

The Right to Human Rights Education and Training: The Responsibilities of the Public and Private Sectors

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1. The Right to Human Rights Education and Training in a Context of Multi-level/Multi-actor Governance

When studying the role of public and private actors at the local, national and international, the most suited approach to implement the right to human rights education is multi-level/multi-actor governance. What deserves mention here is that, as in many public policies, even the field of human rights education and training has a number of public and private actors and government systems connected at five levels: the subnational, national, supranational, international and transnational. They should distribute their tasks accordingly to the principle of subsidiarity and share power in a sort of «collective decision-making process», with the support of policy networks that serve to ensure cooperation within the «networked governance» framework.

The President of the EU Committee of the Regions has stated that «multilevel governance is about *sharing* competences, rather than *splitting* competences». Speaking metaphorically, he said: «It is like an Italian lasagne: all the different layers fit smoothly into one another while together they create its delicious taste!»¹.

In other words, policy networks should be a network of «bridges» that connect the public and private sector (economic and professional) and a solidaristic civil society. They have at least three elements of procedural nature in common: interdependence, implying that no group in the network can reach the preset goal alone; flexibility and openness, since the different kinds of actors interact within an institutional context of governance that naturally favours an ongoing process of constant learning and adaptation; complementarity of roles of the different actors involved in the network, an added value in

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¹ L. Van den Brande, *A Political European Union Is Built on Values, Inclusive Governance and Partnership with Its Regions and Cities*, in «Pace diritti umani/Peace human rights», n. 1, 2009, p. 102.

the negotiation process which lays the foundations for entry coordinating common resources. In the field of human rights education and training, these three common elements can contribute in defining the – local, national and international – policy networks and as many «platforms» to promote educational policies and policy implementation with the participation of public and private sectors as well as civil society.

2. The Responsibility to Human Rights Education and Training of the Public Sector in International Human Rights Law

Legal recognition of human rights at the national and international level binds individual States making them responsible for the promotion and protection of human rights, and the adoption of all necessary measures to meet basic needs and the fundamental rights of all members of the human family.

For instance, Article 2 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (1998) – so-called *Magna Charta* of human rights defenders – states the following:

1. Each State has a prime *responsibility* and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.
2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Specifically on education, Article 15 of the Declaration states the following:

The State has the *responsibility* to promote and facilitate the teaching

of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme. (*italics added*)

The main legal instruments on human rights, be they universal (Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child, Vienna Declaration and Programme of Action) or regional (African Charter on the Rights and Welfare of the Child, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights «Protocol of San Salvador», European Convention for the Protection of Human Rights and Fundamental Freedoms), proclaim that states have a general *responsibility* to guarantee primary education as «compulsory and available free to all» and the secondary education and higher education as «generally available and accessible to all».

3. The Responsibility of the Public Sector to Promote Educational Policies and Policy Implementation

International law is binding for states as it confers onto them the responsibility, at the local, national and international level, to promote educational policies (legislation, action plans, curriculum development, training policies, etc.) and to implement policies (strategies, adequate resources, training programmes, coordination mechanism that ensure coherence, monitoring and accountability). Especially in times like the current one, of economic and financial crisis, they must give priority to social policies and in particular, to education and training policies. Vernor Munoz, Special Rapporteur on the Right to Education, points out that education is usually considered an expense and not a human right. A gap must be bridged in education between the «intentions» and the «actions» since, in budgeting and state policy-making, it continues to be one of the last priorities for most governments. Naturally, it must be noted that human rights education in

school systems differs greatly from country to country. There are cases in which programmes are very advanced, others are less, and others still do not have any programmes on the topic. The differences depend on legislation, school curriculum, education policy, and on the actors involved. Each country should identify its specific goals and its resources for action, based on the national context, priorities and capacities.

The problems that affect education cannot be attributed solely to school systems and to its inner constituents. A broader responsibility lies in the socio-economic domain, which is often discriminatory, and in which educational systems operate.

Educational policies and implementation policies should be developed in a participatory manner, with the cooperation of all stakeholders, both at the national and local level. The *responsibility* of the public sector is to support NGOs, other civil society organisations, local governments, human rights education networks, teachers associations, professional and research bodies, and ensure cooperation between these different actors.

Article 16 of the above-mentioned UN Declaration on Human Rights Defenders states:

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

4. The Responsibility of the Public Sector to Promote the Right to Education of Specific Targets

Within a coherent comprehensive policy plan, the public sector has the special *responsibility* of guaranteeing the right to education in particular to:

– vulnerable subjects including girls, migrants, persons with

disabilities, persons in detention, minorities, indigenous populations, detainees, etc. To guarantee the right to education to such subjects, the state has to adopt specific programmes and methods which promote intercultural and inter-religious dialogue. Education must be inclusive. It must provide a separate budgetary line, change traditional or discriminatory attitudes, help teachers, school administrators and families to understand and participate in decisions and processes related to inclusive and democratic education (see, *inter alia*, the following Reports of the Special Rapporteur on the Right to Education: *The Right to Education of Persons with Disabilities* (A/HRC/4/29, 19 February 2007), *The Right to Education of Persons in Detention* (A/HRC/11/8, 2 April 2009), *Girls' Right to Education* (E/CN.4/2006/45, 8 February 2006));

- policemen, military personnel and judges;
- children, adolescents and young people in emergency situation (on the subject there is a specific report of the UN Special Rapporteur (A/HRC/8/10, 20 May 2008). Furthermore the Office of the UN High Commissioner for Human Rights organised a seminar on «The Rights to Education in Emergencies» on 14-15 January 2008, to discuss the key concepts and the responsibilities of states and civil society organisations.

5. Human Rights Responsibilities to Educate and Train in the Private Sector

a) The Responsibility of Corporations and Other Businesses Enterprises

The subject is addressed in depth by specific reports of the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises.

In the most recent Reports of the SRSG John Ruggie *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Protect, Respect and Remedy. A Framework for Business and Human Rights* (A/HRC/8/5, 7 April 2008) and *Business and Human Rights: Towards Operationalizing the*

«*Protect, Respect and Remedy*» Framework (A/HRC/11/13, 22 April 2009) with reference to three core principles: the state duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and the need for more effective access to remedies.

Unfortunately, in those reports human rights education and training is an almost inexistent theme. There is only general reference to adopting specific training programmes, and to the role of governments to foster corporate cultures in which respecting rights is an integral part of doing business.

The Marrakech International Seminar could serve to invite the Special Representative of the Secretary-General to prepare a special report on human rights training for corporate managers and staff. It would be a prerequisite that could lead to firms adopting human rights, and thus fulfilling their ethical responsibilities.

b) The Responsibility of Political Parties and Labour

We should not forget this very sensitive item. The main tasks of national political parties include selecting politicians at the local, national and international level, aggregating popular political demand so that it can be converted into political programmes, and helping to shape a democratic political conscience. They have a primary role in human rights education, not only in training political figures but also in training citizens.

The Marrakech International Seminar could hopefully yield concrete indications on the importance of human rights training for political party leaderships and members. Labour unions, which are diffuse and deeply rooted in the territory, reflect people's interests and must therefore take on the responsibility of participating in training programmes, especially those regarding economic and social rights. For instance, human rights education and training should become a priority for the agenda on social dialogue, not only in ILO system and the European Union.

c) Family Responsibility

I would like to quote some strategic rules of international law in force.

First of all from the Universal Declaration of Human Rights: Article 16, point 3:

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 26, point 3:

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

Article 13, para. 3, of the International Covenant on Economic, Social and Cultural Rights is even more explicit and coherent:

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

The big challenge raised in the preparatory document of the Marrakech Seminar: how can state and family responsibilities be reconciled with the rights of the child? The answer lies in the values that international human rights law confers onto the family, considered the core of society. The family, being the first influence in education, and a natural teacher, must be protected and backed by the state, because of its essential function. The state must in turn supervise the family to make sure that the child's rights, set out in the 1989 International Convention, be respected, in particular Article 12 of the Convention on the Rights of the Child that states:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all

matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

6. Public and Private Schools

Public schools must have precedence over private schools, as complementary. Of course the latter must be respected and, if there are any funds, they ought to be provided by the public sector, as long as the content of education and training programmes is consistent with the Universal Declaration of Human Rights and the principles of the United Nations Charter.

It should be stressed that both types of schools, along with non-formal educational establishments, must assure human rights education and training as an essential part of the right to education.

Students too have specific responsibilities in a rights-based school. In particular, they are called to participate in decision-making and in the daily life of the school, to organise their own activities that represent their needs and interests, and to exercise an active and democratic citizenship.

Exercising the right to participate and feeling responsible are the two sides of the same coin. Responsible participation at school is an exercise for civic education. The public sector should ensure that human rights education programmes promote the UN Declaration on Human Rights Defenders and the exercise of democratic citizenship.

In conclusion, let me mention a significant example of cooperation between sub-national public institutions, schools, universities, and NGOs. It is the case of the Region of Veneto, in North-Eastern Italy, where the Regional Assembly endorsed in 1988 a Regional Bill on Human Rights and Peace Education. Since the beginning the Human Rights Centre of the University of Padua was involved in the implementation process of this innovative Bill. Among other educational and research activities, the Padua University Centre is realising a long-term programme for the formation of teachers from the seven provinces of the Region. The Padua project has become a model for the Italian Regions. We have so far trained nearly four thousand teachers thanks to the financial support of the

regional government and the cooperation of the regional office of the Ministry of Education.

My hope is that from the Marrakech Seminar will start a multi-actors coalition that will advocate for the quick endorsement by the UN General Assembly of the draft Declaration we are discussing about.

