

## Human Rights Education in National Human Rights Institutions (NHRI) in Europe

### Documentary report



December 3./4. 2004  
German Institute for Human Rights, Berlin

## Introduction

The workshop Human Rights Education in National Human Rights Institutions (NHRI) in Europe was organized by the German Institute for Human Rights (Berlin) from the 3<sup>rd</sup> to the 4<sup>th</sup> of December 2004 in Berlin. Twelve countries from Europe and bordering countries were represented at the workshop (Armenia, Azerbaijan, Bosnia and Herzegovina, Denmark, Germany, Greece, Ireland, Kazakhstan, Luxembourg, Northern-Ireland, Poland, Spain). The programme contained an introductory lecture about Human Rights Education in Transforming Societies (the Example of South Africa) and country reports about Human Rights Education Programmes, strategies and experiences in NHRI. This was followed by a discussion and interchange about differences, commonalities and common challenges for Human Rights Education (HRE) in the framework of National Human Rights Institutes.

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## Minutes

### Edel Teague

#### Race, religion and freedom of expression

A key issue in many states currently is the rights concerning race, religion and freedom of expression. It was noted that the murder of Theo Van Gough has resulted in significant discussions in Holland, Denmark and Germany on these matters. In other states racism and the educational needs of asylum seekers or immigrants are the key concerns. As a consequence teachers often have to address complex questions regarding race and religion in the classroom and many require assistance with these matters. In some schools the concern may be about religious expression, such as, the wearing of headscarves whilst in many others adequate educational provision for new students from different backgrounds is the key concern. More generally it was noted that the role of churches in the provision of education is being discussed in countries such as Luxembourg and the UK. The lack of education on the variety of religions within schools in Luxembourg and new plans to address this were described.

#### Human Rights and Values

In Denmark children are taught a lot about values and respect for others from primary schools onwards, although human rights education is not always on the curriculum. It was agreed that it was important that human rights education covered values as well as knowledge. It was noted that the clash between culture and the promotion of human rights is often a problematic issue in the classroom.

#### Human Rights Education-general

It was noted that the creativity of teachers should be developed through human rights training from early in their professional career, preferably at university. Human rights has a complex knowledge and skills base which takes time to teach and which teachers cannot be expected to learn easily. To date teacher training on human rights issues has been limited.

There is a need for human rights education to be regulated in some way, perhaps through the development of common standards. Assessment is a controversial issue in human rights education. However human rights is a subject that lends itself to assessment because of the width of knowledge that is imparted and the potential it offers for skills development.

#### Human Rights Education and the United Nations

The proposed United Nations 1<sup>st</sup> World Programme on Human Rights Education will focus on human rights education in schools from 2005-2007.<sup>1</sup> The obligation on governments will be to add human rights education to teacher training, conduct research on human rights education and progress the evaluation of human rights education.

The state of human rights education in each country is monitored through some reports on international treaties, such as, the report on the United Nations Convention on the Rights of the Child and all countries were asked to contribute to End of the Decade Report on Human Rights Education.<sup>2</sup> The Special Rapporteur<sup>3</sup> also plays a role in the promotion of human rights education.

Issues which were not addressed due to time restraints include

- Should human rights be a distinct subject in the curriculum or not?
- Human rights training in the police service
- Other networks e.g DARE

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<sup>1</sup> <http://www.un.org/News/Press/docs/2004/ga10317.doc.htm>

<sup>2</sup> <http://www.ohchr.org/english/issues/education/training/initiatives.htm>

<sup>3</sup> <http://www.ohchr.org/english/issues/education/rapporteur/>

## Action

It was agreed that the Roundtable was a useful exercise in the promotion of communication about human rights education in Europe. It was noted that the meeting was very introductory in nature and as a consequence the 'real' business of the meeting only commenced towards the end of the gathering. Several people agreed to do the following.

1. Investigation of opportunities for support within the Council of Europe	Claudia Lohrenscheit
2. Research on the development of European and Global human rights networks	Fergus Kerrigan
3. Human rights education to be raised at the World/European Ombudsman's Conferences	K. Jeanty
4. Investigate what funding or opportunities which exist for human rights education in the European Commission	Edel Teague
5. Report of Roundtable to be placed on the web and circulated to all along with minutes and e mail contacts. Participants to forward presentations to Claudia.	Claudia Lohrenscheit.

It was agreed that another roundtable should be held in 2005 as the networking opportunities it offered were very valuable. Luxembourg agreed to see if it was possible for their office (insert name of Lux office) to host it. Two themes which emerged from the discussion for the next event were:

- "The role of human rights education in societies where there is conflict regarding religion race or national identity."
- "The role of human rights education in the context of local and world wide terrorism."

It was agreed that

- the debate topics should be agreed in advance
- the roundtable should last for two days

## DENMARK

Danish Institute for Human Rights  
Education Programmes

Anette Faye Jacobsen

Below is a presentation of some of the key points in our general policy, including the main priorities in our work with human rights education (HRE) in the Danish Institute for Human Rights.

Although DIHR is a national HRI, we have an extensive experience also in international cooperation on educational programmes. It has been an important principle of the Institute's 'education strategy' to try to secure interchange of experiences and inspiration between international and national programmes. This has meant that new ideas and initiatives from our international cooperation have shaped our national activities, and vice versa: Practical projects and

programmes undertaken in the Danish educational system has provided us with the necessary credibility and practical experience to embark on similar programmes with international partners. On the other hand, this international attention and experience have provided important in-puts in many national activities..

We have been involved in national education programmes since the institute was inaugurated in 1987.

Our resources have always been limited, like everywhere else. This has had two important consequences: 1) It has been necessary to focus our activities, and 2) Networking has been a decisive means in reaching out to the target groups.

1. To focus has implied that we had to select certain areas or sectors of priority,
2. The networking principle meant that our education projects were almost conducted in collaboration with others, in particular with educational institutions and with the ngo sector.

On the policy level, net-working with training institutions, universities, colleges, schools etc. have served several purposes:

Credibility is an important criterion in getting across to educators. We are not the only provider of services to the school sector. On the contrary, there is a strong competition among interest groups, including NGOs, businesses, and even government agencies to convey their message to schools. At the same time teachers complain about overloaded curricula!

We strive to avoid being seen as yet another interest or lobby group, whom teachers are hesitant to invite into their classes - which is perfectly understandable,. This means that we almost always aim to collaborate with well-established educational institutions when we design our education programmes.

Another factor of importance to our strategies is that we have a much decentralized educational system in Denmark. Defining the more concrete curricula and syllabi are left to the schools or even to individual teachers. Reaching out to thousands of schools is almost impossible for an institution like us without the right channels. And this means that we have had to build up good contacts to key agents in the sector. These persons could be the so called 'subject consultants' in the Ministry of Education who are advisors on the different school subjects; other key contacts have we found through the UNESCO National Commission or members of the management of the professional associations. Such key figures have been instrumental in paving the way to reach out to larger segments of the sector.

For instance, a couple of years ago we offered an extensive (70 lessons) in-service course on human rights and human rights education for teachers at teacher training colleges throughout the country: This was only possible via collaboration with the professional association of teacher trainers.

If we want to offer teaching material for schools, we have found that this is most efficiently done not by publishing the material ourselves, but rather via one of the main publishers in the education field who already have established procedures to reach school managements and teachers. However, I have to admit that even with the assistance of well-established publishers it is not a given thing that you text-books are widely sold.

There is little doubt in our experience, that promoting HRE through collaboration with and contacts to leading the concrete target groups is extremely fruitful, however, it takes time to build up.

The main fields of our education activity have been:

The legal - political level. Here we have endeavoured to have human rights adopted in the national curricula for primary, secondary and teachers' education. Although, as I mentioned, our curricula do not give detailed directions on themes and text-books that are obligatory in the subjects, they are still important as guidelines for teachers and thus to have human rights mentioned as a theme in history and social science is still worth working for. Over the years, we have had quite some success in having human rights and children's rights adopted in curricula and syllabi.

I would like to add one observation to the issue of curriculum development. Because it is our experience that in old democracies like Denmark we have found a rather reluctant reaction from teachers and school authorities to adopting human rights in curricula that we would have expected. If we analyze the curriculum of the subject 'social science' we find that it is still the concept of 'democracy' that is the absolute key notion to the thinking behind this curriculum. Democracy is perceived as the back bone of our society, the basic norms are derived from the theory of democracy - and not from human rights. Human rights hold a much more marginal status- either seen as part of international law or as values that should be activated in meetings between cultures - as issues relating to minorities, racism etc. I guess that human rights hold a much more prominent place in younger democracies where human rights are integrated in the constitution.

Back again to the Institute's education programmes, we have developed teaching material, including bibliographies on available teaching material on human rights for the education sector. As you probably all know preparing text-books is a very resource demanding activity. So our commitment here has been to 'supply obvious demands'.

For example, we found that there was a strong need for teaching material addressing the younger children and with a focus on human rights in the Danish, domestic context (in stead of with a focus on s.c. Third World countries) which meant that we decided to prepare a text-book for grade 1 - 4 ourselves.

Another example was a text book for social workers on social work and human rights. After having worked with in-service training for some years a training school for welfare workers we decided to develop a text-book in collaboration with our partners from the welfare sector and in particular in collaboration with teachers from these schools.

Training courses are another component in our HRE programme.

To some extent we have offered training on human rights targeted at the school sector. However, since this could easily exceed our capacity, our policy has been to adopt to so called 'cascade model' meaning that we have tried to address target groups whom we could expect to spread the message to larger audiences. This has often meant that we organized training of trainers programmes.

An integrated priority in all activities with education has been to secure pedagogical or methodological development in our programmes. This has often been done through involving creative, technical and first and foremost pedagogical expertise in all activities, and combines this with the expertise in human rights that we could offer from our side. This means that we have prepared our teaching programmes through many different media, including movies, exhibition, internet sties, study tours abroad, along side with more traditional training activities and products.

We have defined our target groups with a focus on the very broad educational sector, including the elementary and secondary school sector. However, we have also addressed specific professional groups with specially targeted programmes.

We have a long and well established collaboration with the national police academy. We offer courses for all classes of police officers, and on a more ad hoc a basis we also provide in-service training and management training.

We have offered in-service training in several social work schools, and have a regular collaboration with the school in Copenhagen.

We contribute to certain in-service programmes under the auspices of the Ministry of Defence.

Finally, I would like to mention a biannual one week course that we offer to professionals, including civil servants, and others, on a regular basis.

## GERMANY

Human Rights Education at the German Institute for Human Rights

Claudia Lohrenscheit

Human Rights Education at the German Institute for Human Rights (2003 - 2005)

1. Service- and Coordination Centre for Human Rights Education
  - Homepage and database for experts in Human Rights Education
  - Network Human Rights Education in Germany:
  - Working groups (Teams) and consulting services, for example:
    - „Migration and Human Rights Education“
    - „Social Work and Human Rights Education“ (MA „Social Work as a human rights profession“)
  - International Cooperation and networking
2. Development and distribution of HRE materials
  - COMPASS - A Manual on Human Rights Education with young people
  - Human Rights Education - a course to learn about the European Human Rights Convention (with an interactive online knowledge tool) for pupils and students
3. Studies and Conferences
  - The right to education and its realisation in Germany (study)
  - Human Rights Education in the police forces (study)
  - No education without rights - no rights without education. Conference to promote the beginning of the new UN-World programme for Human Rights Education (17<sup>th</sup> of march 2005, Berlin)
  - „Human Rights in Schools“ (Conference in November 2005)
4. Human Rights Seminars, trainings and other activities
  - Pilot project: „Police and Human Rights“ in cooperation with the Police Academy of Berlin
  - Seminars/trainings for promoting human rights in development cooperation
  - Public Seminar on Human Rights (starts in autumn 2005: one-week-training: „Autumn Academy for Human Rights“ for NGOs & civil society organisations)
  - Seminars and workshops with experts; for example „The right to Education and Human Rights Education“ (with Katarina Tomasevski, January 2005)
  - Series of Human Rights lectures (2004/05: The relevance of unlawful experiences in the history of Human rights)

## 5. School

- Trainings for disseminators to use „COMPASS“ (Manual on Human Rights Education with young people)
- Preparation of learning material for the European Human Rights Convention (with a interactive online knowledge tool) for pupils and students
- Working groups in cooperation with the „Forum Menschenrechte“: Developing of a discussion paper for “Education standards for Human Rights Education in schools“

## GREECE

### HUMAN RIGHTS' EDUCATION AS AN INSTITUTION'S GUARANTEE FOR HUMAN RIGHTS PROTECTION

The Greek approach in the scope of the International and the Law

Chryssoula P. Moukiou

Knowledge of human rights is a prerequisite for individuals and groups so that they can reasonably expect and demand respect for their rights and freedoms<sup>4</sup>. The best way to disseminate that knowledge is to make it part of the official education given to young or elder people, so that human rights' protection and promotion may become a part of a society's culture and educational tradition, preventing any form of human rights' abuse.

After the Vienna Declaration of 1993 and the Programme of Action undertaken by the World Conference of Human Rights<sup>5</sup> and the proclamation of the 1995-2004 as the United Nations Decade for Human Rights Teaching, the substantive provisions in the human rights instruments have attracted increased attention.

But the State's role in human rights teaching remains dominant, not only because in most countries education remains a State's mission,<sup>6</sup> but also, because the mainstreaming of the content and the aims of education is always determined by the State or by Bodies subjected to its control.

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<sup>4</sup> ALFREDSSON G., The right to Human Right Education, in: EIDE A./KRAUSE C./ROSAS A., Economic, Social and Cultural Rights, A textbook, 2<sup>nd</sup> Ed., Martinus Nijhoff Publishers, Dordrecht/Boston/London., p. 273.

<sup>5</sup> Vienna Declaration and Programme of Action, UN doc.A/CONF.157/23,Part II,para.79. For the text , see NOWAK M.(ed.), Word Conference on Human Rights: The Contribution of NGOs, Reports and Documents, 1994, p. 168.

<sup>6</sup> ALSTON P., (ed.), The United Nations and Human Rights: A Critical Appraisal, 1992, pp.473-508. EIDE A. Economic, Social and Cultural Rights as Human Rights, in: EIDE A./KRAUSE C./ROSAS A., Economic, Social and Cultural Rights, op.cit., p.9 ss., FROWEIN in: FROWEIN/PEUKURT, EMRK-Kommentar, 1985, Art.2,1 ZP Rdnr. 2, S. 283, f, DERS, Wirtschaftliche und Soziale Rechte in der Rechtsprechung des Strassburger Organe, in: Aspects of the Protection of Individual and Social Rights, Marangopoulos Foundation for Human Rights, “Hestia” publishers & Booksellers, Athens 1995, p. 217.

## A. THE RIGHT TO EDUCATION AS AN INSTITUTION'S GUARANTEE FOR HUMAN RIGHTS' PROTECTION

This State's obligation to provide for an educational system stems directly not only from the international, European and national rules of hard or soft law protecting human rights but, also from the protection of the right to education itself. This latter is protected, on an international level, by the article 26 of the Universal Declaration of Human Rights of 1948<sup>7</sup> and the article 13 of the International Covenant on Economic, Social and Cultural Rights of 1966<sup>8</sup>, as well as on a European level, by article 1 of the First Additional Protocol to the European Convention of Human Rights and Fundamental Freedoms of 1950<sup>9</sup> (as amended by Protocol N. 11).

These two levels do not provide exactly for the same protection of the right to education. The international rules of law are based on the social conception of this right, though the European Convention focuses on its civil aspect.

### A.1. The "human-social" approach of the international protection: the establishment of a right to human rights education

A.1.1 In that frame, on the level of soft international law, the International Declaration of Human Rights<sup>10</sup> declares that the right to education is inextricably related to human rights' respect and protection, to intolerance understanding and friendship. Thus, in the second alinea of its article 26 stipulates that: "Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace".

According to the U.N. Declaration, education is only the education aiming at human rights' and fundamental freedoms' protection and promotion, in the frame of their universal protection. Otherwise, there is no education at all. Or, it is an education not protected by international law. Because, this latter concerns exclusively "human" education, meaning not only that the persons entitled to it are all human beings, but, also, that the content and the target of this education are all human beings. Human rights' protection is inherent in any kind of education.

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<sup>7</sup> "1. Everyone has a right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. ...2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace."

<sup>8</sup> "1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect of human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations of the maintenance of peace".

<sup>9</sup> Article 2: " No person shall be denied the right to education. In the exercise of and functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions".

<sup>10</sup> It has to be noticed that the U.N. Declaration of Human Rights, although being considered as international soft law, cannot be regarded as having merely a historical significance. On the contrary, it has its own importance, especially for States that are not yet parties of the International Covenants. Moreover this Universal Declaration is also given prominence in, among others, the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1992 (S. above, note 2).

On the contrary, the “inhuman” education, meaning the education, the content and the purpose of which is not the protection and the promotion of human rights and fundamental freedoms, is indifferent to international law. So, no one can defend its right to be educated how to kill or how to violate and exploit a woman or a child. Vice-versa, no States Parties can take measures providing for teaching its citizens how to kill, to violate, to exploit and, generally, not respect the others.

Thus, the right to education is considered both in a universal and a human approach. Its “universal” approach consists in the fact that it is an essential part of the human rights’ protection universal system and is inextricably connected with the welfare of every human society. Therefore, it cannot be protected as a civil right. It has to be a social right. The “human” approach consists in the fact that the education is internationally protected only if its content and its goal are the protection and promotion of human rights and fundamental freedoms.

So, even if the article 26 alinea 2 of the Universal Declaration of Human Rights had not explicitly provided for this “universal” and “human” character of the education to be granted, one could have assumed the same conclusion by the interpretation of the alinea 1 of the article 26 of the Declaration as a systemic part of all its articles, globally protecting human rights and fundamental freedoms and aiming exclusively at it. In the scope of the Universal Declaration no other meaning could be attributed to the term education. Its “universalisation” and its “humanization” are inextricably related to the rest of the Declarations’ articles and derive directly from them.

A.1.2. Moreover, on the level of hard international law, the International Covenant of Economic, Social and Cultural Rights<sup>11</sup>, which is international hard law binding all States Parties<sup>12</sup>, contains similar rules aiming at the same direction of “universalisation” and “humanization of the right to education. So, in its article 13 alinea 1 it is provided that the member States: “agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect of human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and further the activities of the United Nations of the maintenance of peace”. Similar stipulations can also be found in the article 7 of the 1966 International Convention on the Elimination of All Forms of Racial Discrimination (CEDR)<sup>13</sup>, the ILO Conventions<sup>14</sup> and other international conventions, such as article 29 (1) of the 1989 Convention on the Rights of the Child<sup>15</sup>. They all reflect the universal and human content of education in any part of this world and they clearly protect a “right to human rights education” on an international level.

## A.2. The “individualistic-civil” approach of the European protection: the contest of a right to human rights education

A.2.1. On the contrary, the European approach is obviously much more individualistic. The article 2 of the 1<sup>st</sup> Protocol of the European Convention on Human Rights, as amended by Protocol N. 11, only provides for the right to education, without any explicit “human” approach. It points out only the parents’ right to opt for their children’s’ education in conformity with their own religious and philosophical convictions: “No person shall be denied the right to education. In the exercise of any functions which it assumes in relation and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions”.

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<sup>11</sup> Annex to General Assembly Resolution 2000 A (XXI) of 16 December 1966, U.N. doc. A/6316 (1966).

<sup>12</sup> Greece has ratified the International Covenant of Economic, Social and Cultural Rights by Law n. 1532/1985 (Official Journal A’ 25). So, since 1985, the stipulations of this Covenant are binding rules of law, being part of the Greek legal order and having superior typical legal force than ordinary laws voted by Greek Parliament, by force of article 28 alinea 1 of the Greek Constitution.

<sup>13</sup> U.N. General Assembly Resolution 2106 (XX) of 21 December 1965; it entered into force on 4 January 1969. In its article 7 it is provided that: “*States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration of Human Rights, the United Nations Declaration on the Elimination of All forms of Racial Discrimination, and this Convention*”.

Moreover, article 8 of the 1963 Declaration on the Elimination of All Forms of Racial Discrimination (General Assembly Resolution 1964 (XVIII), 20 November 1963) and the 1978 UNESCO Declaration on Race and Racial Prejudice (adopted by the General Conference of UNESCO at its 29<sup>th</sup> session, 27 November 1978) contain similar provisions.

<sup>14</sup> ILO Convention (N. 111) concerning Discrimination in Respect of Employment and Occupation of 1960 provides, in article 3 (b), that Member States undertake “*to promote such educational programmes as may be calculated to secure the acceptance and observance*” of national policies aimed at equality of opportunities and treatment in the work place. ILO Convention (N. 169) concerning Indigenous and Tribal Peoples in Independent Countries of 1989 stipulates in article 31 that “*Educational measures shall be taken among all sections of the national community, and particularly among those that are in most direct contact with the peoples concerned, with the object of eliminating prejudices that they may harbour in respect of these peoples. To this end, efforts shall be made to ensure that history textbooks and other educational materials provide a fair, accurate and informative portrayal of the societies and cultures of these peoples*”.

<sup>15</sup> Adopted by the General Assembly Resolution 44/25 without vote on 20 November 1989. U.N.doc.A/44/49 (1989).

Thus, the European approach of the right to education is more oriented towards the guarantee of the individual right to thought, conscience and religion protected by the article 9 of the European Convention, than to the protection of the right to life, the right to liberty and security, protected by articles 2 and 7 of the same Convention and the prohibition of torture, of slavery and forced labor pronounced by its articles 3 & 4.

Two interpretations are possible: Whether the “human” character of the education is indifferent to European Human Rights Law, or it is self-understood.

The first interpretation must be a priori rejected as contrary to international law. Although there is no hierarchical relationship between the International Conventions -and Declarations- and the European Convention on Human Rights, it has to be accepted that the second one cannot encompass stipulations contraries to International Law, because, the European Convention being a regional convention for the protection of human rights, though Covenant of Economic, Social and Cultural Right an International one, the interdependence of all human rights, both, at the domestic and international level, is today generally recognized<sup>16</sup>. So, the European Convention must stay in harmony with all international rules protecting human rights, as rules of hard international law. We could even argue in favor of the same approach concerning the international soft law rules protecting human rights, because, logically, a different interpretation could lead to the inefficiency of the whole European Convention, conceived as a full system for human rights protection.

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<sup>16</sup> S. NOWAK MANFRED, The Interrelationship between the Covenant on Civil and Political Rights and the European Convention on Human Rights, in: Aspects of the Protection of Individual and Social Rights, Marangopoulos Foundation for Human Rights, “Hestia” Publishers & Booksellers, Athens 1995, p. 132. (the author adopts a similar approach concerning the interdependence between the ICCPR and the ECHR).

The second interpretation is the one we must opt for, for two reasons: Firstly, if we assumed that the right to education guaranteed by the European Convention of Human Rights concerns every kind of education, despite its possible “inhuman” content and aim, then we would conclude to a contradiction of the articles of the Convention itself. Yet, such contradictions are not conceived in the frame of a single European Convention. Moreover, we must accept that the European Convention must stay in harmony with every rule of international law, because, otherwise, European Council could be rejected by international community both on institutional and ruling level. So, the European Council must not contain provision contraries to international law, both hard and soft one.

Besides, these are the reasons explaining the fact the Universal Declaration of Human Rights is explicitly mentioned in the Preamble of the European Convention of Human Rights. The signatory Governments of the Council of Europe have agreed on the stipulations of the Convention having considered, first of all, the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10<sup>th</sup> December” and that “this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared”.

So, the text of the European Convention protecting the right to education implies the education as it is guaranteed by the Universal Declaration of Human Rights and the International Covenant of Economic, Social and Cultural Rights, that is, the education the content and the aim of which is the protection and the promotion of human rights and fundamental freedoms. The fact that the article 2 of the 1<sup>st</sup> Protocol of the Convention does not mention it clearly and that it is confined in stressing out the parents’ liberty to choose an education for their children, is irrelevant. According to our opinion, the elliptic or restrictive writing of the article 2 of the 1 Protocol of the European Convention is due to the fact that the right to parents’ liberty to choose the education of their children according to their own convictions is regulated not only as a component of freedom of religion and belief, but also as a limitation against totalitarian tendencies and religious prejudices of state education that is, in the framework of the right to education.

Finally, the necessary unification between the members states of the European Convention, at which this Convention aims<sup>17</sup>, and the main method by which that aim is to be pursued, that is the maintenance and further realization of human rights and fundamental freedoms<sup>18</sup>, leaves no doubt about the fact that the protection of the right to education only refers to the education which stands in conformity with the Universal Declaration of Human Rights and the International Covenant of Economic, Social and Cultural Rights, provided, of course, that they are States Parties of this Covenant.

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<sup>17</sup> See the Preamble of the European Convention of Human Rights : “*Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realization of human rights and fundamental freedoms*”.

<sup>18</sup> Ibid.

A.2.2. In this direction, the European Charter of Human Rights in art. II-14 remains close to the European Convention of Human Rights protecting the right of parents to opt for their child's education according to their own beliefs and convictions<sup>19</sup>. Yet, we must draw our attention to the fact that the jurisprudence of the European Court of Human Rights in Strasbourg has already adopted a large interpretation of article 2 of the 1<sup>st</sup> Protocol of the European Convention of Human Rights<sup>20</sup>. As a result, the absolute respect of the parents' right to choose a proper education for their children can be bent in cases social components of an educational system must be taken into mind by the State. So, the jurisprudential evolution of the regional system of human rights protection, that is the ECHR, tends to its fruitful osmosis with the international system of their protection, so that the whole system should function in favor of the people who can ground their right to human rights education based on both international and regional documents.

A.3. The synthesis of the social and civil approach: The right to a human rights education as a constitutional and international guarantee for human rights protection

Finally, on a national level, article 16 alinea 1 of the Greek Constitution of 1975/1986/2001 sets the principle that: "Art and science, research and teaching are free. Their development and promotion consists an obligation of the State". Also, alinea 4 of the same article provides for: "the graduate education of all Greek citizens in all rangs of education". According to these provisions of the Greek Constitution the right to education is protected as a civil as well as a social right (status negativus + status positivus).

Moreover, Greek constitution, in its article 16 alinea 2, explicitly provides for the right to education, being considered as a social right of Greek citizens and confines its aims in a very restrictive way: "Education is a basic mission of the State and aims at the Greek's moral, spiritual, professional and physical training, at the development of their national and religious conscious and their formation as free and responsible citizens". This provision concerns less the education as a philosophical notion or a complex social function, than its organized and scheduled approach. It is considered by scholars not as a real, binding, rule of constitutional law, but as a residue of the past, which has been incorporated in the Constitution only in respect for Greek-Christian tradition. So, State's mission to pursue the above-mentioned constitutional goals of education is only a de minimis States' obligation, not compulsory for every rang of education and for the totality of the school program.

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<sup>19</sup> Art. II-14 of the European Charter of Human Rights in its alinea 1 provides that: "Every person has the right to education and to the access to professional and continuous formation" and in its alinea 3 that: "The freedom of establishing educational institutions with respect of the democratic principles as well as the parents' right to secure their children's education and formation according to their own religious, philosophical and educational convictions, are being respected according to the national legislations ruling their exercise".

<sup>20</sup> See case of *Kjeldse, Busk Madsen and Pedersen*, EGMR 23 (1976), S. 26.

So, this constitutional stipulation has to be interpreted “in the light” of the international and European protection of the right to education<sup>21</sup>. The former strictly bounds every State about the content and the aim of their education. The latter attributes to this right a more individualistic approach with the latent tendency to recognize a social and human conception of the education. So, the right to education must not be considered just as a citizen’s right but as a universal, “human” right, which is simultaneously a precondition and an effect of human rights’ and fundamental freedom’s real and effective protection. It is, therefore, their institution’s guarantee<sup>22</sup> tending to the protection of all human rights, on both international and domestic level. That is, an institution’s guarantee implicitly provided by the Constitution and explicitly protected by international law, which is the “hermetic criterium” for the interpretation of all domestic provisions protecting human rights. This legal nature of human rights education as an institution’s guarantee for the protection of all human rights determines the way human rights education should be realized in the frame of State’s educational system: it should be a mainstreaming of it and not a separate discipline in the curriculum, because it is a general guarantee for human rights protection and, therefore, should “penetrate” every class and every rang of education.

## B. MEASURES ADOPTED OR BEING ADOPTED IN GREECE ON THE FIELD OF HUMAN RIGHTS EDUCATION AS A GUARANTEE FOR HUMAN RIGHTS PROTECTION

### B.1. The actual situation of human rights’ education in Greece

Greece is a transit country. Very recently it started to be sensitive to the entrance of aliens in its sol. Although Human Rights Education is not explicitly provided in our Constitution, it has always been self-understood in the frame on the general constitutional protection of education.

Yet, nowadays, new necessities have appeared urging for reconsideration of our educational structures and of the global aim of our educational system. Three main obstacles are to be overcome: Firstly, the unequal opportunities and discrimination against persons not being Greek citizens are often practiced or tolerated in the educational, cultural, economic, social and political life of Greek society. Secondly, ignorance is certainly a major reason that causes phenomena of racial, ethnic and religious discrimination. Thirdly, the arguments in favor of language education have to a large extent the same justification as those concerning human rights education, namely the promotion of tolerance and understanding between majorities and minorities. The contribution to language education, to cross-cultural learning and peaceful cohabitation on the basis of equal rights has repeatedly been emphasized.

The first obstacle, concerning the inequality of opportunities, has already been faced by Greek Government by a *contra legem* interpretation and application of the art. 16 of the Greek Constitution. Although this constitutional provision explicitly mentions education provided to “Greek

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<sup>21</sup> This interpretation is also boosted by the fact that Greek government has withdrawn the reserves under which had ratified the ECHR in 1974, concerning the interpretation of the phrase “philosophical convictions”, according to the Greek rules in valid, as well as the restriction of the State’s obligation, stemmed from the second al. of article 2 of the ECHR, in conformity to Greek provisions about efficient teaching and education and the need to avoid excessive public expenses. The first reserve was withdrawn by the Announcement of the Minister of External Affairs of 11/21/ March 1985 (Official Journal A’ 50) and the second on the 24<sup>th</sup> of August 1979 (S. <http://conventions.coe.int/>)

<sup>22</sup> The term of institution’s guarantee has been developed by German theory of constitutional law and means that a constitutional guarantee aims at the protection of civil rights protected by the Constitution, although the term institutional guarantee refers to a constitutional guarantee which tends to protect the efficiency of State’s institutions. See, KLEIN, *Institutionelle Garantien und Rechtsinstitutsgarantien*, 1934, S. 161 ff.

citizens”, in practice, all minors, whom families legally stay in Greece, are accepted in graduate State schools, despite the citizenship of their parents.

The second problem concerning ignorance, is being solved by diffusing information to all groups of persons, whose rights are threatened by their lack of education. The first initiative was taken by the private sector, especially NGOs. Now, it is the State’s time to undertake its role in order to provide information about history, languages and cultures of different groups of people. Vice versa, all groups of people should be informed not only about their minority rights but also about the legal status of majority people.

The third obstacle, referring to the language education, has not been solved yet, as every lesson is taught in Greek language. Nevertheless, it is broadly recognized that in addition to the preservation and use of minority languages and to the international and regional human rights standards established in this regard, the knowledge of national languages by non Greek citizens is a necessary tool for political participation, social contact and other activity leading to their incorporation into Greek society.

a) HR Education in the primary and secondary education.

In that general frame, Greek state has undertaken the obligation of introducing human rights teaching in the first two levels of education. So, human rights education is actually a part of civics education in the two high classes of primary school and in the two lower classes of the secondary school (gymnaseum). Moreover, Human Rights are also inserted in the special programs of Olympic Education (both at the primary and secondary education) aiming at teaching children the notion of “good competing”, of equality, of non discrimination due to sex, race, religious or philosophical conviction and of non-xenophobia, through simple gymnastics and explanation of the Olympic Ideal. Finally, there are special classes concerning the teaching of the E.U. Convention of Human Rights, called “Programmes of Action”, which are based on material prepared by the European Council and involve many practical activities and hypothetical cases to be solved.

b) HR Education in the High Education

As far as higher education is concerned, Human Rights Law is a special compulsory class of Constitutional Law and an optional class of International Law in all Law Schools of Greece. Moreover, Human Rights Law is taught in Military Academies, yet, without any direct practical effect, because teaching has a more legal and a less practical orientation. Recently, the Greek National Commission for Human Rights has taken the initiative to issue a booklet called “Guidelines for the Policeman”<sup>23</sup> based on the U.N. texts concerning the protection of human rights by police authorities. This booklet has been distributed to every police department in Greece and has led to the issuance of the Presidential Decree called “Code of Police Ethics”<sup>24</sup>, which is the first initiative officially taken by the Ministry of Public Order in the direction of inserting human rights’ respect and protection in the way policemen execute their tasks.

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<sup>23</sup> See, Annual Report of the Greek NCHR, 2003, Summary in English.

<sup>24</sup> Presidential Decree n. 254/2004 (Official Journal A; 238).

## B.2. The projects about human rights' education in Greece in the frame of the E.U.

### a) Projects for the primary and the secondary education

Yet, it is more than obvious that these initiatives, although indicating the right direction, are not adequate measures for the fulfillment of the State's obligation to grant an education, the content and the aim of which are the protection and promotion of human rights and fundamental freedoms, as their mainstreaming. This is the reason why many projects are going to be undertaken by the Greek Ministry of National Education<sup>25</sup>, with the collaboration of the E.U., for the amelioration of human rights teaching in Greek schools.

First, is the Program called "Mousses", the purpose of which is the promotion of the gender equality through Education and Civilization. The Ministry of National Education has acknowledged that the promotion of gender equality has become one of the major axes of strategy of the European and national social policy.

Second, is the Program "Kallipatira" concerning Equality in Society, based on the need of pupils' and tutors' active participation in programs promoting equality, in general, and aiming at the equal participation and representation of men and women in every field of social activity, such as economy, decision making, social and cultural life. Through these activities, an effort will be made to analyze the structure of actual social issues, such as the multi-cultural character of the societies, social inequalities, xenophobia, racism, Olympic ideals and other issues, bias new approaches and tutoring methodologies, which will demonstrate boys' and girls' interest as future citizens in multi-cultural and international societies.

Third, Special Activities are going to take place in order to make pupils feel friendly with people coming from other countries or belonging to different civilizations, in order to realize that human rights are a way of living and not just a discipline to learn by heart.

### b) Projects that could involve the role of the Greek NCHR

The fulfillment of these projects necessitates the participation of more than one Authorities, in order to achieve the best preparation and coordination needed. In that frame, the Greek National Commission for Human Rights could undertake a substantive role based on its mandate including "The cultivation of respect for human rights in the context of the national educational system"<sup>26</sup>. Thus, NCHR could survey the editing of Books, could take care of organizing seminars for tutors training in human rights, could organize a Human Rights Documentation Center, as provided by law explicitly, and, finally, could give opinions about the contents that human rights education should have in the Greek society, according to the international and European protection of the right to education and the establishment of the human rights education as an institution's guarantee for human rights protection.

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<sup>25</sup> Based on information given to the NCHR orally by the representative of the Minister of National Education to NCHR.

<sup>26</sup> Article 6 of Law 2667/1998. It has to be noted that the Greek NCHR has been established according to the Paris Principles, adopted by the United Nations and the Council of Europe, and has substantive competences of issuing consultative opinions to the Government, not including the investigation of individual cases, which is an exclusive competence of the Greek Ombudsman (before appealing to the Courts).

## Conclusion

Concluding, one may easily understand the great importance of human rights education in modern societies. Human rights education is an institution's guarantee for human rights protection, implemented by international law. All institutions and rules of law of the national legal orders should be meet these international standards, thus, affirming the undoubted interdependence of all human rights, both at the domestic and the international level. In that frame, Greek Constitution has been interpreted "in the light" of the international protection of the right to human rights education, leading to the recognition of human rights education as an essential part of Greek education. The initiatives undertaken by Greek Government, the projects that are going to be realized, are only the first steps towards the creation of a system of "human education", that is, an education, in the frame of which human rights teaching would be the mainstreaming in every single class of every rang of education, in order to build up our future citizens with the full respect of human rights and create a society of humanity, understanding, friendship and tolerance for every human being.

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## IRELAND

### Presentation to Meeting of Human Rights Education Workers of European NHRIs

Mary Ruddy

The Irish Human Rights Commission was established in July 2001. Set up as a direct result of the Good Friday Agreement by the Human Rights Commission Acts 2000 and 2001, it has a broad mandate to promote and protect human rights in Ireland.

The Commission has a total of 11 staff members including three senior staff workers answerable to the Chief Executive. Each manages a different area of work; they are as follows:

- Casework: Senior Manager + Assistant
- Legislation & Policy Review: Senior Manager + Assistant
- Human Rights Awareness & Education: Senior Manager.
  - An application for an Assistant in this section is being considered by the Dept. of Finance.

The focus of the Human Rights Awareness & Education worker to date has been on the development of information and awareness, e.g. developing website; video; press releases; organization of conferences, seminars, public consultations.

The human rights education function is less developed and extent of future development is linked to appointment of a second person in this area of work. However, two target groups have been identified as deserving of attention and some work has been undertaken in those two areas. They are: primary school sector and with the police service (An Garda Síochaná).

#### Primary School Sector

In September 2003, the Dept. of Education introduced Social, Personal and Health Education (SPHE) to all primary schools curricula in the country. This programme, which places an emphasis on inter-culturalism and diversity, is allocated a timeframe of 30 minutes per week.

In planning for SPHE in the curriculum, schools are advised to identify approaches to “creating a positive school climate and atmosphere where individuals are valued, cared for and respected.”

#### Cross Border Primary Schools Human Rights Education Initiative

The concept of a Cross Border Primary School Human Rights Education Initiative was first mooted in 1998 by Amnesty International (Irish Section). Both the Northern Ireland Human Rights Commission and the Irish Human Rights Commission are represented on the Steering Committee which also includes Depts of Education; Teachers Unions from the north and from the Republic. Following an evaluation of the initial 3-year pilot, a further phase commenced in 2004. There are currently 30 schools participating in the project.

The objectives of the project are as follows:

- To research the need for human rights education in the primary sector in Northern Ireland and the Republic of Ireland;
- To design and pilot a human rights education programme involving schools, in the north and south, in a ten-week educational programme for 8 - 12 year old pupils using a whole-school approach.

Prior to initiating the project, teachers from the participating schools attended one in-service day where they were given a pack of resource materials called "Lift Off". The materials were developed collaboratively by a writing group of teachers from both jurisdictions with the project co-ordinator. Schools are supported by project officers and a part-time project co-ordinator.

Under the auspices of this project, a conference on human rights education in the primary school sector is scheduled to take place in Dublin in May 2005.

#### Human Rights Training in An Garda Síochána

An Garda Síochána are the Irish police service. It exercises all police functions in the country and is responsible for all criminal investigations, road traffic law enforcement, immigration control, maintenance of public order, and state security. It has 12,000 members with a further 3000 support staff.

The training system in the Garda Training College is as follows:

Basic training is divided into 5 phases over a period of two years:

- Phase 1: 22 weeks in training college
- Phase 2: 24 weeks at selected stations with tutor Gardaí
- Phase 3: 14 weeks in training college
- Phase 4: 36 weeks probationary period
- Phase 5: 6 weeks at training college and graduation

In 1999 the Human Rights Office was established in the training college dealing with human rights input in training and education. It has two staff members,

Currently human rights' training is part of Social Studies under Diversity and of Legal and Policing where subject areas such as ECHR and equality legislation are covered. Human rights' training is also a component part of training for sergeant promotion courses.

More recently, the Training College has introduced a training-for-trainers scheme. This is undertaken by trainers from outside the Gardaí - an academic, and Amnesty education worker. The training takes place over 6 days.

The Irish Human Rights Commission as of now has no formal relationship or involvement in training the police service. However, it is an area of work which we hope to commence in 2005.

## LUXEMBOURG

The Human Rights Consultative Commission (HRCC)  
Commission Consultative des Droits de l'Homme (CCDH)

Jeanty Rita

The Commission is a consultative organ to the Government. It researches and gives recommendations to the Government on general issues concerning human rights in Luxembourg.

### Creation

- 28<sup>th</sup> April 2000: The Government sets up the HRCC.
- The HRCC responds to the Prime Minister.
- The HRCC is accredited to the European coordination group.

### Competences and Attributions

- The HRCC is a consultative organ to the Government.
- It gives advice and does research on demand of the Government.
- It has the right to initiate itself research on an issue concerning human rights in Luxembourg.
- It is a correspondent to the European Observatory on Racist and Xenophobic Phenomena (Observatoire Européen des Phénomènes Racistes et Xénophobes).
- The HRCC is independent. It is neither an NGO nor part of the Government.

### Structure and Organization

- The HRCC is composed of 22 (unpaid) members named by the Government. The new members are chosen by the HRCC itself, according to their competences in matters of human rights.
- It is pluralistic and independent.
- The HRCC has a president and a vice-president. It is divided in 3 sub-committees, each with a president. These 5 presidents form "the office".
- The sub-committees deal with "education", "discrimination" and "institutional problems".
- If necessary, ad hoc committees can be created.
- The HRCC has a full-time secretary

## Activities

- Advice on draft law, either on demand of the Government or by its own initiative.
- Participation in public debates.
- Organization of meetings, seminars and conferences.
- Suggestions to the authorities of actions meant to promote human rights in society.

## Working methods

- The HRCC meets in plenary meeting more or less once every 6 weeks.
- Vote on projects of advice to the Government; actuality discussions on issues related to human rights.
- The sub-committees meet (more often) according to their own programs and schedules.
- Members
  - o meet in working and editing groups
  - o attend auditions with experts or any person capable of providing information on specific subjects
  - o visit places in relation to events concerning human rights
  - o contact Ombudsperson for Children in Luxembourg, ONGs (f.ex. ACAT), etc
  - o invite the press
  - o invite experts on special topics (f.e.x school integration for children with special needs, data protection, refugees, etc)

## Examples of Advice papers (2000-2003)

- Project for a Charter for the Fundamental Rights of the European Union
- Draft law on personal data protection
- HR education in secondary schools
- Draft law on Children's Rights and social protection
- Police raids in homes of asylum seekers
- Expulsions of illegal residents

N.B. The HRCC does not treat individual cases

## My Human Rights Education (HRE) strategies and Experiences

- as a teacher of philosophy and practical philosophy (ethics)
- secondary school system (age 12-19)

## Facts (+)

Ministry of National Education wants to promote HRE (HR and democratic values fundamental in school legislation)

Headmasters encourage HRE programs

Teachers cooperate in HRE projects

Students enjoy activities in HRE

Parents cooperate in HRE projects

HR are dealt with in all readers/textbooks from grade 7-13

HRE in Police School by a member of the HRCC (former president of AI)

## Facts (-)

Ministry of Education does not always respond to demands of HRCC as to the means of putting into practice HRE projects

- include HR in teacher training program
- offer advanced training (formation continue) in HRE
- if such training offered, allow teachers to assist (timing)

## Headmasters

- often lack budget to get proposed HRE projects on their way

## Teachers

- often lack time to cooperate
- have mostly little training in HRE

## Students

- are not too eager to work on projects after school hours
- are easily discouraged by theoretical approach to HR

## My experiences (-)

Theoretical approach to HR until age 16 = (-)

Lack of interest / readiness for action among certain % of young people (prosperity society - golden boys/girls)

Third World projects (dangerous if joint venture of school+ONG if the latter does not consider specific pedagogical necessities)

## My experiences (+)

Ministry of Education offers means (\$ and human resources) if innovation program in HRE is credible (f.ex. new Luxbg "ethics" curriculum from Germany)

Students always cooperate if HR subject reaches them at a level of personal experience

## HR best taught

- in inter / trans-disciplinarity
- in connection with activities (AI candles, animal protection, anti-torture, anti-death penalty petitions, old age, handicapped people projects, etc)

Impact of public HR Evening organized by different age levels with different contributions (music, poetry, ONG representatives, case studies, picture-photo exhibition, theatre, etc)

## My strategies for the future

- Promote better teacher training in HR (fixed number of lessons, new educational tools for HRE / AI tool-box, advanced training, etc)
- More information on cultural differences
- More incentive to watch events concerning HR (news paper reading, news on TV, radio)
- More national + international teacher contacts
- More cooperation between HR sub-committees-education

## NORTHERN IRELAND

### Human Rights Education in Northern Ireland

#### Edel Teague

The Northern Ireland Human Rights Commission was established in 1999. It prioritised human rights education from the start and appointed a dedicated education worker in 1999. Its education work focuses on promoting an understanding of human rights and on keeping education law and practice under review.

#### Promoting an understanding of human rights

Since its inception in 1999 the Commission has sought to ensure human rights education is mainstreamed into the educational curricula of key groupings. In the first five years of the Commission's existence it prioritised the education of school children and human rights training of the police. Naturally the Commission sought to focus on schools because of the opportunity it presents to educate young people in a systematic and planned fashion. In addition reform of the education sector provided the Commission with the opportunity to support the inclusion of human rights education within the newly developed subject of citizenship education. The Good Friday Agreement initiated a series of reforms of the police service of Northern Ireland including a new emphasis on human rights which offered the Commission the opportunity to influence human rights training.

### Human rights training within the Police Service of Northern Ireland

The Commission's work in this area is multi-layered in that it reviews curricula, observes training in action, works with the PSNI to secure action on its recommendations and contributes to public discussions on human rights training within the police. The PSNI has been very open to working with the Commission and has recently agreed that the Commission be allowed to evaluate the human rights components of the third and final stage of the Recruit Training Programme. This will lead to a fifth report from the Commission on human rights training for the police, to be published later in 2005. (See [www.nihrc.org](http://www.nihrc.org) - publications-education and training.)

### Human rights and the curriculum

The Commission continues to support the inclusion of human rights within the school curriculum at primary and post primary level in Northern Ireland. The Commission established a partnership with the Department of Education and the five Education and Library Boards in 2001 to promote teaching of the proposed Bill of Rights in secondary schools. A pilot project was completed in 2004, some 25 schools, 10 teachers and 11 educational advisers contributed to the piloting of the materials. The resulting resource for Key Stages 3 and 4 (11-81year olds) was made available to 250 schools in September 2004.

The Commission has also facilitated the Human Rights Education Forum (a group of statutory and NGO organisations) which meet four times a year to share information on human rights and education issues.

### Human Rights Education and the proposed Bill of Rights for Northern Ireland -Facilitator Training

The Commission was asked by the Good Friday Agreement to consult and advise on the scope for a Bill of Rights in Northern Ireland. In 2000-2002 the Commission engaged in a very significant training programme whereby 800 facilitators were trained to deliver awareness raising sessions on the proposed Bill of Rights for Northern Ireland. This was an exceptionally successful programme which resulted in a high level of participation in the subsequent consultation process on the Bill of Rights.

[http://www.nihrc.org/documents/pubs/bor/bor\\_training\\_manual.pdf](http://www.nihrc.org/documents/pubs/bor/bor_training_manual.pdf)

### The Human Rights Act and School Managers

In September 2003 two guides to the Human Rights Act 1998 (ECHR) were jointly published by the Commission and the Department of Education. Both contained examples of how the law works in practice and guidelines for good practice. Every teacher in Northern Ireland received a copy of the short introductory guide, whilst all school managers received a copy of the more detailed management guide. Subsequently the Commission visited a number of schools and management training sessions to present information contained in the guide.

[www.nihrc.org/documents/pubs/et/HRAguide\\_schools.pdf](http://www.nihrc.org/documents/pubs/et/HRAguide_schools.pdf).

### Keeping education law and practice under review

The Commission has prioritised reviewing education law and practice in Northern Ireland with a view to determining whether international standards on human rights are being adhered to. Since its inception in 1999 the Commission has been actively involved in the debate on academic selection at age 11, access to schools and the promotion of equality in educational provision, especially in the area of Special Education Needs.

In addition the Commission contributes to the educational programmes of public bodies and non-governmental organisations.

## Review of human rights training and education

In March 2004 the Commission commenced an independent review of the human rights education and training being provided in Northern Ireland. This review will help define the Commission's own role in this area as well as the work it does with others on human rights education and training.

## SPAIN

### Meeting concerning Education in Human Rights

#### The Ombudsman of Spain and the education in Human Rights

Maria Luisa Cava de Llano Carro

I. - More than twenty years of functioning of the Institution of the Ombudsman of Spain have passed. Its origin goes back to the Spanish Constitution of 1978 that defines it in its article 54 as the High Commissioner of the Spanish Parliament, designated by this for the defence of the rights and fundamental freedoms as stated in the first Title of the Constitution.

The constitutional text points out the regulation of rights, duties and fundamental freedoms contained in the first Title. From this regulation, Spanish citizens can say that we exercise and develop our personal and collective freedom, with no more limits than those coming from the respect to the rights of other citizens.

This wide and detailed regulation of the freedoms and fundamental rights that were recognized on the supreme norm was going to have a great influence in the institutions of protection and guardianship of these rights. Among those, it is necessary to mention the Ombudsman. Its position inside the constitutional text, is sign of the role that they wanted to assign to this Institution. It comes at the end of the chapter dedicated to the guarantees of our freedoms and fundamental rights, detailed in its first Title.

The Ombudsman represents, for this reason, something similar to the culmination of the democratic building, the consolidation of the juridical frame of our coexistence and the development of our system of juridical guarantees in the current democratic and social State ruled by Law. For a suitable fulfilment of its functions, it is necessary to start - as the Constitution does- from its nature as a commissioner of the Spanish Parliament, this is, of the legislative power, and from the object of its mandate that is, precisely, the protection of the human rights.

All the aspects related to the organization and functioning of the Ombudsman, are devoted to the preservation of its fundamental characteristic of independence. The designation for qualified majority in the Chambers; the conformity of the same Chambers in relation with the appointment of both Deputies that assist the Ombudsman; the duration of the mandate, more extensive than legislative period; the prerogatives of the Ombudsman, especially those concerning the no subordination to imperative mandate, inviolability, immunity and special jurisdiction, or the strict regime of incompatibilities to which it is submitted, are some other examples of the high degree of autonomy granted to its action as well as the exquisite care for the independence in the decisions of the Ombudsman.

Independence, of course, from the executive power, expressed, between other ends, by the duty of collaboration of the Administration with the Ombudsman. A duty of such an intensity that the Penal Code in force states, in its article 502.2., close to other crimes against the institutions of the State, that of disobedience to the Ombudsman like criminal type. Such a disobedience is made more precise warning that there will incur in it "the authority or civil servant who will prevent the investigation of the Ombudsman (...), refusing or expanding unduly the sending of the reports (...) Or impeding the access to processes or administrative documentation necessary for such an investigation". A punishment can be imposed to such conducts varying from three to twelve months, and a special incapacitation for employment or public position from six months to two years, and a suspension of employment or public position the same time.

Concerning the methodology used in this protection when some of the rights and/or freedoms protected are violated, or it is suspected that the violation is produced, the powers of the Ombudsman can be systematized this way:

- Actions by request of the citizens, by means of personalized complaints.
- Actions ex officio, as consequence of reasonable indications of infraction of the protected rights.
- Putting in knowledge of the Attorney General's office of facts derived from complaint, with presumption of crime.
- Formulation of recommendations and suggestions before the public administrations, to apply adequately a norm or to modify an administrative concrete act.
- Legitimation to lodge the appeal of unconstitutionality, the appeal of protection and the habeas corpus.

In theory, the Ombudsman can bring up a complaint himself. However, most complaints dealt with by the Institution come from citizens. Once admitted the complaint, there begins the proper process of investigation, which ends in the appropriate resolution, always in the area of persuasive auctoritas, instead of coercive potestas. This resolution can adopt, as I indicated before, forms of warning, recommendation, reminder or suggestion, in order that some norm or behaviour should be modified by the Administration. The questions derived from the flow of complaints dealt with in every exercise constitute in great part the obligatory Report presented every year by the Ombudsman before the Spanish Parliament.

The characteristics and functioning in practice of the mechanisms used to deal with received complaints, have generated a very positive impact in the perception of the Spanish citizens regarding the institution of the Ombudsman. In this respect, we have reached the highest levels of appreciation, only overcome, for very narrow margin, by the Institution of the Crown.

In order that you could know basically the volume of the activity carried out by our Institution, I inform you that in 2003 the number of received complaints was 17.389, whereas this year this figure is overpassing the amount of 27.200.

The supervision of the activity of the public administrations, is done grouping our actions in 12 big administrative sectors characterized by a certain operative coherence. In order that you could have a vision of set, I briefly enumerate forthwith which are the type of complaints received and the investigations made in each of these 12 big sectors:

- Justice, where there are included the issues related to the undue delays in judicial procedures, the public judicial service, the situation of the victim, the actions affecting the minors, the domestic violence, the right of defence, the missing persons (or the minors moved to another country without assent of some of its progenitors) and the Spanish citizens in prison abroad.
- Penitentiary administration and rights of the prisoners, with aspects related to the fundamental right to life and physical integrity, the guardianship of the health, the peculiarities affecting imprisoned women, the procedural guarantees, the infrastructure of the centres, and the treatment of the penitentiary work.
- Public Security, where there are placed the problems that have to do with the action of the Security Forces and Bodies, the use and possession of weapon and the traffic procedures.
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- Emigration/immigration. Here there appear the issues provoked by the Spanish citizens abroad (attention to emigrants, assistance and treatment in consulates and actions regarding Official Registries there) and, in addition, other aspects concerning the immigration and its regulation such as the system of labour quotas, the difficulties of integration, the regime of control of borders and the irregular access, the situation of the centres of reception and internment, the crucial matter of the not accompanied minors, the treatment to the stowaways, the measures of expulsion and devolution, the role of the consular offices and of alienage in the different processes, and the singularities presented by requests of asylum and the concern provoked by the appearance of racist or xenophobic outbreaks.
- Education, in its slopes related to the areas of non university education, from the school facilities to the so called special education; university education (access to public universities, prices for academic services, homologation of degrees), and regime of scholarships and helps to the study.
- Health, sector where, inside the multiplicity of treated aspects, are outstanding those referring to the information and clinical documentation, the sanitary transport, the specialized attention, the mental health and, mainly, those known as waiting-lists about which in 2002 there was carried out a monographic report.
- National Health Service and social Action. Close to the aspects related to the organization of the National Health Service (areas of application, affiliation, discharges, prices and collection) appear those concerning the juridical regime of certain benefits as the old-age pensions and survival, the relatives to contingencies like the permanent or temporary disability and the unemployment, the non contributing pensions and other matters as the originated by the international application of the different national systems. For what it has to do with the frame of the so called Social Action, we must highlight the problems raised by the protection of the rights of the minors (guardianship, conflict in centres, adoption ...). Also those raised by the situation of the persons with disability in different areas (measures of accessibility and comparison of opportunities and internment in centres), or by the increasing demand of resources on the part of the citizens in the third age, and of course, those raised by the routes to attenuate the impact of the drug dependency.
- Work. Sector affected by certain actions, principally in the area of the vocational training, placement and employment, with individual indexes to the processes of selection and administrative management of the offices of employment, the Wage Guaranty fund, the safety and the labour health, or the Union's patrimony.

- Economic administration. The issues of this sector are divided into five corresponding paragraphs: taxes and rates of the Treasury; economic arrangement, in all concerning, among other matters, to hydraulic and electrical sectors, assurances, financial institutions, stock market, agriculture, cattle, crafts, trade and consumers; transport and communications, where there are included issues of so much current importance as those who concern the telephone service, Internet, television, post office/telegraphs and also the railway services, air and ground transport; Other paragraph is the one concerning local administration, concretely transport and especially the service of taxi; and finally as for action and administrative procedure, with problems of coordination, necessary expropriation, economic-administrative claims and public work.
- Environment. Sector developing clearly, it receives between others, the actions related to the information and evaluation of the environmental impact, the protection of natural spaces, acoustic and water pollution, the problematics inherent of hydraulic works, prevention and waste management, the complex matter generated around the airport activity and the lines of high tension and cellular telephony.
- Urbanism and Housing are two cores of activity where we can observe an increasing trend on number of managed complaints. Some of the most well-known questions that affect them are the urban planning and the new technologies of urban development execution, in the first one, and the public actions with the accessibility, in the second one,.
- Personnel serving Public Administrations. This area traditionally has been very nourished of complaints. Here there are exposed the problems affecting both the personal civil servant and the labour one, with a final part dedicated to the passive classes.

II. - Once done this small introduction on the Ombudsman of Spain and its activity, I will speak about the basic object of this meeting, which is no other than the education in Human rights.

It is evident that human rights have to be guaranteed by Public Powers, but the entire accomplishment of the human rights, is not anything that could be satisfied only by action of the official authorities, but it needs the active commitment of the citizens. Paraphrasing what President Kennedy said to his compatriots, "we can say that, before thinking what public power do for human rights, probably we should wonder what we make for them". You can possibly contradict what I am saying because the individual attitude is not enough to assure the fulfilment of such rights. However, being this true, also it is that only in societies where the citizens show a clear commitment and a firm attitude, the governments are urged to adopt effective measures of protection and control of the human rights.

In order to make real this individual commitment -which leads then to other social and political commitments-, it turns out essential not to disregard the education. An education that, on one hand, transmits to the individual the conscience of its own dignity and, on the other hand, makes him see the brotherly bows that join him with the rest of the human beings.

An education in human rights will be an education that highlights what joins us with the others, instead of what it separates us. An education that explains that the differences of languages, of tradition, of religion or of uses, are legitimate, but that there is not born from them any circumstance that allows to distinguish the quality of men. An education in which the diversity is understood as a wealth and not as a danger. In short, it will be an education which does not seek to overvalue the nearby thing, simply because it is nearby, but because it foments the tolerance.

Since the UNESCO reminded in the International Congress on Education in Human rights and Democracy, held in 1993 in Montreal, the obligation to transmit this education is a responsibility of all. Responsibility of the public authorities, which have in its hands the training of the new generations; responsibility of the families, which must be active centres in this determination; responsibility of the educators, who will take an essential role to transmitting to its pupils the most fundamental questions in a language that they could understand; responsibility of the civil organized society, who has to spread the concerns of the most active; and of each and every of us, we must practise the tolerance in the same degree that we demand it from the others.

The education in human rights, as requirement for the effective exercise of the same ones, must be projected on the whole of our societies. The term education must be understood in its wider sense, and reach to all the strata and social sectors, particularly to those that turn out to be more unprotected. It involves the starting of a vast plan that achieves to present the contents on human rights related with the type of education concerned. That means, adults' education, popular education, out-of-school education, education of specialized groups, education with marginal groups etc.

Raising the education in human rights is not a question of achieving knowledges; on the contrary, its only function is adding criteria with which the citizens could identify the violations of rights and could also be opposed to them. This links with something that is particularly important for institutions like the one that I represent, and is the creation of a protest culture in the citizens, who, knowing its rights, and the instances entrusted to protect them, support a combative attitude (and I want to mean that these two aspects seem to me to be inseparable). Nothing is so pernicious for the human rights as a resigned community, whose only hope is that the one who has the power, has also, at least, a little of conscience.

Many times the education in human rights will have to face traditions and concepts that have reached enough rooting among certain groups or even in cultural concrete areas. The need to make the universality of the human rights compatible with the respect to all cultures, cannot finish with this universality, because thereby we would break the fundamental axis that has allowed its development and consolidation.

Certainly, the education in human rights must appear always from the example. It is not worth a school that represses indiscriminately, and try to form then free citizens. It is not worth a family in which the pure argument of authority is imposed on any other one. It is not worth a company that formally recognizes rights to its staff, and then consider them to be the most insignificant part of its fixed assets. It is not worth a State whose authorities treat its citizens as serfs or in which the judicial power is not perceived as free instrument of the Constitutional State...

The respect of the human rights is a necessary condition so that an authentic democracy exists. Its violation, not only reaches the harmed concrete ones, but spoils a political system, and removes it from those who can be considered to be democratic patterns. It is necessary to decrease the number of human rights violations, until it reaches its total elimination; but it is completely necessary to try not to forget those violations when these take place. Otherwise we will be lead inevitably to the impunity.

A great part of the responsibility concerning education in human rights corresponds to the mass media, which, due to its enormous aptitude to come to citizens' big masses, must also be involved actively in the promotion of the knowledge of the rights, and in the public denunciation of the violations that these could suffer.

III. - But the main objective of this meeting is the examining of which is the role of the Ombudsman and similar institutions in the diffusion and consolidation of a culture in favour of human rights in different cultural contexts.

Once we reach our fellow-citizens, a great challenge appears before us: to make all the possible so that they can trust us. In this point, the confidence comes, as much by the success in the matters that are sent to us, as by the image of real independence opposite to any power that we can achieve. On this scanty baggage, we must try to contribute also to the reason of the human rights.

The activity of promotion of the human rights must impregnate the whole of our institutional action. Without being exhaustive, such possibilities can be concentrated in the following points:

- First: Trying that the human rights and the philosophy that encourages them, affect the whole legislation of our countries, and are accompanied of sufficient guarantees, in all orders, and very specially, in the jurisdictional one. Such action will be carried out - according to what is foreseen in the regulatory law of every Ombudsmanship- either before the approval of the law, which we might name "preventive actions", or after its promulgation, whether the Ombudsman has been recognized with procedural aptitude to go before the jurisdictional order entrusted to know about the constitutionality of a norm, as it happens in the Spanish case.

To these effects, it is a fundamental work of the Ombudsmen to start the action of the governmental or legislative authorities, in order that diverse international instruments of protection of human rights are incorporated into the Country Law. On the legal basis of this international law and of the own internal law, the Ombudsmen must try, in any case, the maintenance of our statu quo, to request legal reforms that reinforce the guarantees of the rights.

- Second: Also our daily work offers us the opportunity to turn into expert speakers with the different national authorities, by means of the treatment and resolution of the claims that citizens address to us, to demand those, not only the solution to concrete cases, but also the starting of global solutions that prevent that certain cases could continue taking place. From this point of view, we should penetrate into the preparation of monographic reports that, on the base of the complaints that we have been receiving, could give us an exact "X-ray photography" of a certain problem. We would have to try these reports to have the major coverage of the mass media, in order that they multiply its effect of denunciation and spread the solution we are giving.
- Third: Even respect of the judicial area, which for many of our institutions constitutes a sphere that stays practically out of our scope of powers, actions can be done in order to seek the increasing of the jurisdictional guarantees that laws of every country establish. In this field, there are possibilities of collaboration with the Judicial Power, which go from the offer of confirmed information, either by general character, or by concrete violations, to the follow-up of the jurisprudence of the different courts to detect the gaps that could exist with regard to the human rights in our juridical classification.

Any relation with the Judicial Power, must grant also great importance to the participation - providing that it is possible - in the continued training of its members; because being the human rights a concept in constant evolution, we are interested in much that, those who are called to be the major guarantors of the same ones, are impregnated with the most advanced doctrines. In this sense, our office collaborates in training, both with judges and with public prosecutors.

- Forth: Everything above mentioned must be accompanied by an special dedication to what it could be activities of education and promotion of the human rights. Our offices must be opened institutions, near to the citizens, and in certain cases, we must be the ones who approach them, instead of waiting them to come to us with their problems.

For instance, during the next days it will take place in the Spanish Parliament the reading of the Universal Declaration of the Human rights by students of the whole National territory. This event has been organized by the Ombudsman. During the same event there will be submitted the prizes corresponding to the First Ombudsman School Contest 2004, in which the students of the whole Spain have taken part presenting drawings related to Human rights.

The study of the complaints and claims that come to us, must serve also to try to know the lacks of training in human rights that appear more commonly among the different social strata of our citizenship. It will allow us to direct our own policy of training and education with full knowledge of reason. And, equally, we will be able to propose to the rest of public institutions, the lines on which it is necessary to work specially, as much in the design of the contents of the ruled education, as in those actions devoted to the not ruled training.

- Fifth: Close to the sphere in which each one of us have strict territorial power, the Ombudsmen and similar institutions must encourage the establishing of coordination mechanisms, seeking to join efforts in favour of an interest that is common to all. Globally, we must insist on the need that United Nations should fully assume the importance of our role in the daily defence of the human rights. We believe firmly that innumerable benefits would exist for the UNO if this one was using the Ombudsman as a network of analysis and control where we exist. I think that, for the future, it would be very suitable to define a new status of collaboration, establishing a procedure of consultation to the national Ombudsmen in the work of follow-up that every State must do for United Nations, on the fulfilment of the Conventions that they have signed and in the reports that they must elaborate. This could be done also considering the different Ombudsman to be special Reporters of the situation of concrete violation of human rights in any country.

I hope that these reflections could be useful as a base for a later dialogue. What is true is that each of our institutions has an specific mission, which comes from the procedure that regulate its existence and its powers, but most of all, because our fundamental mission is identical: to look for the best guarantee of the human rights. To this purpose, we must apply ourselves with all our capacity, because, also here, " there is a lot of grain, and the workers are few ".

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