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Education about Human Rights: Strengths and Weaknesses of the UN Declaration on Human Rights Education and Training

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EDUCATION ABOUT HUMAN RIGHTS

Strengths and weaknesses of the UN Declaration on Human Rights Education and Training

PAULA GERBER

Human Rights Education ('HRE') has been a focal point of the UN's work ever since the Universal Declaration of Human Rights was proclaimed in 1948. Article 26(2) of that seminal human rights instrument provides 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.

Since then, HRE has been included in a number of binding international treaties, including the International Covenant on Economic, Social and Cultural Rights ('ICESCR') (article 13) and the Convention on the Rights of the Child (article 29). Increased efforts to promote HRE also formed part of the Vienna Declaration and Programme of Action¹ and were central to a number of other UN initiatives, including the UN Decade for Human Rights Education (1995–2004)² and the World Programme for Human Rights Education (2005–ongoing).³

However, after 60-plus years of the UN mandating and promoting HRE, there is evidence that HRE is still not widespread, especially within schools.⁴ The UN therefore decided to increase its efforts to promote HRE, by adopting the Declaration on Human Rights Education and Training.⁵

Background to the Declaration

As most readers will be aware, in 2006, as part of a suite of UN reforms, the discredited Commission on Human Rights was abolished and replaced with the Human Rights Council ('HRC'). However, what may be less well known is that the HRC was given a specific mandate regarding HRE, namely to 'promote human rights education and learning'.⁶ Thus, from the outset, the HRC was directed to focus on increasing HRE, and it is a role that it has taken to with gusto, noting that 'enhanced efforts to promote human rights education would represent a major contribution of the Human Rights Council'.⁷

In 2007, the HRC directed the Human Rights Council Advisory Committee ('Advisory Committee') to prepare a draft declaration on human rights education and training.⁸ The Advisory Committee, in acting on this directive, consulted widely in relation to the content and structure of the Declaration. It did this via questionnaires to key stakeholders — governments, national human rights institutions, non-government organisations ('NGOs'), academics and international organisations — and through a workshop organised for participants to discuss elements of the Declaration. The Drafting Working Group, established by the Advisory Committee, received almost 150 completed questionnaires, containing a wide variety of suggestions regarding the proposed Declaration, including that:

- it contain a clear definition of HRE, including its relationship to values education, citizenship education etc...⁹
- treaty bodies be encouraged to pay greater attention to HRE in their Concluding Observations following a review of a State Party's Periodic Report;¹⁰
- it identify the substance of states' responsibilities regarding HRE, ie their role as duty-bearers;¹¹
- it stress that HRE should cover both civil and political rights, as well as economic, social and cultural rights,¹² and
- principles of participation, equality and non-discrimination should underpin the Declaration, and the Declaration should recognise that HRE needs to be included in ALL learning environments, not just formal education in schools.¹³

As the discussion below illustrates some, but not all, of these suggestions were incorporated into the final Declaration.

The extensive consultation that was undertaken regarding the contents of the Declaration provides some insight into why it took the Advisory Committee approximately three and a half years to submit a final draft to the HRC. However, the time spent drafting the Declaration was undoubtedly well spent, since the final version is a significant improvement on earlier drafts.

A positive aspect of the development of the Declaration was the extent to which NGOs were able to contribute to the drafting of the instrument.¹⁴ The high level of NGO engagement with the drafting process was facilitated, in part, by the establishment of the NGO Working Group on Human Rights Education and Learning, to coordinate the efforts of some 40 NGOs interested in having input, and also by the formation of the Platform for Human Rights Education and Training within the HRC by seven countries with a strong commitment to HRE — namely Costa Rica, Italy, Morocco, Philippines, Slovenia, Senegal and Switzerland.¹⁵ The result is a Declaration that has the support of a wide array of NGOs involved in HRE, and which expressly acknowledges the important role that NGOs play in the delivery of HRE (Article 10).

Strengths

The very existence of the Declaration is one of its strengths. There has been no new standard relating specifically to HRE since the inclusion of Article 29 in the Convention on the Rights of the Child. To have a contemporary international instrument focusing exclusively on HRE may stimulate increased activity in this area, and cloak those HRE activities with greater authority. Furthermore, UN declarations are often the precursor to binding international human rights instruments. Thus, the Universal

Declaration of Human Rights ('UDHR') was the precursor to ICESCR and the International Covenant on Civil and Political Rights; the 1963 Declaration on the Elimination of All Forms of Racial Discrimination preceded the Convention on the Elimination of All Forms of Racial Discrimination; and the 1975 Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment preceded the Torture Convention. Optimists might conclude that the Declaration on HRE brings us one step closer to a binding treaty regarding states' obligations to provide HRE.

One of the strengths of the Declaration is that it recognises that there is unlikely to be effective implementation of HRE within a state without 'the adoption of legislative and administrative measures and policies' (Article 7(3)). This reflects the view expressed by the UN Committee on the Rights of the Child in General Comment No 1 that:

In the absence of any specific formal endorsement in national law or policy, it seems unlikely that the relevant principles are or will be used to genuinely inform educational policies. The Committee therefore calls upon all States parties to take the necessary steps to formally incorporate these principles into their education policies and legislation at all levels.¹⁶

It also reflects the views of teachers, that a major obstacle to HRE within schools is the absence of an explicit directive from government that such education is required.¹⁷ Article 7(3) may provide governments with further impetus to ensure that their commitment to HRE is translated from rhetoric to policy that is backed up by legislation.

The absence of an explicit and authoritative definition of the term 'human rights education' has been one of the obstacles to widespread HRE.¹⁸ In an attempt to address this, Article 2 of the Declaration purports to define HRE by providing that:

1. Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing to, inter alia, the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.
2. Human rights education and training encompasses education:
 - (a) About human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;
 - (b) Through human rights, which includes learning and teaching in a way that respects the rights of both educators and learners;
 - (c) For human rights, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of other.

Several key points emerge from this definition. First, the Declaration clearly articulates the philosophy that HRE is about empowerment. For example, it would not be sufficient for students to rote learn the human rights set out in the UDHR; HRE requires participatory learning in order to transform learners into active citizens who respect and promote human rights.¹⁹ This aspect of the definition reflects the comprehensive involvement of NGOs in the drafting of the Declaration, as it accords with the philosophy of most human rights NGOs regarding HRE. For example, Amnesty International defines HRE as:

a process whereby people learn about their rights and the rights of others, within a framework of participatory and interactive learning. HRE is concerned with changing attitudes and behaviour, learning new skills, and promoting the exchange of knowledge and information. HRE is long-term, and aims to provide an understanding of the issues, and equip people with the skills to articulate their rights and communicate this knowledge to others.²⁰

A second key feature of this definition is that HRE is a preventative tool. This Article expressly acknowledges that HRE empowers individuals to contribute to the prevention of human rights abuses through the building of a culture of human rights. Article 4 similarly acknowledges the preventative power of HRE through combating discrimination, racism, hatred and harmful attitudes and practices. Recognising that HRE is a valuable tool for addressing the root causes of human rights violations is a pivotal component of the definition of HRE.

The final key feature worth noting of this definition of HRE is that it requires the promotion of respect for *ALL* human rights. Some states have a tendency to construct HRE very narrowly, limiting it to civil and political rights. Thus, school curricula might include lessons on citizenship and democracy, but fail to mention an individual's right to food and shelter.²¹ In light of this, it is unfortunate that those responsible for drafting the Declaration did not seize the opportunity to explicitly define HRE as encompassing education about economic, social and cultural rights as well as civil and political rights. It cannot be said that the drafters of the Declaration were not aware of this issue, since a coalition of 356 NGOs urged those responsible for preparing the Declaration to include an explicit reference to economic, social and cultural rights in the definition of HRE.²² The reference to 'all human rights' in Article 2 should be understood as including economic, social and cultural rights, but more explicit language would have minimised the opportunity for states to interpret their HRE obligations as being limited to only civil and political rights.

A further strength of the Declaration is the recognition given to the significant role that civil society plays in the provision of HRE (Article 10). Because of the important part that NGOs play in the delivery of HRE, the Declaration provides that states 'should create a safe and enabling environment' in which the human rights of all engaged in the HRE process are fully respected and protected (Article 7). This is an important recognition that those providing HRE should be able to do so without fear of their rights being violated, and is similar to the recognition in the Declaration on Human Rights Defenders that those who seek to promote the respect of human rights are entitled to have their rights protected as they perform such work.²³

Finally, the Declaration is to be commended for calling on UN human rights bodies (such as the UN Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child) to take into account states' HRE efforts, and also for encouraging states to include 'information on the measures that they have adopted in the field of human rights education and training in their reports to relevant human rights mechanisms' (Article 13). This means that states should report on their HRE initiatives not only in their periodic reports to UN treaty bodies, but also as part of the Universal Periodic Review conducted by the Human Rights Council.²⁴ Greater monitoring of states' compliance with international mandates pertaining to HRE may trigger increased efforts by states to provide widespread HRE.

Weaknesses

The Preamble refers to promoting respect for human rights 'without distinction as to race, sex, language or religion.' It is unfortunate that the drafters chose to highlight only four grounds of discrimination. By excluding other common grounds of discrimination such as sexual orientation, disability, nationality and age, the Preamble is not as inclusive and embracing as it might have been.

The Preamble reaffirms that states are duty bound to ensure that education is aimed at strengthening respect for human rights pursuant to the UDHR and ICESCR. It also acknowledges that HRE is of fundamental importance to the promotion, protection and effective realisation of human rights, before concluding with a statement as to the motivation for the Declaration, namely:

To send a strong signal to the international community to strengthen all efforts in human rights education and training through a collective commitment by all stakeholders.²⁵

This is a fairly vague and weak conclusion to the Preamble. The Preamble could have contained a more forceful and specific call to states, civil society and international organisations to take steps to prevent future human rights violations, by taking effective and proactive steps to achieve universal HRE. While the Preamble provides some context and background, it has been noted that it is not a particularly inspirational or rousing introduction to the Declaration.²⁶ For example, it does not compare favourably to the stirring language contained in the Preamble of the UDHR, which provides:

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.²⁷

Preambles serve an important purpose in introducing an instrument. The Preamble in the Declaration on HRE fulfils all the essential requirements of an introductory statement but fails to motivate or inspire the reader to embrace HRE and work towards the greater realisation of this right.

Those working in the area of HRE are very familiar with the commonly used term 'human rights education'. In this Declaration, the word 'training' has been added with no explanation. The concept of training about human rights, as distinct from education about human rights, is not something that has previously featured in international instruments. Given that the addition of 'training' is a deviation from the commonly used language, it would have been helpful for the drafters to articulate the distinction between the terms and the background to the use of this language.

The first Article states 'Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training.' On its face, this appears to be a positive assertion of a right to HRE. However, the language used is not as clear as it might have been. For example, it does not unequivocally state 'everyone has a right to human rights education.' A right to access information about human rights is arguably much weaker than an express right to human rights education. Furthermore, when there is a human right, there must be a corollary obligation to respect, protect, promote and fulfill that right. Article 7 is the closest to a corollary obligation mirroring Article 1. It provides that 'States, and where applicable relevant governmental authorities, have the primary responsibility to promote and ensure human rights education'. This is relatively feeble language, and it would have been preferable to say, 'States have an obligation to provide human rights education.' The combination of the weak wording in Articles 1(1) and 7(1) is no doubt reason behind the United States' and the United Kingdom's assertion that there is no right to HRE in international human rights law, and that the Declaration does not recognise such a right.²⁸

It must be remembered that:

Norms cannot be effective unless they are unpacked into clear components, spelling out obligations and rights, and identifying the path to their implementation at the national level.²⁹

This Declaration does not clearly unpack the normative content of HRE, nor provide a clear path for implementation. Overall, the language regarding individuals having a right to HRE, and states having an obligation to provide such education, does not compare favourably to other articulations of such a right. See, for example, the African Charter on Human and Peoples' Rights, which provides that:

States parties to the present Charter shall have the *duty* to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter *and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood*.³⁰ [emphasis added]

This is one of the most explicit directives on HRE in an international instrument and 'presents not only the most straightforward statement in international norm-making regarding governmental responsibility for education, but as well, a significant and unique call for effective human rights education.'³¹

Teachers have identified lack of training in the content and pedagogy of HRE as one of the impediments to widespread HRE within school.³² While it is encouraging that the Declaration emphasises the training of teachers as a key component of the right to HRE, the drafting is less than ideal. Article 7(4) provides that the following people should be trained in human rights: 'State officials, civil servants, judges, law enforcement officers and military personnel'. Almost as an afterthought, Article 7(4) concludes that states should also 'promote adequate training in human rights law for teachers, trainers and other educators'. Given that a lack of training in human rights has been identified as one of the major stumbling blocks to comprehensive HRE in schools,³³ a more substantive treatment of this aspect of HRE was called for. For example, an entire Article could have been devoted to the training necessary to ensure proper implementation of HRE in schools. Such an Article could have provided that states explicitly recognise:

- that instruction about human rights (both content and pedagogy) should be a mandatory part of all teacher education programs;
- the satisfactory completion of HRE training should be a prerequisite for all people seeking teaching accreditation/license; and
- HRE should form part of ongoing teacher professional development programs.

Teachers are also referred to in Article 3(2), which provides that HRE includes the training of teachers. To refer to the training of

teachers twice in the Declaration is unnecessary duplication, and not particularly helpful, when neither provision contains any substantive direction regarding the implementation of such training.

Article 4 sets out the aims of HRE. While this is commendable, some of the language used is not helpful. For example, paragraph (c) refers to 'promoting tolerance, non-discrimination and equality'. The use of the word 'tolerance' should be avoided in human rights discourse, as it can have negative connotations. It can be interpreted as putting up with something under sufferance, or enduring disagreeable circumstances, as in 'one tolerates having a headache'. It would have been preferable for Article 4(c) to refer to promoting respect, rather than tolerance; the former being a stronger, more positive term than the latter.

As already noted, an Article devoted to HRE in schools would have been a useful addition to the Declaration. It could have covered teacher training in the manner outlined above, and also the importance of embedding HRE in the curricula. An absence of human rights in the curricula is another oft-cited reason for lack of HRE in schools.³⁴ The incorporation of HRE into the school curricula is mentioned in Article 8(1) of the Declaration, but only as an example of what a state might include in an action plan for HRE. That the only reference to school curricula in a Declaration on HRE, is as an illustration of an implementation strategy, does not do justice to this critically important aspect of HRE.

Article 12(2) provides that:

Complementary and coordinated efforts at the international, regional, national and local levels can contribute to more effective implementation of human rights education and training.

This is a poorly drafted provision because of its use of the passive voice. Rather than merely observing what contributes to the effectiveness of HRE, this provision would have been stronger if it called on relevant international, regional, national and local bodies to develop strategies for the coordination of HRE initiatives.

Article 12(3) simply states that 'Voluntary funding for projects and initiatives in the field of human rights education and training should be encouraged.' This is another example of using the passive voice which leads to uncertainty as to the meaning of this provision. Who is to set up and manage such voluntary funds? The UN? States? The brevity of this provision, in combination with its ambiguity, seriously impacts on its utility.

A final weakness of the Declaration that should be mentioned is the overall drafting style. There has been a recent trend for UN instruments to use headings. For example, the Convention on the Rights of Persons with Disabilities and the Optional Protocol to ICESCR both use headings clearly indicating the contents of each article. This not only gives the reader an indication of the substance of each Article, but also helps to focus the minds of the drafters on the content of each provision. As noted above, one of the weaknesses of the Declaration is that there is some duplication, eg teacher training and other issues have not been dealt with in as much depth as they warrant. The use of headings may have helped avoid such problems.

Conclusion

There is an ancient Chinese proverb that says: 'Better a diamond with a flaw than a pebble without one'. The Declaration on HRE is a diamond with flaws, but we are better off having this flawed instrument than no instrument at all. The strengths identified above outweigh the Declaration's weaknesses, although there will be those who lament a missed opportunity for the international community to provide greater insight into precisely what obligations states have to provide HRE, and greater guidance on how states can, and should, comply with their international obligations regarding HRE.

In order to be effective, 'the scope, reach, and content of norms must be comprehensible to their beneficiaries, as well as to those who bear the responsibility of their implementation. Vacuous, rhetorical, and vague standards accomplish little.'³⁵ The Declaration on HRE is not vacuous, but it is an instrument that lacks rigour and one that has failed to reach its full potential. There are too many instances of sloppy drafting leading to weak and imprecise provisions.

It is too early to tell what practical impact the Declaration on Human Rights Education and Training will have. It has the potential to be a valuable tool for raising awareness of the importance of HRE, and stimulating further activity in this area. The Declaration may also be a valuable tool for key stakeholders to use in order to persuade governments and responsible agencies to intensify their efforts, to ensure universal education about human rights as part of a process of creating a culture of human rights. It is now up to those committed to HRE to take this flawed diamond and use it to advance HRE at the local, national, regional and international levels.

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