

The Rule of Law Should be Taught in Schools

The Bingham Centre is part of a consortium of institutions running 'RECONNECT', a four-year multidisciplinary research project on 'Reconciling Europe with its Citizens through Democracy and the Rule of Law'. In this RECONNECT post, Michael Abiodun Olatokun underscores the important role that human rights education can serve in solidifying the rule of law.

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Poland and Hungary are new democracies where a developing rule of law culture is fatally susceptible to the influence of populism. The leaders of these countries have deployed juridical tactics such as changing the constitution and shifting the composition of the judiciary so as to create a context that is germane to a nationalistic and authoritarian political sentiment. Whilst this is important ground to cover, it is possible to focus too heavily on legal changes in the consideration of this rule of law backsliding. This blog considers the positive contribution that the education system can make to this area.

As expressed by Tomasz Tadeusz Koncewicz elsewhere on this blog, civic attitudes play a significant role in facilitating forms of extreme majoritarianism. A recent joint report of UNESCO and UNODC, 'Understanding the rule of law and how it relates to education', suggests that the converse is also true, and that where expectations that the rule of law will be observed are widespread, politicians will be forced to give effect to it. This situation is described as 'a culture of lawfulness' and is particularly important in the former Balkans, where the rule of law is a relatively new concept that continues to struggle against residual Soviet attitudes.

In an insightful recent paper, Dr Doyle Stevick posits that Central Eastern European schools are important spaces in which students are politically socialized. He emphasizes the potential of the education system for cultivating rule of law norms for students, their teachers and the communities in which they reside. This is supported by 'Project Citizen' research conducted with middle school students in Bosnia-Herzegovina which found that participation in citizenship education activities boosted participants' support for the rule of law.

The Rule of Law Should Be Taught Through The Lens of Human Rights Education

Whilst the emerging research suggests that the rule of law is bolstered by specifically tailored education on its contents and requirements, there is a practical difficulty in it being accepted by all countries. This was reflected in ambivalent comments by the UN Permanent Representative of Qatar at the launch of the above UNESCO report where he underlined that "in order for this initiative [Global Citizenship Education for the Rule of Law] to reach its noble goals, it needs to be universal in nature and applicable to all societies". A caveat was then added that it would also have to be respectful of regional and cultural diversity.

The latter margin of appreciation has meant that international conventions in this area decline to refer to the rule of law explicitly, conflating it with other agendas that are viewed as cognates. These include peace education, sustainable development education, global citizenship education and education about the contents of rights charters. One could theorize that making people aware

that governments should act within the scope of defined powers will be unpalatable for some countries. The implementation of rule of law education contains a clear irony; states are asked to make themselves more accountable and their citizens more aware of breaches of their rights, even in instances where the political authorities are skeptical of the existence of those rights.

Despite this paradox, an international consensus has been reached that all citizens should receive 'Human Rights Education' ('HRE'). In Europe, two such agreements are relevant. The first is the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education ('the Charter'), and the second the UN Declaration on Human Rights Education and Training ('UNDHRET'). Objective G of the Charter underlines that HRE is about equipping learners to "take action in society in the defence and promotion of human rights, democracy and the rule of law" and the Declaration reaffirms that the rule of law should form a part of every country's curriculum.

HRE is the most suitable substitute for the rule of law in national education systems and is perhaps preferable to it in some contexts; in China there is a conflation of the terms 'rule of law' and 'rule by law' that may have seen an international commitment construed in a very formal manner that would have had a negative impact on the creation of a pluralistic and liberal sentiment through education. HRE is a better understood and more widely agreed concept than rule of law teaching and is thus less likely to be misconstrued when locally implemented. The two should be incorporated together in order to create the cultural conditions that will sustain the rule of law.

What is HRE?

As expressed above, HRE is a popular concept and its study is frequently encouraged by decision makers, but despite this prominence in public debate, its requirements are not universally understood. It has specific content that bears consideration. UNDHRET and the Charter are the most helpful starting points. They describe HRE as education that is "about, through and for" human rights.

Where all three of the limbs of HRE are implemented, it can be truly transformative to create the culture of lawfulness mentioned above. Conversely, where one of these limbs is absent, HRE can be problematic. I address a number of misconceptions about HRE and outline examples of best practice that ensure its maximal benefits to society.

Learning about human rights

The UN Commission on the Global Empowerment of the Poor found that 4 billion people live without the protection of the law. In the UK, work by researchers at University College London illustrated that 1 million civil justice cases are not brought each year because people do not have the knowledge or capability to deal with legal issues. These figures underline that the rule of law is undermined when people do not know about their rights and citizens must be given practical tools to take advantage of them.

There is a clear need to improve citizens' understanding of their rights. In 2013 high school teachers told us that they wanted to talk to their students about the rule of law, but did not have the capacity to do so. This was underlined by research conducted by Amnesty International UK which illustrated that 47% of English schoolteachers do not think their students understand human rights.

In response to this the Bingham Centre for the Rule of Law developed 'The Rule of Law for Citizenship Education' a programme that provides high school educators with resources to teach their students lessons about the rule of law and human rights. The content of the course used examples of situations in which people's human rights are deprived, such as court cases in which judges exercise biased reasoning and discriminatory employment relationships, to bring stories of the human struggle for fairness

and equality to the fore that would resonate with our young audience. Stories of that nature are pivotal to teaching "about" human rights.

An independent evaluation of the programme revealed overwhelmingly positive outcomes from this approach; 97% of polled students said that the lessons helped them to understand the justice system and 85% said that the course enabled them to understand the relevance of the rule of law and human rights in their everyday lives.

The experience of the programme has illustrated the importance of young people understanding the rule of law. Whilst the author acknowledges the reluctance of some countries to engage with the concept of human rights, it is reiterated that creating a rule of law-friendly culture is an important aspiration of HRE. Rule of law considerations that are not core 'human rights issues' should still feature within HRE programmes. This ensures that topics such as institutional checks and balances, accountability and the clarity of the law, are included to provide learners with a full toolkit for judging which political interventions they should, and can, make to contribute to public life.

HRE that incorporates rule of law elements serves a crucial role in providing individuals with knowledge, an essential requirement in developing legal capability. It is the first stop on the journey towards becoming active citizens who can act on breaches of their rights when they arise.

Learning 'through' human rights

Learning "about" human rights is a question of "what" is taught in HRE. Learning "through" human rights is a question of "how" human rights is taught. Though much attention is focused on the former, teaching cannot be fully described as HRE if it does not obey human rights principles. Similarly, HRE aspires to encourage positive behaviours, so it should be delivered in a way that models human rights attitudes such as universality, interdependence and indivisibility, equality and non-discrimination.

One of the most important principles of the international human rights framework is non-discrimination. In a school context this provides a steer for how decision makers should design curricula and learning environments that are germane to human rights. This approach has both positive and negative implications; every student should be given the same learning opportunities and the delivery of education should not disadvantage any student or group of students.

In co-educational environments where girls and boys are taught together, it would be offensive to principles of equality if schools did not spend the same amount of money on educating both groups. This principle is axiomatic, but becomes clearly problematic when applied nationally. Many countries have not yet established sufficient conditions to ensure that girls have equal access to primary and secondary education. The UN found in 2013 that there are 4 million fewer girls in primary schools than boys, with over 65 million absent from primary and secondary schools.

Despite the roughly equal proportion of men and women in the world, inequalities of access to education mean that three quarters of the global illiterate population are female. Where the benefits of education are only received by one demographic, the education is itself discriminatory. It is clear that observance of HRE can drive reforms that ensure that all learners can feel the benefit of the education system.

Discrimination can also manifest in the substance of the curriculum. Decisions about what students are taught are politically consequential decisions that shape the norms of a society. There is a concern expressed by students of Paulo Freire and Michel Foucault that education which is not critical of the social mores can serve to propagate the existing national narrative. Taken to its extreme, education can be a tool of oppression, used to segregate those that do not subscribe to normative conceptions of what

it means to be a member of that polity. This serves to alienate minorities, and HRE requires that education should be multicultural in order to empower learners of diverse ethnic, religious and national origin.

An example of how the design of the education system has the potential to undermine HRE is illustrated by the work of the UN Committee of the Rights of the Child. In 2010 the committee criticized the interpretation of modern world history in Japanese textbooks and suggested that they did not "present a balanced view of historical events in the Asia-Pacific region." History is a discipline that is very important for the teaching of human rights and civil liberties as it brings to the fore examples of the human struggle. Students should be given the opportunity to empathize with groups that have struggled in the past in order to improve their ability to work and collaborate with others, and that is undermined where education does not take into account a diverse range of perspectives.

Japan's education system creates further division by creating differences in the political rights of citizens and permanent residents. Many individuals of Korean ethnicity are classed as "Zainichi" permanent residents with limited rights. Korean trainee teachers are segregated from Japanese teachers by receipt of "jokin koshi" contracts that do not enable them to apply for senior leadership positions. This impacts upon the experience of Korean students who never see schoolteachers who share their backgrounds in senior positions of leadership, undermining the extent to which the educational experience genuinely empowers them. Teaching systems that are compatible with HRE encourage a diverse teaching profession that represents the multicultural modern classroom and is a launchpad to improving students' perceptions of efficacy and self-worth.

Learning 'for' human rights

As seen above, teaching "through" human rights prescribes how HRE should be conducted. By contrast, teaching "for" human rights sets the desired outcome that HRE should promote human rights principles of participation and empowerment.

HRE should provide students with the opportunity to put human rights principles into practice by applying the skills they learn in the classroom to real world situations. Former UK Prime Minister David Cameron suggested that this can be done through 'social action', a form of volunteering in which young people create a dual benefit for society (by advancing a cause) and themselves (by developing their abilities).

Young people are more likely to participate in social action if they have received information about the plight of others (for human rights) and have been taught in a way that models empowering behaviours (through human rights). These are necessary preconditions for starting a journey as an active citizen, and this limb of HRE should be viewed as the final method of (?) encouragement for young people that are passionate about particular issues to campaign to change them.

The link between social action and HRE is best reflected by collaborations between the education sector and youth-facing organisations in civil society. The Diana Award is a UK charity that inspires young people to become activists by giving them awards for their social action work. Young people can receive certificates for forming groups that successfully address bullying in their school, or tackle wider social issues.

One recipient of the Diana Award runs a weekly swimming club for children and young people with disabilities to increase their cognitive abilities and social skills. Another works to challenge misconceptions about, and represent the views of, young people living with HIV in her country. The innate energy and enthusiasm of young people is such that where they are informed about injustice and inequality in their local, regional or national communities, they will act to better those circumstances.

The positive impact of HRE at a young age has been underscored by a wave of activism inspired by Greta Thurnberg around

climate change. Young people that are aware of salient world issues have exercised their active citizenship in unparalleled numbers, with estimates suggesting that over 1.8 million students protested in Spring 2019.

Aside from direct action, HRE enables the reimagining of the school environment as a democratic polity in which decision making is deliberative and students co-create the rules of the institution alongside school leaders. If students are given the opportunity to feed back their views to teachers for the benefit of others, they will be more able to engage in dialogue with politicians in adult life. HRE could thus be a tool to counteract the trend of declining voter turnout amongst younger demographics across the OECD.

If people do not know that politics can be a vehicle for influencing change, and do not have the skills to bring about that change, they are much less likely to attempt to pull the levers available to them that can influence public policy.

About, through and for

HRE is thus a powerful mechanism for providing young people with the skills, knowledge and confidence to uphold the rule of law, and it makes them more likely to do so. It increases their sense of self-efficacy and inspires them to see beyond the superficial differences that divide us, and instead focus on the universality of the human condition. It is the most universally agreed manner of teaching the rule of law in the classroom, and early evidence suggests that it is a vital building block for a worldwide culture of lawfulness that will sustain the rule of law for future generations.

Further reading

UNESCO and UNODC, 'Strengthening the rule of law through education' A guide for policymakers:

https://www.unodc.org/documents/e4j/UNESCO/2795_18_Global_Citizenship_Education_for_the_Rule_of_Law_gris_complet.pdf

Dr Doyle Stevick, 'How can schools promote rule of law norms in transitioning societies? Lessons from post-communist europe':

<http://justrac.org/wp-content/uploads/2019/04/Stevick-How-Can-Schools-Promote-Rule-of-Law-Norms-in-Transitioning-Societies.pdf>

United Nations Declaration on Human Rights Education and Training:

<https://www.ohchr.org/en/issues/education/training/pages/undheducationtraining.aspx>

Human Rights Education: What is it and why is it important? British Institute of Human Rights Blog:

<https://www.bih.org.uk/blog/celebrate70-hre>

Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education: <https://rm.coe.int/16803034e5>

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