approaches as weakly linked with social engagement. According to her, the success depends greatly on the "'serendipity' of having learners predisposed towards the message that HRE brings. Within this approach, therefore, the framework goals are not likely to be directly reached, but certain individuals may become 'primed' for advocacy" (Tibbitts 2002, p. 164). As a completion, she proposes a transformative learning approach. This approach assumes that learners have had experiences with human rights issues and violations and it builds on this experiences. Learning processes "involve self-reflection and support within the community of learners", so that learners "consider the ways in which they and others have both been victims and perpetrators of human rights abuses […] to overcome the 'we' versus 'they' mentality that one can find in life, as well as the human rights field" (Tibbitts 2002, pp. 166–167). Such an approach focusses clearly on real existing conflicts and the socio-cultural context in which such conflicts emerge. It is discussed below how such an approach meets the demands of empirical findings on attitudes towards human rights.

10.1.2   Socio-cultural and Personality Psychology Approach Approach in Human Rights Research

Our empirical research refers to an ongoing discussion whether the social structure of a specific country or the personality of individuals is a stronger predictor of attitudes towards human rights. This discussion was initiated by a paper by Francis and Robbins (2013) in response to a paper by Webb, Ziebertz, Curran and Reindl (2012). The aim of our study is to compare both concepts in order to continue the discussion. This is why it is helpful to outline the current status of this debate first.

In their paper, Webb, Ziebertz, Curran and Reindl (2012) pursue a social theory approach. They refer to Margaret Archer's papers on societal structure, culture and agency to conceptualise the influence of social context on the individual's actions (Archer 1995, 1996, 2000, 2003). Accordingly, the individual's actions, as affirmation or rejection of human rights, have to be understood as arising from and reacting to a specific social context (Webb et al. 2012, pp. 178–179). Webb et al. are therefore interested in the influence of location, religious affiliation and values on a person's attitudes towards human rights (Webb et al. 2012, pp. 179–181).

How strong is the influence of the three factors location, religious affiliation and values? In the regression analysis of their study, Webb et al. report that all three were of significant influence on attitudes towards human rights. However, there are differences in regard to attitudes towards different generations of human rights: Location has significant influence on attitudes towards the human rights of the first and third generation (political and environmental rights), but not towards those of the second generation (socio-economic rights). Religious affiliation significantly

influences human rights of the first and second generation, but not those of the third. Also, values significantly influence second generation human rights and partially those of the first and third generation. When paying attention to the strength of the predictors, location is by far the strongest predictor of attitudes towards human rights of the first (Beta= −.38) and third generation (Beta= −.23). Religious affiliation also has moderate influence on the first (Beta= .15) and second generation human rights (Beta= .10). However, the influence of values is lower with betas <.1 (Webb et al. 2012, pp. 193–196). All in all, one can say that location and religious affiliation are notable predictors of attitudes towards human rights, whereas values are of less importance. Thus, as far as the low explained variance is concerned (with about 16% for attitudes towards political rights and 5% or 6% for socio-economic or environmental rights (Webb et al. 2012, p. 197)), the question arises: What else predicts attitudes towards human rights?

Francis and Robbins (2013) offer an answer to this question: They propose the personality-psychology approach (see e.g. Eysenck and Eysenck 1976; Francis 1992) as complement to the social-theory approach used by Webb, Ziebertz, Curran and Reindl (Francis and Robbins 2013, p. 100). For Francis and Robbins the intensity of the affirmation of human rights depends, to a great extent, on individual differences in personality and religiosity. Both authors are therefore interested in the influence of personality, religiosity, sex and age on attitudes towards human rights (Francis and Robbins 2013, pp. 100–103).

But how strong is the influence of these four factors (personality, religiosity, sex and age)? Personality appears to have significant influence on attitudes towards human rights of all three generations. Also, sex appears to have significant influence on attitudes towards the first generation of human rights, and age on those of the third generation. Religiosity, on the other hand, appears to have no significant influence on attitudes towards human rights. However, when we pay attention to the strength of the predictors, one can see that the influence of the factors referred to above (personality and sex) is weak (Beta ≤.1) (Francis and Robbins 2013, pp. 112–114). Also, the percentage of the explained variance is low in this model: Personality, religiosity, sex and age can explain about 3% of the variance for the attitudes towards first generation human rights and about 2% for second and third generation human rights (Francis and Robbins 2013, p. 114). All in all, the influence of personality and religiosity on respondents' attitudes towards human rights is, in fact, low.

The current status of the debate is such that the question (that is, whether the social structure of a specific country or the personality of individuals is a stronger predictor of attitudes towards human rights) has not been adequately answered. Also, it is a somewhat open question as to whether the personality-psychology approach complements the social-theory approach as far as explaining people's attitudes towards human rights is concerned. In their research, Francis and Robbins (2013) did not combine both approaches in one conceptual model. The results of both separate studies (Webb et al. 2012; Francis and Robbins 2013) in regard to the explained variance and the betas provide some evidence for assuming that the social-theory approach explains attitudes towards human rights better than the personality-psychology approach, at least as far as attitudes towards first generation

human rights are concerned. However, these assumptions have not been empirically tested and knowledge concerning the interaction of social and personal factors in regard to attitudes towards human rights is still missing. This is the research gap on which our paper focuses. Thus we have combined both the social-theory approach and the personality-psychology approach into one conceptual model.

10.2   Empirical Design

In the following we will first give an overview of the research project that provides the context of this article. We will report on the data collection in those six different countries that are part of the data analyses and that make up our research sample. Secondly, we will explain the concepts – the independent and dependent variables – used in this study and their operationalisation. Thirdly, we will specify our research questions.

Data Collection and Sample

The research teams from the six countries discussed in this article have all participated in the international research project "Religion and Human Rights 1.0".[1] The purpose of this project was to explore how religious affiliation, dimensions of religious convictions, value orientations and worldviews of young people – Christians and Muslims – influence their attitudes towards human rights. The aim of selecting this sample of respondents was not to obtain representative data for the population of the participating countries, but to obtain a sufficiently large number of participants of the subgroups – Christians and Muslims – for valid statistical evaluations.

The standardised questionnaire was constructed by the research teams from all 15 participating countries under the direction of Professor J.A. van der Ven (Radboud University Nijmegen, the Netherlands). The final version of the questionnaire was provided in English and then translated into different languages by the respective national teams.

Germany

In Germany data were collected between 2007 and 2008 in the federal states of North Rhine-Westphalia and Bavaria. All in all, 13 schools participated in the study. The design of the data collection included a two-stage selection of the sample. It was important that firstly, the sample included a minimum of 20% Muslim students and secondly, that the focus was on students in grades 10 and 11. The survey was

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[1] The website of this international project is: www.rhr.theologie.uni-wuerzburg.de

carried out in cooperation with the participating schools (which were selected according to the criteria just mentioned). The questionnaires were sent – together with detailed information and instructions – to the teachers involved (mainly teachers of Religious Education or Ethics). Only those students who could provide signed parental permissions (as required by German law for the protection of children and youth) were allowed to fill in the questionnaire. Some 2601 questionnaires were sent out to the schools: 1918 were returned and, of these, 1785 could be evaluated for research purposes. In the final sample 52.9% of the students were Christians, 25.9% Muslims and the remaining 21.2% defined themselves as non-religious; 50.2% of the participating students were male and 49.8% female.

Sweden

The Swedish survey was carried out between 2007 and 2008 among upper secondary schools in the greater Stockholm area. The questionnaire was translated into Swedish in cooperation with the Norwegian team and pre-tested by a small sample of students. The selection criterion for schools was that a certain number of Christian and Muslim students should attend the participating schools. The sample included 39.3% Christians, 10.7% Muslims, 43.0% non-religious students and 3.2% general religious students. Of the respondents, 48.9% were male and 50.1% female. Altogether, 1550 questionnaires were sent out. Of these, 1221 were returned and, after data cleaning, 1144 questionnaires were found to be valid for the purposes of the research.

India

In India, data collection was conducted in 2007 in Chennai, the capital of the federal state of Tamil Nadu. Six schools were chosen in order to obtain a balanced sample. Obtaining a balanced sample proved to be somewhat problematic owing to India's educational environment with a number of different religious schools. Finally, six schools were chosen, five of them Catholic, one Islamic. The Catholic schools have an average of 20% Christian students, while the majority (80% of the students) are Hindus. The Islamic schools, however, consist of mainly Muslim students; in these schools, boys and girls are sometimes separated, and this was true of the particular school chosen for our project. A further consideration for the sample composition, and therefore the selection of schools, was to receive gender balance. In the end, the sample included 49.8% boys and 50.2% girls. In total, 942 valid questionnaires were returned.

Indonesia

The data collection in Indonesia was carried out in 2008. Since the educational system in Indonesia is structured dually (schools are either religious or public), the researchers chose schools in the Islamic and Christian tradition for the sample. All citizens have to belong to one of the five world religions (all of which are represented in Indonesia), which meant that, in this sample, there were no non-religious students. Altogether 547 students participated in the survey, 37.1% of them Christian and 62.9% Muslim. The sample consisted of 40.5% males and 59.5% females.

Kenya

The Kenyan survey was conducted (among secondary schools) between 2007 and 2008, and 525 students participated in the survey. The Kenyan sample included a nearly equal proportion of Christian and Muslim students (owing to the type of schools that exist in Kenya). In the sample, 52% of the youth described themselves as Christians; 45% as Muslims. At least 3% described themselves as being "religious in a general way". The gender relation of the Kenyan sample was nearly balanced: 53% of the participants were male and 47% female.

Nigeria

As in Kenya, the Nigerian survey was carried out among secondary school students, also between 2007 and 2008. The school system in Nigeria is characterised by the fact that there are different schools for Christians and Muslims. Schools of both religious affiliations are represented in the survey. The sample consisted of 60% Christian students and 30% Muslim students; 10% of the students described themselves as "religious in a general sense". Of these students, 62% were male, while 38% were female. Altogether, these schools sent back a total of 608 questionnaires that could be evaluated.

All in all, the whole sample (from all six countries) consisted of a total of 5367 participants. Given that we compared Christian and Muslim respondents in this study students of other affiliations were deliberately excluded. This meant that in the end we had a final sample of 3982 respondents, of whom 2415 were Christians and 1567 Muslims. As far as sex is concerned, 49% of the students were male and 51% female. On average, the students were 16-years-old, and ages ranged from 14 to 21 years.

10.3   Conceptualisation and Operationalisation

In this article we investigated and compared the influence of the psychological dimension (personality) and the socio-cultural dimension (geographical-societal background, religion, values) on the respondents' attitudes towards human rights (see Fig. 10.1). We also included sex and age as control variables in the conceptual model of our study. This conceptualisation refers to the discussion between Francis and Robbins (2013) and Webb et al. (2012), a discussion that is briefly outlined above. Our objective was to answer the following question: Has the psychological dimension (personality) or the socio-cultural dimension (geographical-societal background, religion, values) a stronger influence on the respondents' attitudes towards human rights? Our aim was to fill the research gap referred to earlier. In the following paragraphs, we will outline the operationalisation of the dependent, the independent and the background variables.

To operationalise the attitudes towards human rights (*dependent variable*), we focused on three areas of human rights: political rights, socio-economic rights and environmental rights. The attitudes towards human rights were operationalised with three scales (see Fig. 10.2): a four-items-scale for attitudes towards political rights, an eight-items-scale for attitudes towards socio-economic rights and another four-items-scale for attitudes towards environmental rights. The items asked about the strength of agreement to test cases of these rights on a 5-point Likert-scale. The scale ranged from 1 ("I totally disagree") to 5 ("I totally agree").

The psychological dimension was conceptualised as personality (*independent variable*) and operationalised by the shortened and further modified version of the Eysenck Personality Questionnaire Revised (EPQR-A) (Francis et al. 1992, 2001).
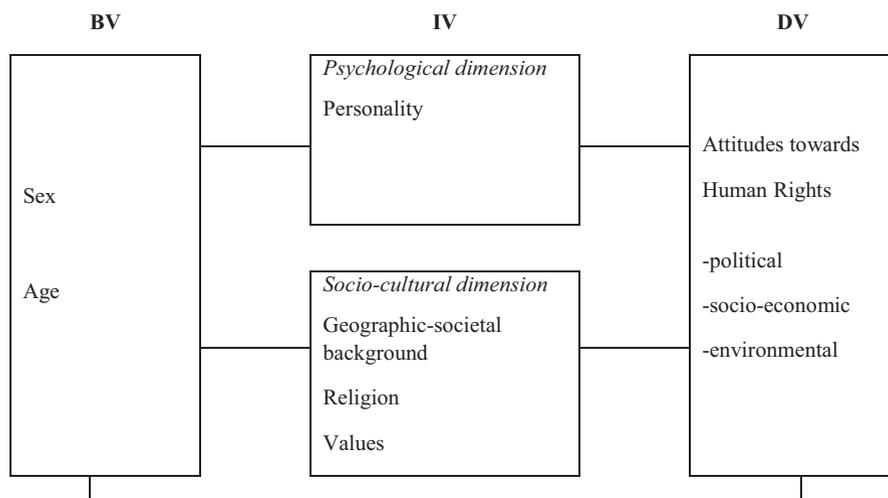
Fig. 10.1 Conceptual model

[Political Rights]

    The police should not use force against political demonstrators.

    The government should not pass a law forbidding all forms of public protest.

    The government is obliged to guarantee political refugees' freedom to travel.

    The government is obliged to provide decent standard of living for political refugees.

[Socio-economic Rights]

    The government should provide a job for everybody who wants one.

    The government should provide decent standard of living for the unemployed.

    The government should provide healthcare for the sick.

    The government should provide decent standard of living for the old.

    The state is obliged to protect children from neglect or negligent treatment.

    The state is obliged to protect children's right to engage in play and recreational activities.

    The state should protect women's right to acquire and administer property.

    The state should protect women's right to adequate job opportunities.

[Environmental Rights]

    The state should protect unspoiled nature.

    The state should reduce air pollution by industry by imposing legal limits.

    I am willing to make certain sacrifices for the sake of more beautiful environment.

    I am willing to pay higher prices for products if that would mean less industrial pollution.

Answer scheme: 5-point scale: 1=I totally disagree; 2=I disagree; 3=I am not sure; 4=I agree; 5=I fully agree

Fig. 10.2 Operationalisation of the dependent variable: attitudes towards human rights

This instrument focuses on personality and individual differences and includes three higher order orthogonal dimensions: extraversion, neuroticism and psychoticism (Eysenck and Eysenck 1975, 1991; Eysenck et al. 1985). Each dimension was measured by six items (see Fig. 10.3). The answering scheme was yes (1) or no (0). The introduction reads as follows: "The next questions refer to some personal experiences. We would like to know if you have ever had experiences like the ones below". For the three dimensions of personality, we calculated scales by adding up the "yes" answers of each dimension. In other words, we obtained three scales that reach from 0 (none of the questions of one dimension are answered with "yes") to 6 (all of the questions of one dimension are answered with "yes").

The socio-cultural dimension was conceptualised as the respondents' geographic-societal background, religion and values (*independent variables*). The geographic-societal background was operationalised by the country of origin, because we believe that there are relevant differences between national states in terms of societal structure, cultural identity and the realisation of human rights. For our sample, we selected six countries from three continents: Europe, Africa and Asia. Europe is represented by Germany and Sweden, Africa by Kenya and Nigeria, and Asia by India and Indonesia.

Religion (*independent variables*) was operationalised by two different concepts: religious affiliation and religious commitment (see Fig. 10.4). To find out respondents' religious affiliation they were asked: "Do you belong to one of the religious

[Extraversion]
    Are you a talkative person?
    Are you rather lively?
    Can you easily get some life into a rather dull party?
    Do you tend to keep in the background on social occasions?
    Are you mostly quiet when you are with other people?
    Do other people think of you as being very lively?

[Neuroticism]
    Does your mood often go up and down?
    Do you often feel fed-up?
    Would you call yourself a nervous person?
    Are you a worrier?
    Do you suffer from nerves?
    Do you often feel lonely?

[Psychoticism]
    Would being in debt worry you?
    Would you take drugs, which may have strange or dangerous effects?
    Do you enjoy co-operating with others?
    Do you think marriage is old-fashioned and should be done away with?
    Do you try not to be rude to people?
    Would you like other people to be afraid of you?

    Answer scheme: 1=Yes, 0= No

Fig. 10.3 Operationalisation of the independent variable: personality

[Religious affiliation]
    Muslims
    Christians

Answer scheme: 16 religions/denominations and the categories, 'other religion' and 'non-religious'

[Religious commitment]
    My religion or worldview has great influence on my daily life.
    If I have to make important decisions, my religion or worldview plays a major part in it.
    My life would be quite different, had I not my religion or worldview.

Answer scheme: 5-point scale: 1=not important at all; 2=not important; 3=not sure; 4=important; 5=very important

Fig. 10.4 Operationalisation of the independent variable: religion

communities or would you describe yourself as non-religious?" The students could choose between 16 different religious communities. As mentioned earlier, for the purposes of this study we selected students who had either a Christian or Muslim affiliation. Students with other religious affiliations or non-religious students were – due to the research questions – excluded from the sample. The degree of religious commitment was operationalised by three items on Huber's centrality scale of religion (Huber 2003). The answering scheme ranged from 1 ("not important at all") to 5 ("very important").

[Relationally]
  How important are my friends?
  How important is sharing time with acquaintances?
  How important is my partner or intimate friend?

[Family values]
  How important is being married?
  How important is having children or raising them?
  How important is living for your family?

[Career orientation]
  How important is getting on in life?
  How important is being in a good financial situation?
  How important is practising an occupation?

Answer scheme: 5-point scale: 1=not important at all; 2=not important; 3=not sure; 4=important; 5=very important

Fig. 10.5 Operationalisation of the independent variable: values

To operationalise values (*independent variables*), three different dimensions were chosen: relational values, family values and career orientation (see Fig. 10.5). The first dimension describes the importance of relationships with friends; the second of having a family and the third refers to the relevance of having a career. Each of these value dimensions was measured with three items, rated on a 5-point Likert scale that ranged from 1 ("not important at all") to 5 ("very important"). These items were introduced by the question: "Would you please indicate how important the following issues are to you?" For each of these three value dimensions, a scale was calculated.

Finally, as background variables sex and age were included.

10.4   Research Questions

The main question asked by this paper was whether the psychological dimension (personality) or the socio-cultural dimension (geographical-societal background, religion, values) has a stronger influence on attitudes towards human rights. To answer this question, we developed eight research questions:

1. *What attitudes do respondents have towards human rights? Are there significant differences between respondents from different countries and different religious affiliations?*
2. *Which personality characteristics can be found among respondents?*
3. *How can respondents' religious commitmentbe described, and are there significant differences between respondents from different countries?*
4. *Which value-orientation do respondents have, and are there significant differences between respondents from different countries?*

   Thereafter, the instruments about the psychological and socio-cultural dimen-
sions will be used to analyse which dimension is a stronger predictor of attitudes
towards human rights, controlled by sex and age. Research questions here include:

5. *Does the psychological dimension (personality) have a significant influence on
   attitudes towards human rights?*
6. *Does the socio-cultural dimension (geographic-societal background, religion,
   values) have a significant influence on attitudes towards human rights?*
7. *Do both concepts have a significant influence, when controlled by sex and age?*
8. *Which dimension has a stronger influence: the psychological or the socio-
   cultural dimension?*

10.5   Empirical Findings

In the following paragraphs, the eight research questions will be answered. Before
that, we shall document the reliability of the scales used.

10.5.1   Reliability of the Scales

The reliabilities of the human-rights-, personality-, religious commitment- and
value-scales are documented in Table 10.1. The internal consistency of the three
human-rights-subscales was acceptable (for attitudes towards political and environ-
mental rights with Cronbach's alphas of .68 and .73), or good (for attitudes towards
socio-economic rights with Cronbach's alphas of .86). The three subscales of
Eysenck's Personality Scale showed a poor internal consistency. The extraversion

Table 10.1 Reliability
(Cronbach's α) of the scales:
attitudes towards human
rights, personality, religious
commitment, values

[Human rights]	
Political rights	α = .68
Socioeconomic rights	α = .86
Environmental rights	α = .73
[Personality]	
Extraversion	α = .54
Neuroticism	α = .53
Psychoticism	α = .39
[Religious commitment]	α = .83
[Values]	
Relationally	α = .62
Family values	α = .64
Career orientation	α = .58

Table 10.2 Means and standard deviation of the items: attitudes towards human rights

Items	M	SD
Political rights	3.35	.79
Socio-economic rights	4.13	.68
Environmental rights	3.85	.78

scale had a Cronbach's alpha of .54, the neuroticism scale a Cronbach's alpha of .53 and the psychoticism scale a mere Cronbach's alpha of .39. This problem has already been documented by Francis and Robbins (2013, p. 107) and, to some degree, probably results from the international sample chosen for this study. We decided to keep the subscales in the model to guarantee comparability to Francis's and Robbins's results (2013). The scale referring to religious commitment showed good internal consistency, with a Cronbach's alpha of .83. The internal consistency of the three value subscales was acceptable, with Cronbach's alphas of .62, .64 and .58.

10.5.2   Attitudes Towards Human Rights

The first research question was: What attitudes do the respondents have towards human rights, and are there significant differences between respondents from the different countries or religious affiliations?

10.5.2.1   Descriptive Statistics

The means of the three scales in Table 10.2 showed that there were differences of agreement concerning the three generations of human rights. The socio-economic rights had the highest acceptance (mean = 4.13), followed by the environmental rights (mean = 3.85) and then by the political rights (mean = 3.35). The average of the respondents supported socio-economic and environmental rights, while they neither supported nor rejected political rights.[2]

10.5.2.2   Attitudes Towards Human Rights by Country

By looking for significant differences between respondents from the different countries, our aim was to identify those geographic-societal backgrounds in which attitudes towards human rights were similar. We used variance analyses (ANOVA) with post-hoc-testing (Scheffé) to identify distinct subgroups. The significance level was $p \leq .05$.

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[2] Following the interpretation of van der Ven and Anthony (2008, p. 334)

Table 10.3 ANOVA with post-hoc-test (Scheffé): attitudes towards political rights

Location	N	1	2	3	4
Germany	1256	3.1471			
Sweden	481	3.2315	3.2315		
India	603	3.2428	3.2428		
Indonesia	512		3.3130		
Kenya	505			3.6315	
Nigeria	550				3.8459
Sig.		.453	.637	1.000	1.000

Table 10.4 ANOVA with post-hoc-test (Scheffé): attitudes towards socio-economic rights

Location	N	1	2	3
Germany	1256	4.0357		
Kenya	506	4.0527	4.0527	
Sweden	481	4.0947	4.0947	
Indonesia	512	4.1576	4.1576	
India	603		4.1700	
Nigeria	549			4.3503
Sig.		.091	.118	1.000

In the first variance analysis we investigated differences in the evaluation of *political rights* (see Table 10.3). Four subgroups were identified, even though there was an overlap between subgroup 1 and subgroup 2. Germany, Sweden and India showed no significant differences in terms of respondents' attitudes, but Sweden and India also clustered with Indonesia. Subgroup 3 consisted of Kenya. Nigeria was the only country in subgroup 4. One can state that Germany, Indonesia, Kenya and Nigeria differed significantly from each other, while Sweden and India were part of two subgroups. Nigerian (mean = 3.85) and Kenyan (mean = 3.63) youth had the highest agreement concerning political rights. Compared with respondents from these countries, Indonesian (mean = 3.31), Indian (mean = 3.24), Swedish (mean = 3.23) and German (mean = 3.15) students were in lesser agreement about these rights.

In the second variance analysis we investigated differences in the evaluation of the *socio-economic rights* (see Table 10.4).

Here, three subgroups were identified, even though there was a great deal of overlap between subgroup 1 and subgroup 2. Germany, Kenya, Sweden and Indonesia showed no significant differences in terms of respondents' attitudes, but Kenya, Sweden and Indonesia also clustered with India. Nigeria was the only country in subgroup 3. One can state that Germany, India and Nigeria differed significantly from each other, while Kenya, Sweden and Indonesia were part of two subgroups. Nigerian (mean = 4.35) youth had the highest agreement concerning the socio-economic rights. Compared with respondents from this country, Indian (mean = 4.17), Indonesian (mean = 4.16), Swedish (mean = 4.09), Kenyan (mean = 4.05)

Table 10.5 ANOVA with post-hoc-test (Scheffé): attitudes towards environmental rights

Location	N	1	2	3
Germany	1251	3.5726		
Sweden	487		3.7512	
Kenya	503		3.8216	
Nigeria	549			4.0657
India	603			4.1119
Indonesia	505			4.1411
Sig.		1.000	.760	.702

and German (mean = 4.04) students were in lesser agreement about these rights, even though their agreement was still high.

In the third variance analysis we investigated differences in the evaluation of the *environmental rights* (see Table 10.5). Here, the formation of subgroups was clearer. German students evaluated these rights significantly differently from respondents from the other five countries. Between Swedish and Kenyan students there were no significant differences, and nor were there any significant differences between Nigerian, Indian and Indonesian students. Indonesian (mean = 4.14), Indian (mean = 4.11) and Nigerian (mean = 4.07) youth had the highest agreement concerning the environmental rights. Compared with respondents from these countries, Kenyan (mean = 3.82), Swedish (mean = 3.75) and German (mean = 3.57) students were in lesser agreement about these rights, even though they still agreed.

As we can see, there are significant differences between respondents from the different countries in terms of their attitude towards human rights. Nevertheless, it is important to note that we cannot categorise these countries into one, overall order. Instead, it seems that differences and similarities between respondents from the different countries depend, to a great extent, on the specific content of the respective generation of human rights referred to; this means that any rationalisation we make will have to be guided by this fact.

10.5.2.3   Attitudes Towards Human Rights by Respondents' Religious Affiliation

Our next step is to identify significant differences between Christian and Muslim students according to their attitudes towards human rights. We have therefore used t-tests. The significance level was $p \leq .05$.

The analyses in Table 10.6 show significant differences according to the affirmation of political and environmental rights. In both cases Muslim students agreed to a greater extent with these generations of human rights than Christian respondents. Concerning attitudes towards socio-economic rights, the analysis shows no significant difference between Christian and Muslim respondents. However, we have to state that the differences concerning attitudes towards political and environmental

Table 10.6 T-test: attitudes towards human rights by religious affiliation (Christians and Muslims)

	Christians (N = 2354)		Muslims (N = 1552)		
	M	SD	M	SD	T
Political rights	3.29	.81	3.46	.76	−6.72***
Socio-economic rights	4.12	.70	4.14	.66	n.s.
Environmental rights	3.81	.82	3.92	.71	−4.28***

*p ≤ .05; **p ≤ .01; ***p ≤ .001

Table 10.7 Frequencies, means and standard deviation of the subscales: extraversion, neuroticism, psychoticism

Items	0	1	2	3	4	5	6	*M*	*SD*
Extraversion	1.7	4.8	12.8	20.1	23.1	19.3	18.2	3.89	1.52
Neuroticism	7.0	15.0	23.2	22.7	17.1	10.5	4.5	2.77	1.55
Psychoticism	46.1	31.2	14.4	6.2	1.6	.5	.0	.87	1.03

rights may be significant, but not necessarily relevant: The differences between Christian and Muslim respondents were between 0.11 (environmental rights) and 0.17 (political rights) points on a 5-point-scale.

10.5.3 Personality Characteristics

The second research question was: What personality characteristics can be found among the respondents? The descriptive statistics (frequencies, means and standard deviation) of the three subscales are documented in Table 10.7.

The three subscales of the Eysenck Personality Scale represent a continuum: from introversion to extraversion, from psychological stability to neuroticism and from social compatibility to psychoticism. As we can see, most respondents had a stronger tendency to extraversion than to introversion (mean = 3.89), were more psychologically stable than neurotic (mean = 2.77) and had a very low tendency to psychoticism (mean = .87).

10.5.4 Socio-cultural Context

10.5.4.1 Religious Commitment by Geographical-Societal Background

The third research question was: How can respondents' religious commitment be described, and are there significant differences between respondents from the different countries? The descriptive statistics (means and standard deviation) of the

Table 10.8 Means and standard deviation of the scale: religious commitment (in total and separated by country)

	Germany		Sweden		Nigeria		Kenya		Indonesia		India		Total	
	M	SD	M	SD	M	SD	M	SD	M	SD	M	SD	M	SD
Religious commitment	2.87	1.20	3.39	1.27	4.30	.70	3.84	.79	4.44	.58	3.94	.78	3.62	1.15

Table 10.9 ANOVA with post-hoc-test (Scheffé): religious commitment by country

		Subset for alpha = 0.5			
Location	N	1	2	3	4
Germany	1261	2.8688			
Sweden	537		3.3870		
Kenya	490			3.8388	
India	603			3.9364	
Nigeria	551				4.3019
Indonesia	511				4.4351
Sig.		1.000	1.000	.710	.362

religious commitment scale – in total, as well as for each country – are documented in Table 10.8.

On average, respondents in the whole sample reported that religion does have an influence on their life (mean = 3.62). When looking at the statistics for each country, we can see that German respondents reported the lowest influence of religion (mean = 2.87), followed by Sweden (mean = 3.39). Kenya (3.84), India (mean = 3.94), Nigeria (mean = 4.30) and Indonesia (mean = 4.44), however, all had high ratings.

In order to identify significant differences and similarities between the six countries, we used variance analysis (ANOVA) with post-hoc-testing (Scheffé). The significance level was $p \leq 0.05$. The results of the variance analysis (Table 10.9) showed that there were significant differences between four subgroups. Germany and Sweden each formed a subgroup, whereas subgroup 3 consisted of Kenya and India, and subgroup 4 consisted of Nigeria and Indonesia.

The results showed that differences in terms of religious commitment cannot be ascribed to simplified concepts such as 'western Europe', 'Africa' or 'Asia'. Both western European countries (Germany and Sweden) differ significantly from each other, and from the other countries here, whereas subgroups 3 and 4 each consist of one African and one Asian country.

10.5.4.2   Value Orientation by Country

The fourth research question was: Which value-orientation do the respondents have, and are there significant differences between respondents from the different countries? The descriptive statistics (means and standard deviation) of the values subscales – in total, as well as for each country – are documented in Table 10.10.

Table 10.10 Means and standard deviation of the subscale: relationally, family and career (in total and separated by country)

	Germany		Sweden		Nigeria		Kenya		Indonesia		India		Total	
	M	SD	M	SD	M	SD	M	SD	M	SD	M	SD	M	SD
Relationally	4.21	.61	4.05	.79	3.37	.56	3.82	.82	4.28	.49	3.92	.68	3.99	.72
Family	3.99	.81	4.22	.69	3.68	.50	3.79	.85	4.50	.51	4.05	.68	4.03	.75
Career	4.58	.55	4.49	.54	3.78	.38	4.19	.66	4.36	.40	4.45	.50	4.36	.58

Table 10.11 ANOVA with post-hoc-test (Scheffé): relational values by country

		Subset for alpha = 0.5			
Location	N	1	2	3	4
Nigeria	551	3.3702			
Kenya	495		3.8155		
India	603		3.9221	3.9221	
Sweden	542			4.0486	
Germany	1264				4.2147
Indonesia	512				4.2839
Sig.		1.000	.168	.052	.656

With regard to respondents' values, we can state that they are in strong agreement with the three value dimensions, that is, relationally, family and career-orientation. On average, career-orientation was the most important value for the respondents (mean = 4.36), followed by family values (mean = 4.03) and relational values (mean = 3.99).

In order to identify significant differences and similarities between the different countries, we used variance analyses (ANOVA) with post-hoc-testing (Scheffé). The significance level was $p \leq 0.05$.

In the first variance analysis, we investigated differences in the evaluation of relational values (see Table 10.11). Four subgroups were identified, all of which differed significantly from each other, with one overlapping between subgroups 2 and 3. Subgroup 1 consisted of Nigeria. Kenya and India formed subgroup 2. India was also part of subgroup 3 (with Sweden). Subgroup 4 consisted of Germany and Indonesia. Relational values were most important for Indonesian respondents (mean = 4.28), followed by German (mean = 4.21), Swedish (mean = 4.05), Indian (mean = 3.92) and Kenyan (mean = 3.82) respondents. What is noteworthy here is that Nigerian respondents were reserved, as far as this question is concerned (mean = 3.37).

In the second variance analysis we investigated differences in the evaluation of family values (see Table 10.12). Four subgroups were identified, all of which differed significantly from each other. Nigeria and Kenya clustered together in subgroup 1. Subgroup 2 consisted of Germany and India. And Sweden and Indonesia each formed subgroup 3 and 4. Family values were most important for Indonesian respondents (mean = 4.50), followed by Swedish (mean = 4.22), Indian (mean =

Table 10.12 ANOVA with post-hoc-test (Scheffé): family values by country

Location	N	Subset for alpha = 0.5			
		1	2	3	4
Nigeria	549	3.6788			
Kenya	499	3.7899			
Germany	1265		3.9970		
India	603		4.0536		
Sweden	545			4.2196	
Indonesia	512				4.5036
Sig.		.198	.862	1.000	1.000

Table 10.13 ANOVA with post-hoc-test (Scheffé): career-orientation by country

Location	N	Subset for alpha = 0.5				
		1	2	3	4	5
Nigeria	550	3.7830				
Kenya	499		4.1941			
Indonesia	512			4.3571		
India	603			4.4494	4.4494	
Sweden	545				4.4927	4.4927
Germany	1265					4.5827
Sig.		1.000	1.000	.093	.839	.110

4.05), German (mean = 4.00), Kenyan (mean = 3.79) and Nigerian (mean = 3.68) respondents. For all subgroups, family values were relevant.

In the third variance analysis, we investigated differences in the evaluation of career-orientation (see Table 10.13). Five subgroups were identified, with overlaps between subgroups 3, 4 and 5. Subgroup 1 consisted of Nigeria, subgroup 2 of Kenya. Indonesia and India clustered in subgroup 3, although India clustered, as well, with Sweden in subgroup 4. Sweden, again, clustered with Germany in subgroup 5. Career-orientation was most important for German respondents (mean = 4.58), followed by Swedish (mean = 4.49), Indian (mean = 4.45), Indonesian (mean = 4.36), Kenyan (mean = 4.19) and Nigerian (mean = 3.78) respondents. For all subgroups, career-orientation seemed to be relevant.

10.5.5   *Predictors of Attitudes Towards Human Rights: Results of the Regression Models*

Our next step was to analyse the influence of the psychological (personality) and the socio-cultural dimension (geographic-societal background, religion, values) on attitudes towards human rights. To do this, we computed linear regression models and

Table 10.14 The influence of personality (extraversion, neuroticism, psychoticism) and the socio-cultural context (country, religion, values) on attitudes towards political rights

	Beta	Beta	Beta	Beta	Beta
Psychological factors					
Extraversion	−.100***	.001	.003	−.009	−.005
Neuroticism	−.002	.003	.001	.001	.004
Psychoticism	−.008	−.008	−.014	−.007	−.012
Geographical-societal background					
Sweden		.035*	.024	.024	.019
Nigeria		.309***	.251***	.285***	.286***
Kenya		.195***	.153***	.169***	.167***
Indonesia		.069***	−.007	−.015	−.017
India		.043*	−.011	−.003	.001
Religion					
Religious affiliation			.077***	.073***	.073***
Religious commitment			.130***	.120***	.120***
Values					
Relationally				.050**	.052**
Family				.054**	.051**
Career				.008	.008
Socio-demographic variables					
Sex					.029
Age					.025
Constant	3.565***	3.147***	2.857***	2.387***	2.074***
adj. R^2	.009	.096	.117	.122	.123

N = 3982
*p ≤ .05; **p ≤ .01; ***p ≤ 001
Religious affiliation: Christians=0, Muslims=1; Location: Germany=reference

included sex and age as control variables. Our intention here was to answer the question: Which dimension has a stronger influence on attitudes towards human rights – the psychological or the socio-cultural?

10.5.5.1 Political Rights

In the first regression analysis we explored the influence of personality, geographic-societal background, religion, values and socio-demographic characteristics on respondents' attitudes towards political rights (see Table 10.14). All five regression models were significant.

As far as the model's goodness of fit was concerned, we could see that the first model – which only included personality – had a low adjusted R^2 of .009. There was a clear increase of the adjusted R^2 from model 1 to model 2 (adj. R^2 = .096) when the geographic-societal background was entered into the model. Entering religion into model 3 (adj. R^2 = .117), values into model 4 (adj. R^2 = .122) and socio-

demographic characteristics into model 5 (adj. R^2 = .123) did not increase the adjusted R^2 to a great extent. We have to state that the inclusion of the geographic-societal background resulted in a clear increase in the model's goodness of fit. We can therefore state that it was the inclusion of the geographic-societal background, which mainly increased the model's goodness of fit.

With regard to the factors' influence on attitudes towards political rights, we have to state that in model 5, the psychological factors had no significant influence. Only in model 1 did extraversion have a significant negative influence (Beta = −.100). However, after entering the geographical-societal background (in model 2), extraversion no longer had a significant influence. In contrast, the geographical-societal background was found to have a strong significant influence on attitudes towards political rights. Compared with German students – the reference category – Nigerian (Beta = .286) and Kenyan (Beta = .167) students strongly agreed more significantly with these rights. Furthermore, it is noteworthy that the beta coefficient of the geographical-societal background decreased from model 2 to model 3 when religion was entered. Obviously, some of the influence of the geographic-societal background could be explained by religious affiliation and degree of religious commitment. Also, religious affiliation (Beta = .073) and religious commitment (Beta = .120) itself had a significant, positive influence. Also, relational values (Beta = .052) and family values (Beta = .051) showed significant influences, even though their influence was less strong. All the other variables had no significant influence on attitudes towards political rights. So, all in all one can state that, within the model, the geographic-societal background and degree of religious commitment had the strongest influence on attitudes towards political rights. The influence of these two dimensions was definitely stronger than the influence of differences in personality.

10.5.5.2   Socio-economic Rights

In the second regression analysis we explored the influence of personality, geographic-societal background, religion, values and socio-demographic characteristics on attitudes towards socio-economic rights (see Table 10.15). All five regression models were significant.

As far as the model's goodness of fit is concerned, we could see that the first model had a low adjusted R^2 of only .022. Subsequently entering the geographic-societal background into model 2 (adj. R^2 = .040), religious variables into model 3 (adj. R^2 = .065) and values in model 4 (adj. R^2 = .088), the adjusted R^2 increased only about 2% per model. Entering socio-demographic characteristics in model 5 (adj. R^2 = .095) did not increase the adjusted R^2 to any large extent. We can therefore state that there was no concept that mainly increased the model's goodness of fit. Concerning the explanation of attitudes towards socio-economic rights, the psychological dimension seemed to be a reasonable complement to the socio-cultural dimension. Nevertheless, we had to take into consideration the fact that even model 5 could only explain 9.5% of the variance among the respondents.

Table 10.15 The influence of personality (extraversion, neuroticism, psychoticism) and the socio-cultural context (country, religion, values) on attitudes towards socio-economic rights.

	Beta	Beta	Beta	Beta	Beta
Psychological factors					
Extraversion	−.015	.029	.026	.002	−.008
Neuroticism	.043**	.044**	.039*	.037*	.023
Psychoticism	−.144***	−.131***	−.124***	−.110***	−.097***
Geographical-societal background					
Sweden		.037*	.010	.021	.017
Nigeria		.158***	.074***	.164***	.171***
Kenya		.029	−.025	.013	.012
Indonesia		.028	−.057**	−.051*	−.051*
India		.064***	.000	.025	.027
Religion					
Religious affiliation			−.014	−.014	−.015
Religious commitment			.194***	.182***	.179***
Values					
Relationally				.120***	.111***
Family				.031	.036*
Career				.079***	.082***
Socio-demographic variables					
Sex					−.091***
Age					.004
constant	4.184***	4.012***	3.697***	2.738***	2.793***
adj. R^2	.022	.040	.065	.088	.095

N = 3982
*p ≤ .05; **p ≤ .01; ***p ≤ 001
Religious affiliation: Christians=0, Muslims=1; Location: Germany=reference

With regard to the factors' influence, we have to state that in model 5, only one psychological factor was significant: psychoticism (Beta = −.097). Neuroticism was also significant until model 4, but after entering socio-demographic variables into model 5 this factor lost its significance. The geographical-societal background had, once again, a significant influence. Compared with German students, Nigerian (Beta = .171) and Indonesian (Beta = −.051) respondents significantly agreed with this right more strongly. Again, it is noteworthy that the beta coefficient of the geographical-societal background decreased from model 2 to model 3 when religion was entered. Here, too, some of the influence of the geographic-societal background could be explained by religious affiliation and religious commitment. Also, religious commitment (Beta = .179), relation values (Beta = .111), family values (Beta = .036), career orientation (Beta = .082) and sex (Beta = −.091) showed significant influences. Other variables had no significant influence on the respondents' attitudes towards socio-economic rights. One can therefore state that psychological factors, as well as the geographic-societal background, religious commitment, value

Table 10.16 The influence of personality (extraversion, neuroticism, psychoticism) and the socio-cultural context (country, religion, values) on attitudes towards environmental rights

	Beta	Beta	Beta	Beta	Beta
Psychological factors					
Extraversion	−.077***	−.009	−.011	−.022	−.018
Neuroticism	.049**	.006	.001	−.001	.004
Psychoticism	−.115***	−.070***	−.063***	−.057***	−.062***
Geographical-societal background					
Sweden		.081***	.055***	.061***	.062***
Nigeria		.217***	.137***	.181***	.179***
Kenya		.107***	.055**	.074***	.074***
Indonesia		.233***	.152***	.160***	.160***
India		.248***	.187***	.199***	.198***
Religion					
Religious affiliation			−.012	−.011	−.010
Religious commitment			.184***	.179***	.180***
Values					
Relationally				.046**	.049**
Family				−.001	−.003
Career				.055**	.054**
Socio-demographic variables					
Sex					.035*
Age					.002
Constant	4.016***	3.634***	3.294***	2.778***	2.720***
adj. R^2	.021	.094	.117	.121	.122

N = 3982
*$p \leq .05$; **$p \leq .01$; ***$p \leq 001$
Religious affiliation: Christians = 0, Muslims = 1; Location: Germany = reference

orientations and sex showed significant influences on attitudes towards socio-economic rights, with the geographic-societal background and religious commitment showing the greatest influence. Nevertheless, one can state that the different concepts complemented each other with regard to explaining differences in attitudes towards socio-economic rights.

10.5.5.3   Environmental Rights

In the third regression analysis we explored the influence of personality, geographic-societal background, religion, values and socio-demographic characteristics on respondents' attitudes towards environmental rights (see Table 10.16). All five regression models were significant.

As far as the model's goodness of fit is concerned, we could see that the first model had a low adjusted R^2 of only .021. Again, there was a clear increase of the adjusted R^2 from model 1 to model 2 (adj. R^2 = .094) when the geographic-societal

background was entered into the model. Subsequently entering religious variables into model 3 (adj. R^2 = .117), values into model 4 (adj. R^2 = .121) and socio-demographic characteristics into model 5 (adj. R^2 = .122) did not increase, to any large extent, the adjusted R^2. We can therefore state that it was the inclusion of the geographic-societal background, which mainly increased the model's goodness of fit.

With regard to the factors' influence we have to state that in model 5 only one psychological factor was significant: psychoticism (Beta = −.062). In model 1 extraversion and neuroticism had a significant influence also, but these factors lost significance when the geographic-societal background was entered. In addition, the beta coefficients of the personality scales distinctly decreased from model 1 to model 2 when the geographic societal background was entered. Some of the influence of the personality dimension could be explained by geographic-societal background. The geographical-societal background had, again, a great deal of influence on respondents' attitudes. Compared with German respondents, Swedish (Beta = .062), Nigerian (Beta = .179), Kenyan (Beta = .074), Indonesian (Beta = .160) and Indian (Beta = .198) respondents strongly agreed more significantly with these rights. Again, it is noteworthy that the beta coefficient of the geographical-societal background decreased from model 2 to model 3 when religion was entered. Here, too, some of the geographic-societal background's influence could be explained by religious affiliation and religious commitment. Also, religious commitment (Beta = .180) itself had a significant, positive influence. Also, relational values (Beta = .049), career orientation (Beta = .054) and sex (Beta = .035) showed significant influences, even though these factors were less strong. Other variables had no significant influence on attitudes towards environmental rights. One can therefore state that, again, geographic-societal background and degree of religious commitment had the strongest influence on attitudes towards environmental rights. The influence of these two dimensions was definitely stronger than the influence of differences in personality.

10.6   Conclusions

This chapter aimed at addressing an empirical gap in previous research with inspiration from a theory of the cultural impact on social agency (Archer 1996). Where Webb et al. (2012) had demonstrated that attitudes towards human rights are dependent on religion, values and the country of residence, Francis and Robbins (2013) had then shown that personality influences people's attitudes towards human rights. Our general hypothesis in this chapter was that respondents' socio-cultural contexts are of much more importance than personality characteristics. By using a sample based on a selection of respondents from six different countries in Europe, Asia and Africa, we were able to make a broad comparison of the influence of both socio-cultural contexts and personality. Our empirical findings confirm the hypothesis that, in all measurements, the explanatory relevance of the socio-cultural context

was obvious and that the influence of personality was very low as far as the respondents' attitudes towards human rights was concerned. This finding is a contribution to the theoretical discussion on the role of context and personality for attitudes towards human rights. It is also of relevance for furthering the understanding of HRE.

As outlined above, the approaches of HRE to focus solely on knowledge and normative goals is criticized, especially the problem how information and knowledge can clearly lead to acceptance and advocacy of human rights is still not answered (Tibbitts 2002, 164). According to Tibbitts (2002, pp. 166–167) HRE will be more effective if actual human rights conflicts are reflected and commonly addressed. Her proposal that HRE should result in transformative learning is clearly linked to the learners' socio-cultural context.

Our own findings provide some evidence that such an approach is effective. The regression analyses above reveal that the country of origin explains most of the variance in the respondents' attitudes towards human rights and since they are an important precondition of HRE, we conclude that HRE needs to be contextualized in a way which is sensitive to conflicts, cultural resources (like religious traditions) and social groups in a specific society.

Nevertheless, further research is needed. Our own measurement of the social context by using the country of residence as an indicator is very global. Further research has to examine which societal factors (e.g. economic, cultural, religious) actually influence attitudes towards human rights. In addition, empirical research is needed to clarify how HRE efficaciously refers to real existing conflicts and helps learners to overcome these conflicts on the basis of human rights.

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Chapter 11
Conscientious Objections in Clinical Healthcare Education as a Manifestation of Religion

Kavot Zillén

A vital part of healthcare students' education and medical preparation is to be exposed to a variety of health-related clinical settings. The students need the clinical education in order to gain knowledge and clinical reasoning skills to provide effective and safe healthcare services. Clinical healthcare education is consequently a critical component in delivering a competent and skilled future workforce. However, in some situations, students in their clinical training might refuse to participate in lawful healthcare and services that contradict their religion or beliefs, described here as conscientious objection in clinical healthcare education. In this paper, I will discuss whether healthcare professionals and students can 'opt-out' of participating in certain health related services and educational activities by referring to the protection of freedom of religion in the European Convention on Human Rights and Fundamental Freedoms. The aim of this paper is to give a clarification of whether freedom of religion includes a right to conscientious objection or not and under which circumstances. As will be shown in the paper, conscientious objection in healthcare setting can, in certain situations, constitute a manifestation of religion and belief. Thus, the right to manifest and practise this freedom is not an absolute right and can be subject to limitations in accordance with international law. For that reason, it is concluded that the answer to the question of whether students should be permitted to "opt out" of educational requirement based on religious grounds depends upon the manner in which the conscientious objection affects the interest of others, such as patients, caregivers and other staff members. In this regard, the educational healthcare institutions need to balance the right of conscientious objection, not only with the interests in having future healthcare professionals with proper educational training and required skills, but also with the legal and ethical responsibilities of the profession.

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11.1 Introduction

Healthcare students sometimes experience difficulties in carrying out school activities, particularly when trying to fulfil mandatory educational requirements, while simultaneously acting in accordance with their religious and moral values. These situations can lead to a conflict of conscience for students, which can be expressed in a number of different ways. For example, several studies in the field of medicine and ethics show that healthcare students in their clinical education and clerkship sometimes refuse to assist in certain care, such as abortion or to prescribe birth control to women, because of a conflict with their religious beliefs (Wicclair 2010; Card 2012; Strickland 2012; Nordstrand et al. 2014). In situations where students in their healthcare education and clinical training do not wish to participate in particular forms of care that they believe contravene their religion or belief, a conflict can arise, between the students' interests in acting in accordance with their beliefs and the interest of having future healthcare professionals with proper educational training an required skills.

In order to respect personnel's moral and religious integrity in the healthcare setting, some European countries have developed and adopted regulations granting healthcare professionals, and sometimes even students, the right to refuse to perform or participate in medical procedures that are contrary to their religious and moral beliefs. Legislative provisions that permit healthcare professionals and students to refuse to provide certain healthcare services based on religious, moral or philosophical objections are called conscience clauses (Morton and Kirkwood 2009: 356; McCafferty 2010: 1).

The main reason for allowing healthcare professionals – as well as healthcare students – to exercise conscientious objections is to respect the individuals' moral and religious integrity. The basic idea is that a religious physician or a medical student who does not want to participate in a certain medical procedure, such as abortion, due to his or her religious beliefs should not be forced to do so. A central argument for allowing students and professionals to exercise conscientious objection is that the freedom of religion and conscience requires it. However, the question is if this interpretation of freedom of religion is in accordance with the European Convention on Human Rights and Fundamental Freedoms, (ECHR) and the jurisprudence of the European Court of Human Rights (ECtHR).

This chapter focuses on the practise of conscientious objection by healthcare professionals and students who find certain educational activities in healthcare incompatible with their conviction. It further addresses whether healthcare professionals and students can 'opt-out' of participating in certain health related services and educational activities by referring to the protection of freedom of religion. Special attention will be given to Article 9 in ECHR. The purpose is not to examine all aspects of freedom of religion and conscience. Rather, the intention is to provide a clarification of whether freedom of religion includes a right to conscientious objection or not and under which circumstances. The ECtHR has not specifically examined the question of conscientious objection in healthcare education. For that

reason, the part discussing the court's jurisprudence on freedom of religion will be related to healthcare professionals' right to conscientious objection. The paper will also briefly discuss the Swedish governmental investigation on a conscience clause in higher education and its conclusions.

11.2 Conscientious Objection in Healthcare

11.2.1 Definition and Legal Framework

Conscientious objection is described in the literature as a refusal to participate in an activity that an individual considers incompatible with his/her religious, moral, philosophical or ethical beliefs (Zampas and Andión-Ibañez 2012: 232). The objection can be expressed in a number of different ways such as opposition to mandatory military service, obligatory church tax or to perform certain healthcare procedures (Zillén 2016). As previously mentioned, conscientious objections in healthcare arise when healthcare personnel refuses to provide some care, service or information due to religious or moral beliefs. There are clear similarities between the practise of conscientious objection in healthcare and in clinical healthcare education. They both focus on situations where professionals or students in the healthcare setting refuse to perform a healthcare service due to religious or moral reasons. Healthcare students are the next generation of healthcare providers. A vital part of their education and medical preparation is therefore to be exposed to a variety of health-related clinical settings. Accordingly, in their clinical practice they are part of a healthcare team and involved in patient care. As a result, they are obligated to perform many of the same services as healthcare providers, under the supervision of practitioners.

There have been a number of suggestions concerning the regulation of conscientious objections on a European level. In October 2010, the Council of Europe adopted resolution 1763 on conscientious objections in lawful medical care. The Resolution, which is not legally binding, invites Council of Europe member states to develop comprehensive and clear regulations that define and regulate conscientious objection regarding healthcare and medical services (Council of Europe resolution 1763, para. 4). The question of conscientious objection in the medical field is a highly controversial issue in many European countries, and the Swedish parliament received the resolution with great doubt and decided in May 2011 not to establish any regulation for conscientious objection in Swedish healthcare system (Parliamentary rapid protocol 2010/11:100, para. 18). The main reasons were to ensure patients' safety and access to care.

The practise of conscientious objection is inadequately regulated in the majority of Council of Europe member states (Zampas and Andión-Ibañez 2012: 255). Many of these countries have no clear regulations that define and regulate conscientious objections in healthcare and medical services. However, some member states have

adopted laws, ethical codes and guidelines that guarantee the right to conscientious objection for healthcare providers in the context of a specific medical procedure, such as abortion. For example, conscientious objection in abortion care is permitted in 21 out of total 28 EU member states (Heino et al. 2013). United Kingdom, France, Belgium, Norway, Austria, Hungary, Slovakia, Poland, Portugal, Italy, Cyprus, Denmark, Finland, Germany, the Netherlands and Spain are all examples of countries that allow healthcare professionals to object to performing abortions under specific circumstances. In other countries such as Latvia, Malta, Montenegro, Finland, Bulgaria and Sweden, the matter of conscientious objection is still unregulated (McCafferty 2010: 5). Whether conscience clauses are adopted or not depends on various legal and social considerations in a given national context. It is therefore important to clarify that the scope and regulation of conscience clauses varies in the different member states and that the content and reach of these objections are limited in different ways.

11.2.2   Reproductive Healthcare Services in Focus

Conscientious objection in healthcare most often arises in cases involving reproductive healthcare services; therefore, the regulation of conscientious objection is most frequently enacted in connection with issues relating to reproduction, such as in vitro fertilisation, contraception, abortion, and sterilisation, but may also include any phase of patient care, such as blood transfusion and organ donation (Lamačková 2008: 8).

One of the most debated ethical and legal issues that can pose a moral dilemma for healthcare professionals and students is the question of abortion. Abortion is one of the most common medical procedures that healthcare providers refuse to perform due to religious or moral beliefs (McCafferty 2010: 6). Healthcare professionals who, for example, work in the area of reproductive and sexual healthcare or prenatal screening for fetal anomalies, can feel challenged when it comes to separating personal and professional moral values in the workplace (Farsides et al. 2004: 505–507). These practitioners are confronted with issues concerning the moral status of the fetus and the woman's right to abortion, which can give rise to moral conflicts and have an effect on patient's right to lawful medical care (*ibid* p. 505). Given that women are the primary users of these services, conscientious objection can interfere with women's access to sexual and reproductive health (CEDAW, General recommendation 24, p. 11; Fiala and Arthur 2014: 15).

A school of medicine that has as part of its mission producing gynaecologists, obstetricians and midwives can justify requiring all students to receive abortion training in order to sustain women's access to abortion. In order for students who are specialising in midwifery or obstetrician/gynaecology to achieve the specified cognitive goals, it appears to be reasonable to deny them exemptions from activities related to abortion. However, students in general healthcare education and training who will not pursue a carrier in obstetrics/gynaecology may be granted exception from participation in abortion care, the reason being that it is only within the

specialty gynaecology that abortion is carried out. Granting such exemptions will therefore not affect the future profession or burden the healthcare system.

In the following section, general information about freedom of religion and conscience in ECHR will be provided, including specific case law on conscientious objection in healthcare.

11.3 Freedom of Religion

11.3.1 Central Provisions

There are various provisions concerning freedom of religion and its limitations in national, international and regional human rights law. Freedom of religion and belief is protected and recognised in national law and in regional as well as in international human rights law. The principle of freedom of religion appears in a number of instruments laid down by the United Nations. The International Covenant on Civil and Political Rights 1966 (ICCPR) is a key legal instrument at the international level and contains a comprehensive article on the freedom of religion, Article 18 (General comment no. 22). The right is far-reaching and profound – it includes freedom to have or to adopt a religion or belief of his or her own choice, and freedom, either individually or in community with others and in public or private, to manifest his or her own religion or belief in worship, observance, practise and teaching. Further, no one can be subject to coercion, which would impair his or her freedom to have or to adopt a religion or belief of his or her own choice. The freedom to manifest one's religion or beliefs in Article 18 (2) ICCPR may only be subject to such limitations that are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. The freedom of religion and belief is generally protected in similar terms in the international human rights treaties.

In addition to ICCPR the freedom of religion is protected in ECHR. This convention is the regional counterpart to the ICCPR, which also protects most civil and political rights (Harris et al. 2009: 3). The freedom of religion and belief is protected by Article 9 in ECHR and has been given a broad interpretation by the Convention organs (*ibid.* p. 426). Article 9 of the Convention provides:

1. 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 worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

This provision is the main legal source for the freedom of religion in the European system of human rights protection. Special attention is therefore given to it in the following sections.

11.3.2 *A Right to* **Have** *and to* **Manifest** *a Religion*

The freedom of religion in Article 9 of ECHR (as well as in Article 18 of ICCPR) is a twofold liberty; it includes both a freedom to *have* or to adopt a religion or belief and a freedom to *manifest* one's religion or belief. These two aspects are sometimes referred to as *forum internum* and *forum externum* (see for example, *Jehovah's Witnesses of Moscow and others v. Russia* 2010, *para. 99; Blumberg v. Germany* 2008, p. 3; *Porter v. UK* 2003, p. 23).

Forum internum includes a right for individuals to have or adopt a religion of one's choice, to change a religion or belief and to leave a religious faith or community (Harris et al. 2009: 428; Taylor 2005: 116; Vermeulen 2006: 752). The area of *forum internum* gives protection against state indoctrination and coercion. Further, the state is prohibited in accordance with Article 9 to force an individual to disclose his or her beliefs. For example, in *Sinan Işik v. Turkey*, the ECtHR found that the requirement to declare religious affiliation on a national identity card constituted a violation of Article 9 (*Sinan Işik v. Turkey* 2010, para. 42–53).

Article 9 also protects the external aspects of religion, namely – the freedom to manifest religion or beliefs. There are a number of different forms of manifestations that are protected. Article 9 (1) refers to worship, teaching, practise and observance as examples. The list is however not exhausted. The caselaw makes clear that other acts, such as slaughtering of animals in accordance with religious prescriptions (*Cha'are Shalom Ve Tsedek v. France* 2000) or conscientious objections to military service (*Bayatyan v. Armenia* 2011) is covered. It is noteworthy that manifestation of religion or belief does not cover each and every act or form of behaviour that is motivated or influenced by a religion. ECtHR generally makes a distinction between an activity central to the expression of a religion or belief – which falls within the realm of Article 9 – and one which is merely inspired or even encouraged by it and thus falls outside the scope of Article 9 (*Eweida and Others v. UK* 2013, para. 82).

One significant difference between the right to have and adopt a religion and the right to manifest a religion is that the former is an absolute right; it is protected unconditionally, and limitations are not permitted. However, with regard to the latter, the freedom in question is merely relative, which is logical so far – seeing that manifestation of religion or belief may affect or even threaten common interests such as public order, security and health, etc. (Council of Europe, research division 2011: 8).

11.3.3   Limitations

Even though the freedom of religion and conscience are recognised as a right for every human being, it is important to clarify that the right to manifest and practise this freedom is not an absolute right and can be subject to limitations in accordance with international law. Under Article 9 (2), a restriction on the manifestation of one's religion or belief can be justified if it is prescribed by law, has a legitimate aim, and is necessary in a democratic society. The court tends to avoid discussions concerning the criteria "prescribed by law". The question whether interference is "prescribed by law" has seldom featured in Article 9 caselaw (Murdoch 2012: 37). Instead, focus is on whether interference by a state is necessary and justified in accordance with one or several of the prescribed state interests listed in Article 9 (2). The listed legitimate aims are: the protection of *public safety*, *public order*, *health or morals*, or the protection of *the rights and freedoms of others*. The respondent state has to show that an interference falls within the scope of one of the listed objectives. However, this is not enough. The interference must also correspond to a pressing social need, be proportionate to the legitimate aim pursued, and be justified by relevant and sufficient reasons (*Handyside v. UK* 1976, para. 48; *Silver and Others v. UK* 1983, para. 97c).

In determining whether a measure is necessary and proportionate, the court has to weigh the applicant's interest in manifesting his or her religion against different public interests, such as the protection of the rights of others, e.g. individual's rights not to be discriminated against, the right to private life, etc. Additionally, the ECtHR leaves to the state parties to the convention some room for manoeuvre, i.e. certain *margin of appreciation*, in deciding whether and to what extent interference is necessary. This margin of appreciation goes hand in hand with European supervision embracing both the law and the decisions applying it. The Court's task is to determine whether the measures taken at the national level were justified and proportionate (See for example, *Leyla Şahin v. Turkey* 2005, para. 110; *Bayatyan v. Armenia* 2011, para. 121–22). The width of the margin of appreciation depends on the context and, in particular, the reason and the justification for the restriction. In *Evans v. United Kingdom* the Court stressed that:

> Where […] there is no consensus within the member States of the Council of Europe, either as to the relative importance of the interest at stake or as to the best means of protecting it, particularly where the case raises sensitive moral or ethical issues, the margin will be wider (Evans v. UK 2007, para. 77).

There will also usually be a wide margin if the State is required to strike a balance between competing private and public interests or different Convention rights (*ibid* para. 77).

11.3.4   Conscientious Objections in Healthcare
as a Manifestation of Religion

As previously mentioned, the freedom to manifest a religion or belief may be exercised in "worship, teaching, practice and observance". However, the manifestation of religion or belief is not limited to such acts. The ECtHR has been relatively generous in its assessment of what can be covered by the protection of religious freedom under Article 9 of the ECHR. In particular, the Court has held that a worker's religiously based refusal to perform certain tasks may be recognised as a manifestation of religious belief that may also permit an exemption from certain work tasks. In *Eweida and Others v. the United Kingdom*, one of the applicants – a therapist – refused on religious grounds to provide therapy and relationship counselling to same-sex couples. The applicant stated that he had difficulty in reconciling working with same-sex pairs with his Christian belief that homosexual activity is sinful. The matter was investigated and he was later dismissed for refusal to provide certain services on equal grounds. The applicant claimed that this violated his right to freedom of religion and argued that national law had failed to adequately protect his rights pursuant to Article 9. ECtHR accepted that the applicant's objection was directly motivated by his orthodox Christian beliefs about marriage and sexual relationships, and held that his refusal to undertake to counsel homosexual couples constituted a manifestation of his religion in Article 9. In other words, the Court agreed that there was a sufficiently close and direct nexus between his refusal and his belief. Consequently, the sanctions against him were seen as a restriction on his right to manifest his belief. However, the manifestation of religion or belief is not an absolute right. The court found that it was particularly important to take account of the fact that the principles applied by the applicant's employer – promotion of equal opportunities and requiring all its employees to act in a way which does not discriminate against others – pursued the legitimate aim of protecting the rights of others, particularly those of homosexual couples. Considering that a fair balance had been struck, the Court held that there had been no violation of the provisions relied on by the applicant.

Although the right to conscientious objection is not, as such, guaranteed by Article 9 of the Convention or any other provision of the Convention or any of its Protocols, the ECtHR has in the above-mentioned case accepted that healthcare professionals refusal to provide certain care (therapy), where it is motivated by a serious and insurmountable conflict between the obligation to perform certain work tasks and a person's conscience or his or her deeply and genuinely held religious or other beliefs, constitutes a manifestation of religion or belief. In addition to this, as previously mentioned, the parliamentary Assembly of the Council of Europe has passed resolution 1763, declaring the need for member states to ensure respect for the right of freedom of thought, conscience and religion of healthcare providers by developing comprehensive and clear regulations concerning the exercise of conscientious objection in healthcare.

However, not all action taken in respect to an individual's refusal or failure to comply with a legal or administrative obligation on the grounds of conscience or belief may constitute an interference with Article 9. In the case of *Pichon and Sajous v. France,* the ECtHR found that a pharmacist's religious beliefs cannot justify a refusal to sell contraceptive pills in their dispensary. The court held that Article 9 (1) does not always guarantee the right to behave in public in a manner governed by a belief. In other words, the applicant cannot give precedence to his or her religious beliefs and impose them on others as justification for their conscientious objection to offer healthcare products and services (*Pichon and Sajous v. France* 2001, para 4). Similarly, the court has stated that the practise of conscientious objection in healthcare settings should not be allowed to jeopardise patients' access to lawful medical care and services, for example, women's access to reproductive care and abortion (*Tysiąc v. Poland* 2007; *A, B and C v. Ireland* 2010). In *RR v. Poland,* the ECtHR specified that state parties to the convention have a positive obligation to:

> [O]rganisethe health services system in such a way as to ensure that an effective exercise of the freedom of conscience of health professionals in the professional context does not prevent patients from obtaining access to services to which they are entitled under the applicable legislation (*R.R. v. Poland* 2011, para. 206).

Given the above, conscientious objection in relation to healthcare and services can in some cases constitute a manifestation of religion or belief in Article 9. However, in accordance with the principle laid down in the previously mentioned cases, such a refusal must be intimately linked to the religion or belief in order to constitute a manifestation, which needs to be determined on the facts of each case. Furthermore, such manifestations can be restricted if necessary in order to reconcile the interests of various groups. Indeed, in some cases the effect of healthcare professionals' particular religious manifestations can be such as to threaten the protection of health and safety of patients (*Eweida and Others v. UK* 2013, para 99–101). In these circumstances, the question arises as to how much weight should be given to healthcare professionals' freedom of religion and to what extent it can be legally permissible to refuse to give lawful medical care. It is noteworthy that the State generally enjoys a wide margin of appreciation in cases concerning the regulation of conscientious objection in healthcare settings, especially because a balance has to be struck between competing interests, and there is no consensus within the member States of the Council of Europe. As previously mentioned, there is no outspoken right of conscientious objection in healthcare within the ECHR; this is mostly a matter for the different member states to regulate.

In conclusion, the scope of Article 9 of the Convention does not appear to protect a right for healthcare professionals, or for students, to conscientiously object to participate in certain healthcare and services conflicting with their convictions. In other words, not all conscientious objections in healthcare settings can constitute a manifestation of a religion or belief, and even so the manifestation can be subjected to some limitations if necessary.

11.4   Swedish Governmental Investigation on a Conscience Clause in Higher Education

In 1993, the Swedish Government decided to give a commission the assignment to investigate the need for a conscience clause in the Swedish Higher Education Ordinance (1993:100). It had been noted that students in higher education sometimes experienced conflicts between educational requirements and personal convictions. The investigation focused on healthcare education because conflict of conscience was considered to primarily occur in relation to certain healthcare and services. It was reported that medical and midwifery students, as well as veterinary students, had refused to participate in certain clinical training by invoking conscientious objection. The inquiry highlighted some examples of morally and religiously sensitive care and treatment that healthcare students most commonly objected to, such as abortion or participation in activities harmful to animals within veterinary and other biomedical education. The inquiry presented its result in the report (Official Reports of the Swedish Government 1994:84) entitled "conscience clause in higher education".

The investigation highlighted the importance of healthcare students receiving the clinical experience required for the profession. It found that students should not be granted an exemption in situations where it would result in the student's failure to satisfy an established core educational requirement and there are no effective alternative means to satisfy that requirement. The inquiry had proceeded on the general assumption that granting healthcare student conscientious objections is not compatible with established curricular standards. A conscience clause in the Higher Education Ordinance could in the investigators opinion have a negative impact on the healthcare system. The inquiry stressed that providing healthcare-related exemptions for healthcare students could result in healthcare students graduating without enough clinical experience and knowledge to identify the appropriate standard of care, as well as to properly diagnose, inform, counsel and refer patients. The investigator further considered the effect over time of granting students exemptions and found that it would likely cause an insufficient supply of healthcare professionals to meet the demands for certain healthcare and services.

As regarding the conscience clause, the inquiry strongly advised against developing regulation granting Swedish healthcare students a right to conscientious objection. This means that Sweden, like several other countries in Europe, has deemed it not to be appropriate to introduce a conscience clause for healthcare students. However, Swedish students in higher education being denied religious exemption from study components have the possibility to appeal the decision to the Higher Education Appeals Board, in accordance with chapter 12, section 2 of the Higher Education Ordinance.

11.5   Concluding Remarks

Currently, healthcare students' clearest legal ground to obtain religious exemption in the educational setting is, first and foremost, in the context of freedom of religion, with the support of Article 9 of the ECHR, but even here, legal exemptions for persons acting in accordance with their convictions remain a matter of balancing different individual and public interests. As emphasised in this chapter, conscientious objection in healthcare settings can under certain circumstances constitute a manifestation of a religion or belief in accordance with Article 9 ECHR. However, a refusal to act in accordance with legal or professional obligations, based on religious or moral beliefs, can be restricted if there is a strong public interest against such a manifestation. In the overall balance when considering whether or not a restriction is proportionate, the ECtHR will try to find a fair balance between the public interest and the individual interests; and in both contexts, the state enjoys a certain margin of appreciation. The different interests concerning conscientious objection in healthcare education include among others: student's interests in being able to act in accordance with his or her beliefs, healthcare educational institutions interest in ensuring that their students have sufficient qualifications to meet the requirements of tomorrow's healthcare, the public interest in having future healthcare personnel with adequate clinical experience, and patients' interests in receiving healthcare services to which they are entitled.

If healthcare students are freed from performing certain healthcare tasks in their clinical clerkship, such exemptions can have consequences for their future profession. Because of their lack of training they might not be able to perform such tasks that normally are considered to be part of their work obligations, which can result in increased workloads or additional assignments for their colleagues. Therefore, consideration should also be given to other staff interests, such as a balanced workload.

The question of whether healthcare students' religiously based actions or inaction will be allowed as derogations from general educational requirements ultimately turns on the possibilities, in each case, to find a reasonable balance between individuals' religious interests and the interest in having future healthcare professionals competent and willing to provide good and safe care on equal terms. In certain situations, it may be possible to maintain such a balance between healthcare students' refusal to participate in educational components due to religious beliefs and the patients' access to good care. As stressed by the Swedish governmental inquiry on a conscience clause in higher education, healthcare students need clinical education in order to get the required skills to interpret clinical problems. In other words – the students need to be exposed to authentic learning situations in order to develop practical knowledge in healthcare. The inquiry therefore did not find it reasonable to enact a conscience clause in the Higher Education Ordinance, which would have given healthcare students a general right to "opt out" of educational requirement based on religious grounds. However, exemption from a study component in healthcare education might be granted if it is not an established core

requirement, or mandatory component and there are effective alternatives to satisfy the educational requirement.

So far, a broad political consensus in Sweden has not favoured the legal recognition of healthcare students' or professionals' right to refuse to participate in certain healthcare due to religious or moral beliefs. However, the question of conscientious objection in the Swedish healthcare context might be the subject of renewed discussion, as it appears that more conflicts in this field may arise in the near future, especially in light of the increased frequency of discussions of diverse religious and moral beliefs in general in Sweden, which may, in turn, be implicated by rapid advances in healthcare that also pose challenging ethical, if not moral, questions. As more European nations have deemed it necessary to introduce conscientious objection clauses in healthcare regulation and education – and with the Council of Europe passing two resolutions encouraging Member States to introduce such measures – calls for a possible reconsideration in the matter of conscientious objections in Sweden. Even if Article 9 does not, as such, guarantee the right to conscientious objection, there is in the author's view a need for a more nuanced treatment of the issue of conscientious objections in Swedish healthcare and education.

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Chapter 12
Good Practice in Human Rights Education in Schools

Paula Gerber

Ever since the Universal Declaration of Human Rights was proclaimed in 1948, the United Nations has been encouraging states to provide human rights education (HRE). Initiatives to promote HRE include the World Programme for Human Rights Education (2005—ongoing) and the Declaration on Human Rights Education and Training (2011). Despite the United Nation's concerted efforts to promote human rights education, there is still uncertainty as to exactly what 'human rights education' means and how it should be implemented within schools. This chapter presents findings from empirical research and an evaluation of HRE programs in different countries, in order to identify six key elements of effective school-based human rights education.

12.1 Introduction

Article 29 of the *United Nations Convention on the Rights of the Child* (1989, 1577 UNTS 3) (CRC) complements the right to education set out in Article 28, by adding a qualitative element to the education to which all children are entitled. It provides that education 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

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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.

Other international human rights treaties and instruments also include provisions relating to human rights education (HRE) (see, for example, Article 26 of the *Universal Declaration of Human Rights*, Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (1966) 993 UNTS 3; Article 10 of the *Convention on the Elimination of all forms of Discrimination Against Women* (1979), 1249 UNTS 13; and Article 7 of the *Convention on the Elimination of all forms of Racial Discrimination* (1965), 660 UNTS 195), but it is this Article in the CRC that is most relevant to school-based HRE, since it is directed at children learning about human rights.

The UN Committee on the Rights of the Child (CRC Committee) has provided guidance to States Parties on precisely what Article 29 means. In 2001, the CRC Committee decided to make the aims of education the focus of its first General Comment (*General Comment No. 1: Article 29(1), The Aims of Education*). General Comments provide persuasive interpretations of treaty provisions and have been referred to as "distinct juridical instruments" similar to "advisory opinions" of international tribunals (Buergenthal cited in Steiner and Alston 2000). Although General Comments are not legally binding, they are highly influential as to how treaties should be interpreted (Gerber et al. 2013). It has been argued that, at the very least, states have a good faith obligation to consider General Comments when interpreting human rights treaties (Keller and Grover 2012; Gerber et al. 2013).

Thus, General Comment No. 1 exposes the Committee's thinking on the meaning of Article 29 of the CRC and is influential as to how the provision should be implemented by State Parties. In particular, the Committee noted that:

• The goal of HRE is to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence.
• Curriculum and pedagogy should be child-friendly, inspiring and designed to motivate children.
• Without formal endorsement of HRE in national law or policy, the principles articulated in Article 29 are unlikely to genuinely inform educational policies.
• The effective implementation of Article 29 requires the fundamental reworking of curricula to include the various aims of education and the systematic revision of textbooks and other teaching materials and technologies, as well as school policies. It is inadequate to superimpose the aims and values of HRE on an existing system without making deeper changes.
• HRE training for teachers and educational administrators is essential for effective implementation of Article 29.

- The school environment must reflect the spirit of understanding, peace, tolerance etc. and a school which allows bullying or other exclusionary practices will not satisfy the requirements of Article 29.
- Governments should develop a comprehensive national plan of action to promote and monitor the realisation of the objectives in Article 29.

This General Comment fills in some of the gaps left by the general language of Article 29 and gives direction to State Parties as to how they can give effect to the HRE norm in the CRC. However, there is still considerable uncertainty as to the precise meaning of Article 29 and how it should be implemented in practice. This chapter seeks to play a modest part in filling this gap in our knowledge about HRE, by providing further clarity as to the definition of HRE and identifying six elements that combine to constitute good practice in the provision of HRE within schools.

12.2   What Is Human Rights Education?

Although the term 'human rights education' is commonly used, there is surprisingly little certainty as to precisely what is meant by these three words. The UN Committee on the Rights of the Child has noted that '[t]he term "human rights education" is too often used in a way that greatly oversimplifies its connotations' (CRC Committee 2001). The lack of certainty as to its meaning has led to it being referred to as 'a slogan in search of a definition' (Gerber 2010, 541), and it has been noted that 'human rights educators themselves still struggle with how to define what they do' (Flowers 2004, 105). One author suggests that the problem in defining HRE is that we have too many definitions, not mutually exclusive, but subtly different in their formulation of goals and principles (Flowers 2004, 106). This section analyses these differences by looking at how the UN has defined the term HRE, as well as how the term is understood by governments, non-government organisations (NGOs) and teachers.

12.2.1   How International Organisations Define HRE

The Plan of Action for the World Programme for Human Rights Education (2005—ongoing) describes HRE as:

> [E]ducation, training and information aiming at building a universal culture of human rights through the sharing of knowledge, imparting of skills and moulding of attitudes (OHCHR 2005, [3]).

The UN Office of the High Commissioner for Human Rights and UNESCO have attempted to expand on this by stating that:

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 (OHCHR and UNESCO2006, 1).

The Irish Human Rights Commission has noted that together, these definitions explain both the purpose of HRE — building a culture of human rights — as well as the substance of such education: it involves the imparting of knowledge about human rights as well as the skills necessary to promote, defend and apply human rights and shape attitudes so that human rights are upheld (Irish Human Rights Commission 2011, 29).

The *UN Declaration on Human Rights Education and Training* (Human Rights Council, UN Doc A/HRC/RES/16/1, 8 April 2011) defines HRE as:

1. Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing, inter alia, to the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.
2. Human rights education and training encompasses:

   (a) Education *about* human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;
   (b) Education *through* human rights, which includes learning and teaching in a way that respects the rights of both educators and learners;
   (c) Education *for* human rights, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of others (see Article 2). [Emphasis added]

It has been observed that this definition clearly articulates the philosophy that HRE is about empowerment, that is, that HRE involves more than students simply rote learning the human rights set out in the Universal Declaration of Human Rights (Gerber 2011). HRE requires participatory learning in order to transform learners into active citizens who respect and promote human rights (Gerber 2011).

The definition of HRE in the Declaration requires the promotion of respect for *all* human rights. Some states have constructed HRE very narrowly, limiting it to civil and political rights. Thus, school curricula might include lessons on citizenship and democracy, but fail to mention an individual's right to food and shelter (Gerber 2010). In light of this, it is unfortunate that the Declaration does not explicitly define HRE as encompassing education about economic, social and cultural rights as well as civil and political rights (Gerber 2011).

12.2.2   How Governments Define HRE

Flowers observes that '[g]overnmental definitions are chiefly characterized by their devotion to goals and outcomes, especially those that preserve order and the state itself' (Flowers 2004, 107). They tend to be based on legal documents and are often formulated by lawyers rather than educators (Flowers 2004). Governmental definitions emphasise the role of HRE to create peace, continuity, and social order, and oppose socially disruptive behaviours and attitudes. Therefore, these definitions are often littered with words such as: peace, democracy, development, tolerance, and social justice (Flowers 2004). Ultimately, governments perceive the value of HRE as lying in its 'strategic instrumentality for social good' (Flowers 2004, 110).

12.2.3   How NGOs Define HRE

How NGOs understand HRE is critical, because they are the organisations that are developing much of the HRE materials being used in schools (Gerber 2010). The definition of HRE used by three of the leading human rights NGOS working in this field — Amnesty International, Human Rights Education Associates (HREA) and People's Movement for Human Rights Learning — all adopt an activist approach, that is, they all see HRE as transformative: HRE motivates students to take action that leads to positive change in society (Gerber 2008). All three NGOs see HRE as being about empowerment and provoking people to take steps to protect human rights. Their understanding of HRE is quite similar to the definitions of HRE propounded by the UN.

Flowers asserts that:

Definitions formulated by NGOs emphasize violations, stressing the potential of human rights education to enable vulnerable groups to protect themselves, and challenge their oppressors. Their definitions reiterate words like power, empowerment, conflict, protect, defend, oppressed and oppressor, victims, violations (Flowers 2004, 110)

NGOs also tend to emphasise critical thinking and analysis regarding the conditions that lead to negative forces, such as poverty and systemic inequalities of power and opportunities. This aspect of HRE is almost entirely absent from pronouncements by governments (Flowers 2004).

Finally, some NGOs adopt more radical definitions of HRE that can be described as adversarial and confrontational. These tend to arise where HRE is being undertaken in situations of social unrest and systematic rights abuses (Flowers 2004).

12.2.4 How Teachers Define HRE

Educators understand HRE in terms different from all of the three groups considered above. Their definitions tend to be based on conceptions of HRE as an ethical framework for universal application, and emphasise words such as 'principles, norms, standards, values, and moral choices' (Flowers 2004, 115).

Teachers tend not to rely on legal instruments when talking about HRE, and it has been noted that 'teachers see a clear distinction between "human rights" and "human rights law"' (Gerber 2010, 560). Furthermore, when teachers talk about HRE, it is clear that *how* human rights are taught is as important as the content (Hainsworth 1997).

12.2.5 HRE: Different Meanings for Different People?

This brief examination of different people's understandings of HRE, highlights stark contrasts between how different sectors define HRE. Although there continues to be no consensus definition of HRE, Flowers concludes that:

> not knowing precisely what human rights education is does not condemn the field to a fatal vagueness. Such open-endedness may, in fact, indicate an essential quality about human rights education and human rights itself. Indeed, this very fluidity may be the source of much of the inspirational and creative force behind human rights education (Flowers 2004, 106).

Although HRE means different things to different people, this is not necessarily an obstacle to compliance with Article 29 of the CRC. The following section identifies the six elements that are essential to the provision of effective school-based HRE, regardless of any differences in understanding of the precise meaning of HRE.

12.3 Six Key Elements of Effective Human Rights Education

A combination of empirical research and synthesis of existing literature reveals that there are six key elements required for effective school-based HRE, and these are set out in Fig. 12.1 below. The absence of any one of these elements will have a negative impact on the success of the HRE endeavours. This section analyses each of the six elements in order to provide insight into how to achieve good practice in the implementation of Article 29 of the CRC and the UN Declaration on Human Rights Education and Training within schools.

Fig. 12.1 Key elements to effective HRE in schools
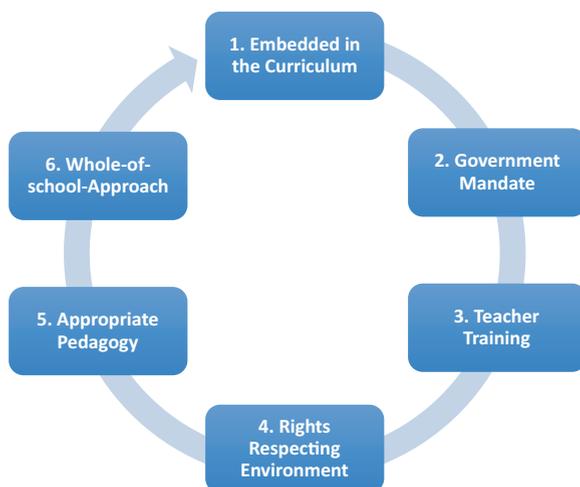
12.3.1   Human Rights Embedded in the Curriculum

A key element of effective HRE within schools is the presence of HRE within the school curriculum. The absence of human rights in the teaching syllabus is one of the most significant obstacles to HRE. A research project that involved interviewing secondary school teachers in Melbourne, Australia and Boston, Massachusetts, about obstacles to HRE revealed that many teachers felt constrained by the curriculum. A common theme to emerge was that teachers are required to teach from the curriculum, and if human rights are not in the curriculum, teachers do not feel empowered to incorporate them into the syllabus. This ties into the crowded curriculum phenomena: teachers already lack sufficient time to teach the existing syllabus, making the incorporation of additional material even more challenging (Gerber 2008). This obstacle to HRE can be overcome by integrating human rights into the national curriculum in an explicit, cross-cutting manner. Keet and Carrimm, note that South Africa's ad hoc attempt at integrating HRE into the curriculum was costly and ineffective (Keet and Carrimm 2005).

There are different ways that schools may seek to incorporate human rights into the curriculum, namely:

  (i) human rights as a stand-alone subject;
 (ii) human rights integrated across several subjects; or
(iii) a combination of both (i) and (ii).

Each of these models is analysed below.

(i) Human Rights as a Stand-Alone Subject

A number of countries have elected to incorporate HRE via a stand-alone subject focused on human rights. Examples include:

India — In 2012, the Government of the state of Tripura introduced human rights as one of the subjects in the school curriculum. The subject is called 'Human Rights in Social and Political life' and is part of the social education subjects for students between Classes VI to VIII (Pal 2012).

Ethiopia — has a subject 'Civics and Ethical Education' which teaches students 'the culture of tolerance, respect for the rule of law, upholding the constitution and the constitutional system, giving due respect to human and democratic rights of citizens and imbue them with the value of active participation in the democratic process of Ethiopia' (OHCHR 2009).

Namibia — has a subject called 'Education for Human Rights and Democracy' which is taught at upper primary and secondary levels (OHCHR 2009).

Sri Lanka — has a subject called 'Life Competencies' which forms part of the curriculum in junior secondary school and provides opportunities for students to learn about peace, conflict resolution, democratic ideals, pluralism and respect for others (OHCHR 2009).

Bosnia and Herzegovina — has a subject devoted to human rights which students undertake in the final grade of secondary school (OHCHR 2009).

Spain — 'Citizenship and Human Rights' is a compulsory subject in the basic education curriculum (6–16 years) (OHCHR 2009).

The risk with this approach is that unless it is mandatory that children undertake the particular human rights subject, there will be students who do not receive any education about human rights. Furthermore, human rights risk being perceived in isolation — and capable of being separated from other areas of study — rather than as core principles that inform and underpin other disciplines, and all aspects of schooling and social life.

(ii) Human Rights Integrated Across Several Subjects

The most striking example of human rights integrated across an entire school is the School for Human Rights in New York. The mission of this school is to:

> develop the academic and social capacities of all our students, regardless of identity or ability. A combined middle and high school, the School offers an integrated academic and social skills-based curriculum, challenging our students to become critically thinking, compassionate, and socially engaged young adults committed to equity, dignity and social consciousness. We are implementing a school-wide approach to human rights: teaching human rights through coursework and by building a community culture that upholds human rights principles (The School for Human Rights Website).

This is an example of human rights not only integrated across several subjects, but also of a whole-of-school approach to HRE. That is, human rights are not only incorporated into the curriculum, but also inform school policies and practices (this is analysed further in 12.3.6 below). This approach recognises that students learn about human rights not only in the classroom, but also through what they observe outside of the classroom and the extra-curricular activities in which they participate.

(iii) Human Rights as a Stand-Alone Unit and Integrated Across the Curriculum

The third model — infusing human rights across the curriculum in addition to establishing human rights as a stand-alone subject — is the preferable course of action: this composite model allows education regarding human rights to inform students' overall learning experience, while still providing in-depth and comprehensive study of human rights in a stand-alone subject. This is the model that the Australian Human Rights Commission has recommended for the Australian national school Curriculum (Australian Human Rights Commission 2011).

One of the most comprehensive studies of this approach is Kerry Ang's doctoral thesis, analysing HRE at Carey Baptist Grammar School in Melbourne (Ang 2009). Carey is a private school that operates under the auspices of the Baptist Church. Since 2001, it has run a week-long Human Rights Convention for Year 8 students. It is an intensive five-day program which includes sessions run in the classroom, film presentations, visiting speakers and excursions (Ang 2009). Ang observed that this stand-alone program complemented human rights in other areas of the school curriculum. He gave as examples:

- Students analyse religious difference as part of the human rights convention which feeds into their studies in religious education;
- Students choose an activity from the Human Rights Convention in their English class as the basis for preparing an audio visual presentation; and
- Many of the students who participate in the Human Rights Convention go on to enrol in a Year 9 elective subject called 'Human Rights Defenders' (Ang 2009).

Ang concluded that the Human Right's Convention represented good practice in terms of HRE, and could serve as a model for other schools wishing to incorporate HRE (Ang 2009). The one caveat that should be placed on this finding is that Ang was a teacher at Carey and a coordinator of the Human Rights Convention, and thus not an impartial observer of the program. Notwithstanding this, Ang's doctoral thesis does provide a useful illustration of the approach of having human rights as a stand-alone subject as well as integrated across the curriculum.

12.3.2 Explicit Government Mandate Regarding HRE

Article 7(3) of the UN Declaration on Human Rights Education and Training calls for states to take all necessary steps for the 'implementation of human rights education and training by appropriate means, including the adoption of legislative and administrative measures and policies.' Governments therefore should provide a clear mandate regarding HRE as an integral part of school education. The necessity of government direction in relation to HRE is further established by the UN Committee on the Rights of the Child, which has noted that:

> [i]n the absence of any specific formal endorsement in national law or policy, it seems unlikely that the relevant principles are or will be used to genuinely inform educational

policies. The Committee therefore calls upon all States parties to take the necessary steps to formally incorporate these principles into their education policies and legislation at all levels (CRC Committee 2001).

Cardenas found that 'states have almost uniformly failed to incorporate HRE into domestic laws and policies' (Cardenas 2005, 370). The lack of legislation relating to HRE means there is little responsibility resting on governments to ensure that human rights are effectively implemented in schools. It has been noted that until HRE is unambiguously mandated by government, and comprehensively embedded in the curriculum, it will remain a bricolage of uncoordinated and non-strategic commitments and initiatives (Gerber et al. 2013).

Some countries do have strong legislative mandates for HRE, including:

Spain — The *Organic Law on the Improvement of the Quality of Education* (*La Ley Orgánica para la Mejora de la Calidad Educativa,* 8/2013), which was introduced in 2013. This specifies that one of the aims of education is for students to learn about 'peace, respect for human rights, community life, social cohesion, cooperation and solidarity between nations and the acquisition of values which favour respect for living things' (Article 2) and includes compulsory subjects in human rights and democratic citizenship at both primary and secondary school level (Articles 18, 24 and 33).

South Africa — The *National Education Policy Act of 1996* s 4(b) provides that education policy must contribute to the advancement of democracy and human rights.

The Philippines — Article 14, section 3(2) of the 1987 *Constitution* provides that education shall promote 'respect for human rights,' and 'teach the rights and duties of citizenship'.

Sweden — Section 5 of the Swedish *Education Act* (*Skollag,* 2010:800) provides that education shall be structured in accordance with fundamental democratic values and human rights, respecting the sanctity of human life, individual freedom and integrity, the intrinsic value of every human being, equality between the genders and solidarity between people. Each and every person active in the school system shall promote human rights and actively counteract all forms of insulting treatment.

Slovenia — Article 2 of the *Law on the Elementary School* (*Zakon o osnovni šoli,* no. 12/96, 1996), sets out the objectives of education which include 'to educate for mutual tolerance and respect for being different, willingness to cooperate, respect for human rights and basic freedoms' and to promote the development of 'the ability to live in a democratic society'.

A legislative mandate for HRE, such as those outlined above, constitutes good practice when it comes to government mandates relating to HRE.

12.3.3   Teacher Training

For HRE to be successfully introduced into the classroom, it is necessary that teachers perceive it to be 'needed, practical and relatively easy to implement' (Covell 2010, 122). Without an adequate understanding of human rights and the principles of HRE, it is unlikely that teachers will teach children about human rights. This is because of a widely held misconception that newly empowered students will threaten their authority (Covell 2010, 125).

An initial step to overcoming this obstacle to widespread HRE within schools is to ensure teachers receive training about human rights as part of their professional qualification. Having a general understanding of human rights is necessary to understanding the importance of HRE in the classroom. Some secondary school teachers have noted that:

- 'I'm not doing a lot with it [HRE] but I'm probably doing more than a lot of teachers. And I still struggle with it because I'm not really clear, and I haven't been taught about it. Teachers tend to teach what they're familiar with and how they were taught and the information they were taught, and I didn't really get any of this in college' (Gerber 2008, 259); and
- 'The next step is to train teachers so that they're comfortable teaching this [human rights] ... teachers aren't going to teach it unless they have the skills' (Gerber 2008, 259).

The failure to adequately educate teachers in human rights makes any school-based HRE efforts doomed to fail.

12.3.4   Rights Respecting Environment

In addition to the incorporation of human rights in the school curriculum, the environment in which students are educated must reflect respect for human rights. It is insufficient to merely teach students *about* human rights if respect for rights is not reflected in the education process (Amnesty International 2012). Article 12 of the CRC requires State Parties to ensure the right of children to express their views freely on matters which affect them. As children's participation in decision-making processes is the main area of potential conflict between HRE and the traditional school structure, it is essential to consider ways of fostering children's participation rights to achieve a rights respecting environment in schools.

The traditional structure of the classroom — and its relationship with authority, discipline and compulsion — has the potential to conflict with the freedom of students, their autonomy, their right to recognition and their right to be free of arbitrary detention and punishment. As Alderson notes, students in schools are 'regimented and involuntarily subjected to mass routines to a greater degree than they will be at any other time of life, unless they are sent to prison' (Alderson 1999, 188). The

rationale for this treatment, and the exemption of children from the enjoyment of the rights discussed above, is the perception that children are not fully competent or mature social actors, and require training before they are capable of exercising their rights (Alderson 1999). However, in teaching children that rights are discretionary, and that rights can be suspended where necessary to maintain discipline and order, the traditional structure of the classroom models patterns that are inconsistent with HRE. Smith notes that recognising children's participation rights is vital in a societal context in which the relationship between adults and children teaches that absolute authority and power are acceptable: 'Children's role as citizens and understanding and awareness of democracy is determined by the extent to which their participation rights are respected. Participation rights support a sense of belonging and inclusion and — more importantly — teach children how they can bring about change' (Smith 2007, 149). Where possible, schools should operate according to principles of democracy, and encourage negotiation, accountability, respect and as much equality as practicable between teacher and student (Alderson 1999).

Alderson identifies five dominant approaches to teaching human rights in schools. Four of these fail to secure a rights supporting environment and are therefore ineffective. The first approach teaches rights as a deferred entitlement: children are educated about rights to be exercised once they have acquired the requisite maturity. Similarly, the second approach entitles children to a restricted or constrained set of rights and teaches children that they are not capable of exercising them fully (Alderson 1999). The third approach emphasises provision and protection rights and the fourth teaches rights in terms of their serious abuse in 'underdeveloped' countries, failing to emphasise their relevance to children in their actual context (Alderson 1999). Only the fifth approach — which emphasises the significance of human rights to children's lives and their immediate entitlement to them — recognises and promotes human rights in a way that doesn't contradict their universal and unconditional nature.

One way to achieve this kind of approach is to seek the opinion of students on matters of school governance. Some schools have included students in the interview panel when hiring new teachers. In Beauchamp College in Leicester, UK, students write the job description of certain pastoral members of staff, advertise the post, manage the interviews and make the appointment. Students are also involved and consulted in the appointment of new principals (Smart School Councils Community Website). It is important to note that student participation in interview panels has attracted criticism, particularly from teachers unions in the UK. The NASUWT, the largest teachers union in the UK, reported in 2010, that teachers were being subjected to 'demeaning' interviews conducted through trivial, irrelevant questions. One candidate was reportedly rejected because he 'looked like Humpty Dumpty', whilst another was asked to 'sing his favourite song' (Paton 2010; Williams 2010). The potential for students to abuse participation rights ties into the rationale for restricting these rights discussed above: students are of an age where they may be more susceptible to peer pressure and may lack the maturity to recognise the significance of their decisions. This criticism is easily answered: participation rights do not require that schools operate as an absolute democracy. Students should be

screened for the suitability of their interview questions, and should be counselled regarding selection criteria. This approach is used by Nossal High School in Victoria, Australia, where the two students chosen for the interview panel are provided with Merit and Equity Training (Nossal High School Website). It is important, however, that the supervision of children's exercise of their rights does not lead to a filtered, 'screened' practice of rights similar to the first two approaches to HRE described by Alderson above. The supervision must be provided in a way that does not teach students that their entitlement to rights is discretionary upon the supervision of authority figures.

Children's participation rights may also be respected through the delegation of aspects of school governance to student committees and representative councils. Student bodies teach children about the process of governing and effecting change through inclusion and consensus, rather than through arbitrary authority alone. It is important, however, that student representative bodies are not merely given a nominal role in school governance. Alderson's survey of UK schools found that only one fifth of students considered student representative councils to be effective (Alderson 2000). Many students perceive student representative councils as token and irrelevant, and report that councils are only given jurisdiction over minor matters such as "the number and placement of rubbish bins" (Tapp 1997; Smith 2007). To be effective, student councils must have an input on the real issues that students are concerned about. As Tapp notes, 'true participation must go beyond tokenism and must involve shared decision-making which permits child initiated and directed decisions' (Tapp 1997, 7). Taylor, Smith and Nairn's 2000 study of Year 10 students in New Zealand found that students wished to have a say on matters such as school subjects, activities out of school, school trips and school camps. Less relevant were issues such as uniform and dress codes (Taylor et al. 2001). From this, they concluded that students wish to have a voice on serious matters that affect their education. If representative bodies do not have jurisdiction over significant matters, the use of such bodies may be counterproductive, and result in student cynicism towards civic participation.

Student constitutions and charters should be used in conjunction with representative bodies and councils: this also nurtures a sense of collective ownership over rules and governance. Lightwater Village School in Surrey in the United Kingdom, has adopted a system of committees to govern school functions. These manage not only practical functions — such as cloakroom and corridor monitoring — but also administrative and governance functions: students assist in the office and participate in lesson observations with the head teacher. Each committee is supported by a member of staff, and governed by the whole school Golden Charter. Lightwater Village School has reported positive outcomes and a stronger sense of responsibility amongst its students, as has the school in South Africa from which the model was adopted (Smart School Councils Community Website).

St James CE Primary School in Rochdale, UK, established a Rights Respecting School committee. The members of this committee consist solely of students elected from each class, who — after receiving appropriate training — run the committee without staff support. This committee then participates in meetings of the school

council. Students are regularly consulted for feedback on teaching strategies and the progress of the school (Smart School Councils Community Website).

Similarly, UNICEF Canada's Rights Respecting School initiative (RRS) — which was adapted from its UK counterpart — promotes 'democratic pedagogy' as the basis of a rights respecting environment. This requires teachers to establish a classroom charter with student input, and to integrate student decision-making in relation to the curriculum and assessment processes (UNICEF Canada 2011; MacMath 2008). 'Democratic pedagogy' also encourages assessment to be as participatory as practicable. The form of assessment should be varied, to accommodate for individual needs, and should also incorporate aspects of self- and peer-assessment to encourage a sense of student ownership and responsibility (UNICEF Canada 2011).

12.3.5 Appropriate Pedagogical Practices

In order to guarantee quality implementation of HRE, it is necessary to ensure that teachers use suitable pedagogical practices. The very nature of HRE requires a particular pedagogical approach, namely one that is participatory and empowering (Branigan and Ramcharan 2012). Such an approach has been found to support "deep learning", the internalisation of human rights values, and the transformation of knowledge into action (Branigan and Ramcharan 2012).

There are a handful of studies that have analysed different pedagogical approaches to HRE. These include evaluations of the following initiatives, each of which is analysed below:

(i)   Values in Action Schools Project (Australia)
(ii)   Finding My Magic (Australia)
(iii) Rights Respecting Schools (United Kingdom)
(iv)   Facing the Past (South Africa)
(v)   Lift Off (Ireland).

(i) Values in Action Schools Project

The Values in Action Schools Project (VASP) was an initiative of the Australian Government designed to build on previous values education that the Government had undertaken pursuant to the *National Framework for Values Education in Australian Schools* (2005).

The VASP involved eighty-six schools (primary and secondary) working in fifteen clusters (of three to ten schools). The schools were required to design and implement projects in accordance with ten key principles, namely:

1. Establish and consistently use a common and shared values language across the school.
2. Use pedagogies that are values-focused and student-centred within all curricula.

3. Develop values education as an integrated curriculum concept, rather than as a program, an event or an addition to the curriculum.
4. Explicitly teach values so that students know what the values mean and how the values are lived.
5. Implicitly model values and explicitly foster the modelling of values.
6. Develop relevant and engaging values approaches connected to local and global contexts and which offer real opportunity for student agency.
7. Use values education to consciously foster intercultural understanding, social cohesion and social inclusion.
8. Provide teachers with informed, sustained and targeted professional learning and foster their professional collaborations.
9. Encourage teachers to take risks in their approaches to values education.
10. Gather and monitor data for continuous improvement in values education (Education Services Australia 2010, 5–6).

While these do not explicitly refer to human rights, many of the points are relevant to HRE, including integrated curriculum, student-centred learning, using local and global contexts, fostering intercultural understanding, social cohesion and social inclusion, and ensuring teachers have access to relevant professional development.

The report into the effectiveness of VASP exposed many instances of teachers using human rights as an entry point for values education. Some of the issues that students studied included: poverty, refugees, civics and citizenship and Indigenous culture. The projects that students were involved in designing and implementing were aimed at benefiting members of the wider community beyond the classroom, and involved students in real-life experiential learning (Education Services Australia 2010). This is consistent with students learning *about* human rights, *through* human rights and *for* human rights as articulated in the UN Declaration on Human Rights Education and Training (see Article 2(2)).

Overall, the evaluation of VASP found that it improved students' engagement with schooling, promoted better learning outcomes, and enhanced students' social and emotional well-being. Although not entirely an HRE initiative, VASP provides insight into how HRE could be implemented within schools.

(ii) Finding My Magic

Finding My Magic is an educational resource aimed at teaching children (aged between four and eleven) about rights and responsibilities, using the Convention on the Rights of the Child as the guiding force (Eve Ash and Save the Children Australia 2010). It was developed by the NGO Save the Children, and consists of twelve animated videos for use in the classroom, with each episode focusing on a different right. For example, there are episodes that focus on the right to privacy, the right to an adequate standard of living and the right of children to participate and have their views respected. It was created by psychologist Eve Ash, and features Australian Olympic champion, Cathy Freeman. The resource is accompanied by a teachers' guide, which includes lesson notes, discussion questions and activities for each

episode (Eve Ash and Save the Children Australia 2010). However, it is not integrated into subjects within the curriculum, which may be an obstacle to its uptake, since as noted above, teachers tend to stick closely to the curriculum.

In early 2011, the Finding My Magic program was implemented in thirty-eight classes across fifteen state primary schools and evaluated by Dr Renata Phelps and Dr Brad Shipway. They found that students' overall understanding of rights and responsibilities increased after participating in the Finding My Magic program. Furthermore, students showed marked increase in respecting the privacy and religion/beliefs of others as well as enhanced tolerance and fairness towards others.

One barrier to the uptake of Finding my Magic may be the fact that it has to be purchased by teachers/schools rather than provided free of charge. Given that many schools struggle to operate within limited budgets, the AUD$99 price tag may be beyond their reach. This is particularly so when many other HRE resources are available to downloaded for free (see, for example, the websites of the Australian Human Rights Commission, Human Rights Education Associates and Amnesty International).

(iii) UK Rights Respecting Schools

The Rights Respecting Schools Award began in 2004, and to date, more than 1,600 primary and secondary schools are registered for the award (Sebba and Robinson 2010). The aim of this initiative is to help schools use the Convention on the Rights of the Child as their values framework. In order to achieve the Rights Respecting Award, a school must complete two levels and self-evaluate their progress. When they believe they have met the standards, an external assessment is conducted, and if the standards have been satisfied, a certificate is awarded.

The standards require that:

1. The best interests of the child is a top priority in all actions. Leaders are committed to placing the values and principles of the CRC at the heart of all policies and practice.
2. The Convention is made known to children and adults, and is used to understand and work for global justice and sustainable living.
3. Young people and adults collaborate to develop and maintain a rights-respecting school community, based on the CRC in all areas and in all aspects of school life.
4. Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously. Young people develop the confidence, through their experience of an inclusive rights-respecting school community, to play an active role in their own learning, and to speak and act for the rights of all to be respected locally and globally.

The program is implemented by UNICEF UK, with funding from the Department of Education. An evaluation of the program took place over three years from 2008 to 2010, and assessed the impact of the Rights Respecting Schools Award on the well-being and achievement of students in the participating schools, using eight indicators of success, namely:

1. Students know about the UN Convention on the Rights of the Child;
2. Students show improved self-esteem;
3. Students demonstrate enhanced moral development;
4. Behaviour and relationships are good/improved;
5. Students feel empowered to respect the rights of others locally, nationally and globally;
6. Students demonstrate positive attitudes towards diversity in society;
7. Students actively participate in decision-making in the school community; and
8. Students show improved learning and standards.

The evaluation found that the Rights Respecting Schools Award had a profound effect on the majority of the schools involved in the program. Indeed, some schools described their involvement as a life-changing experience. The head teacher at one school noted that: 'After 16 years as head teacher at […] school, I cannot think of anything else we have introduced that has had such an impact' (Sebba and Robinson 2010, 13). Overall, the Rights Respecting Schools Award had a significant and positive influence on the ethos, relationships, inclusivity, understanding of the wider world, and the well-being of the school community.

The Rights Respecting School Award is in some ways similar to the Certificate for Humanity initiative in Australia. Developed by the National Human Rights Education Committee, the Certificate for Humanity is presented to students in years 6 or 7:

> for pledging to respect, uphold and promote the ideals and principles of the Universal Declaration of Human Rights and to work for fundamental freedoms for everyone without prejudice and discrimination (National Human Rights Education Committee).

However, there are key differences in that the certificate is issued to individual students rather than the school, and tends to be used by a single class after completing nine lessons relating to human rights. There is no external monitoring or assessment of students' participation in the Certificate for Humanity program and little evidence of the extent to which it is being used in Australian primary schools.

The Rights Respecting Schools Award is also similar to the approach adopted by Amnesty International in *Becoming a Human Rights Friendly School: A guide for schools around the world* (Amnesty International 2012). In this book, Amnesty International provides guidance on how a secondary school can become a human rights friendly school, which it describes as one that:

> embraces human rights as core operating and organizing principles. It is a school community where human rights are learned, taught, practiced, respected, protected and promoted. ... a Human Rights Friendly School ensures that human rights values and principles are at the heart of the learning experience and present in all major areas of school life (Amnesty International 2012, 3).

Overall, the Rights Respecting Schools Award appears to be a well-developed, highly structured program that adopts a whole-of-school approach to HRE, and is enjoying a great deal of success in the UK.

(iv) South Africa's Facing the Past History Project

Facing the Past was an initiative of the Western Cape Educational Department, the Cape Town Holocaust Centre, and the US-based teacher professional development organisation Facing History and Ourselves (Tibbitts 2006). The project was designed to support teachers in the introduction of the new South African history curriculum and, in particular, the ninth grade history requirement to teach human rights issues during and after WWII. Two major components of the ninth grade content framework were Nazi Germany and apartheid South Africa (Tibbitts 2006).

The project involved creating teaching resources linked with the history curriculum and providing trainings, workshops and ongoing classroom support. In particular, there were initial four- or five-day seminars, one-day follow-up workshops, on-site training at schools, downloadable resources and lesson plans from the *Facing the Past* website, and opportunities to receive curriculum development support and feedback through internet-based communications and a Support Helpline.

Felisa Tibbitts undertook an evaluation of fifty-eight teachers who were part of the pilot program in 2003–2005. The evaluation focused on the impact of the training on the teachers, more than the effect on their subsequent efforts in the classroom (Tibbitts 2006). However, teachers did observe that using the teaching methodologies they had learned as part of the Facing History project led their students to apply lessons from history to their lives and understanding of present day South Africa, including in relation to racism, prejudice and stereotypes. It appears that this intensive professional development program for teachers had a positive impact on the delivery of HRE within the classroom.

(v) Ireland's Lift Off

Lift Off is an HRE project in Northern Ireland and the Republic of Ireland which promotes an understanding of human rights issues among primary school children. It was developed in 2002, and evaluated in 2006. It involved the development of materials by teachers from the Irish National Teachers' Organisation and Ulster Teachers' Union, as well as Amnesty International. It received funding from the Department of Education and the materials were distributed to all schools.

The aims of Lift Off are:

- To promote an understanding among primary school children in the Republic of Ireland and Northern Ireland of their rights and responsibilities — as articulated in the UDHR and CRC.
- To promote an understanding of human rights and responsibilities among teachers and to develop HRE as an integral part of the work of primary school teachers, especially through the primary teachers' unions in Northern Ireland and the Republic of Ireland
- To advise and support schools in developing their HRE programs, particularly through whole-school-based approaches (Amnesty International UK 2007).

The major focus was on the development of Curriculum Support Materials, and Lift Off materials have been distributed free of charge to 4,500 primary schools in

Northern Ireland and the Republic of Ireland. An evaluation of the impact of the curriculum support materials by Mark Morgan and Karl Kitching, found increased self-esteem in children, children taking increased responsibility for including other children in games, and decreased conflict and bullying in the school (Morgan and Kitching 2006).

One of Morgan and Kitching's conclusions was 'that HRE needs more explicit mention in stated curricula' (Morgan and Kitching 2006, 46). However, they also recognised that 'it may be easier to make HRE more explicit in schools by other means, such as displaying the UNCRC openly in the school' (Morgan and Kitching 2006, 47).

The evaluators also found that the program was adopted due to the personal initiative of individual teachers who didn't necessarily have the support of the principal. This is unlikely to be enough to ensure the mainstreaming of the program, and Morgan and Kitching concluded that future efforts may need to focus on school management, rather than teachers, in order to achieve across the board implementation within a school. They observed that it is important that a human rights 'culture' exists in a school in order for HRE lessons to take root in classrooms.

The evaluation identified barriers to greater implementation of the Lift Off program, namely 'overcrowded curriculum, lack of in-service and insufficient time'. 'More support from government' was also frequently referred to as a very important means of improving implementation (Morgan and Kitching 2006, 49).

Overall, the initiative has been successful, and the Lift Off program which was aimed at 8–10 year olds has now been extended to include 'Right Start' curriculum support materials for students aged between four and eight, as well as 'Me, You, Everyone' materials for 10–12 year olds (Murray 2010).

12.3.6   Whole-of-School Approach

To ensure consistency of HRE, human rights should be promoted as a frame of reference in all aspects of school life (Australian Human Rights Commission 2011). A 'whole-of-school' approach to HRE provides students with opportunities to explore and engage with human rights throughout the entirety of their education within and outside the classroom. The importance of this approach has been emphasised in the literature on HRE (see, for example, UNICEF Canada 2013). There are two primary methods of achieving a whole-of-school approach, namely, integrating human rights into the curriculum and conducting extra-curricular activities to ensure HRE is comprehensively incorporated throughout the school structure.

(i) Human Rights Integrated Curriculum

As discussed above, infusing the entire curriculum with human rights can tie students' knowledge of human rights to real world contexts. Amnesty International recommends that human rights themes, issues, perspectives, and approaches be integrated broadly across subjects such as economics, history, philosophy, geogra-

phy, literature, politics, art, and languages (Amnesty International 2012). Specific subjects may be used as a lens for human rights issues:

Mathematics and economics lend themselves to a discussion of economic rights. UNICEF Canada's RRS initiative recommends that graphs be used to expose children to issues of unequal wealth distribution, and differences in life expectancy. Students may also calculate their carbon footprint (UNICEF Canada 2011). Amnesty International Ireland suggests using statistics to learn about poverty, AIDS and child mortality (Amnesty International Ireland 2012).

History is a suitable forum for discussing the context in which human rights instruments were developed: the history of conflict and genocide and the development of international law. Students may also be introduced to the history of colonialism and slavery, and examine its relationship with contemporary problems of political unrest and inequality: this approach has been adopted by the Collège Jacques-Yves Cousteau in Caudebes-lès-Elbeuf, in France (Council of Europe et al. 2009).

Social studies can provide an opportunity to examine the relationship between contemporary social conditions and political and economic forces. UNICEF Canada's Rights Respecting Schools initiative recommends teaching students about the relationship between rights and systemic poverty (UNICEF Canada 2011).

Science can be used to introduce students to sustainability, the challenges entailed by climate change, and how these challenges will impact upon children's rights. UNICEF Canada's Rights Respecting Schools initiative recommends that students be exposed to education about infectious diseases such as malaria, and poverty related diseases, and that they consider the relationship between these challenges and health rights (UNICEF Canada 2011).

Art, literature and media encourage students to perceive the world from alternative perspectives, and are a suitable lens through which to study themes of displacement, migration and asylum. At the Collège Jacques-Yves Cousteau in Caudebec-lès-Elbeuf, France, art is used to learn about the history of French colonialism and the slave trade. This is also linked in with classes in history, geography and civic education (Council of Europe et al. 2009).

Several schools in Mongolia have a clear mandate for HRE, and human rights has become an integral part of formal education policy (Choijoo 2010). This began with one school in 2009 — Mongolia-India Joint Secondary School — and has now expanded to many more schools (Amnesty International 2013). Schools work with Amnesty International Mongolia to integrate human rights within the existing curriculum (Amnesty International 2012) As an example, Mongolia-India Joint Secondary School developed an 'integrated lesson' — a set of lesson plans — to educate students about the right to water. In history and geography classes, students analysed the world's water resources and how historical circumstances affect access to water. In mathematics classes, students resolved maths problems linked to water resources, for example, children established how much water they use per day and how much might be saved by altering certain habits. In chemistry class, students

solved problems about water pollution, its causes and consequences for humans and animals. They also examined how to purify water with a chemical element and how to make seawater drinkable. Home education classes were used to summarise the entire integrated lesson and connect this to children's rights and how access to fresh water relates to general health and well-being (Amnesty International 2013).

Human rights should also be a frame of reference in the school's extra-curricular activities and engagement with the community. Student groups and school events provide students with an opportunity to consolidate what they have learned outside of the classroom. In organising these groups, schools may align themselves with various organisations that promote HRE. Amnesty International's Human Rights Friendly Schools project allows schools to affiliate with a local branch and seek evaluation. Schools are also encouraged to establish Amnesty International clubs, that in turn participate in Amnesty International campaigns (Amnesty International 2012). As an illustration, Accra High School in Ghana devoted a week to participating in a campaign against the death penalty in Ghana. The school organised a press conference and demonstration, and held mock parliamentary debates. Students presented a petition to the President of Ghana on Human Rights Day and participated in advocacy and letter writing against the death penalty in neighbouring Equatorial Guinea (Amnesty International Ireland 2012). These measures encourage participation in human rights organisations outside of the school environment: thirty percent of Amnesty International Mongolia members are graduates of Human Rights Friendly Schools (Amnesty International 2013), showing the ongoing impact of HRE within schools. In addition to consolidating students' knowledge of human rights, introducing HRE into school extra-curricular activities has the added benefit of inculcating a culture of participation in external human rights organisations.

12.4 Implementing Good Practice in HRE

To be effective, HRE requires the successful implementation of a variety of factors that are both internal and external to schools. Respecting the right to HRE articulated in Article 29 of the CRC requires efforts from school principals and teachers, as well as governments and other entities, as depicted in Fig. 12.2 below.

Although all of these factors must be present for HRE to have maximum impact, the absence of any one factor is not necessarily fatal. For example, teachers may incorporate aspects of HRE into lesson plans even where HRE is absent from the state mandated curriculum, and there is evidence of teachers incorporating human rights into their classroom activities where no HRE occurs anywhere else across the school.

However, HRE will be most effective in realising its potential to create a rights respecting culture, if it is integrated across the curriculum. Schools may affiliate and liaise with local branches of HRE friendly organisations, such as Amnesty International, which can provide students with external opportunities for HRE. Schools may also encourage a rights-respecting environment without the

Fig. 12.2 Classification of elements necessary for the effective implementation of HRE in schools

Internal to Schools	**External to Schools**
• Rights Respecting Environment • Appropriate Pedagogy • Whole-of-School Approach	• Government Mandate • Teacher Training • Embedded in National Curriculum

presence of a government mandate, but implementation in isolation is not ideal. Research into the UNICEF Rights Respecting Schools initiative in the UK also indicates that students attending rights-respecting schools have improved self-esteem, are more engaged in learning and have a stronger understanding of global social justice issues (UNICEF Canada 2013). These benefits may still be attained even in the absence of an explicit government mandate or formal teacher training.

12.5   Conclusion

HRE is not only a fundamental aspect of a child's right to education, but is 'essential for the promotion of universal respect for and observance of all human rights and fundamental freedoms for all' (Article 1(2) of the United Nations Declaration on Human Rights Education and Training (2011)). Teaching children about the importance of human rights helps to ensure that future generations will take responsibility for human rights, and strive to uphold both their own rights, and the rights of others (OHCHR Website). For this reason, it is of the utmost importance that HRE is effectively implemented within schools.

This chapter has proposed six key elements that assist in this aim. These elements can be broadly divided into two over-arching principles. The first is that effective school-based HRE requires a consistent and holistic approach. At the state level, this means embedding human rights in the national curriculum, as called for by element 1. It also involves developing a government mandate for HRE, as identified by element 2. At the school level, it entails ensuring that human rights inform school policies and practices, as well as creating a rights-respecting environment within the school, particularly with regards to children's participation rights.

The second principle is that, in order for HRE to be effective, it is essential that it be delivered through quality educational practices. For schools, this means that an appropriate pedagogy should be developed that is child-friendly, motivating, participatory and empowering, as underscored by element 5. For the state, it involves

integrating human rights into the professional training of teachers so that they understand the importance of school-based HRE, as identified by element 3.

In relation to each of these elements, this chapter has identified good practices through the use of real-life examples. The adoption of these practices will assist in the effective implementation of both Article 29 of the CRC and the UN Declaration on Human Rights Education and Training. Even more significantly, they will go towards ensuring greater human rights protection for all.

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