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The Realisation of Human Rights Education in Norway

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ABSTRACT

Norway is a model for other nations – a successful, rich and ‘virtuous’ country with a stable political system. A majority of Norwegians are very proud of their country and regard the Norwegian culture as superior to that of others. This article discusses the Norwegian state’s commitment and efforts to realise human rights education (HRE). In a nutshell, one might say that the Norwegian legal commitment is like a fine-looking Ferrari, that looks strong and good on the surface, but there is no engine, no real commitment under the hood. In reality Norwegian authorities define ‘Christian and humanistic heritage’ as all-encompassing normative values for education, and these norms are regarded as a prerequisite and a foundation for human rights. Thus, human rights education is not really seen as necessary in itself. The government has not adopted any national plan of action and has refused to do so, because it is not considered ‘the optimal measure at this point in time’. On the other hand, the government of Norway defines human rights as ‘the hearth’ of Norwegian foreign policy, and they are very annoyed when other states declare that their commitment only applies within the framework of their own national values and traditions.

KEYWORDS

Human rights education; education; Norway; Christian values; education policy; humanistic values; sociology of law; evaluating educational rights

1. Introduction

Human rights is ‘the hearth of Norwegian foreign policy’.¹ Norway is number one on the Human Development Index.² Thus, Norway might be considered by some as a model for other nations – a successful, rich and virtuous country with a stable political system. In a recent survey, Pew Research asked if people agreed with this statement: ‘Our people are not perfect, but our culture is superior to others.’ Fifty-eight per cent of Norwegians agreed, the only Western European country in which a majority agreed. Sixty-one per cent said they were ‘very proud’ to be a national of their country.³ How does such a country commit to the realisation of human rights education (HRE), as expressed in the Convention on the Rights of the Child (CRC) article 29 (1) and the Covenant on

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¹Government of Norway, ‘Human Rights’ <www.regjeringen.no/en/topics/foreign-affairs/human-rights/id1160/> accessed 28 June 2018.

²UN Development Programme, ‘Human Development Index’ <<http://hdr.undp.org/en/composite/HDI>> accessed 28 June 2018.

³Neha Sahgal and others, ‘Being Christian in Western Europe’ (Pew Research 2018) <www.law.ox.ac.uk/sites/files/oxlaw/oscola_4th_edn_hart_2012.pdf> accessed 28 June 2018.

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Economic, Social and Cultural Rights (CESCR) article 13 (1)? According to the Committee on the Rights of the Child ‘... approaches which do no more than seek to superimpose the aims and values of the article on the existing system without encouraging any deeper changes are clearly inadequate’.⁴

In Norway’s fifth and sixth periodic reports to the UN Committee on the Rights of the Child in 2016, the topic of human rights education (HRE) received a total of two lines. The text appears under the headline ‘Education on human rights’ and states that: ‘The school’s role in preventing violence and sexual abuse has been strengthened. A number of competence aims have also been drawn up concerning gender equality.’⁵ It does not say anything about the legal framework of HRE, and it was not addressed by the Committee on the Rights of the Child in its concluding observations.⁶ The purpose of this article is to discuss the legal commitment of the Parliament of Norway and the government’s efforts to realise HRE.⁷ There is no room to include a discussion on statistical outcome data on attitudes, prejudice and bullying of different minorities and the Sámi people in this article, which I have done in other publications.⁸ There seems to exist a significant gap between the desired educational aims of HRE, to promote respect for the right of minorities and indigenous (Sámi) people, and the reality of what school children actually learn. The big question is why does this gap exist?

1.1. *The foundation of HRE*

There are many definitions of human rights education and the concept used in this article will be briefly clarified.

The foundation of HRE is found in the Universal Declaration of Human Rights (UDHR) article 26 (2), which emphasises that:

Education shall be directed 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.

Both the Convention on the Rights of the Child (CRC) article 29 (1) (b) and the Covenant on Economic, Social and Cultural Rights (CESCR) article 13 (1) was inspired by the UDHR and provides that education shall develop ‘respect for human rights and fundamental freedoms’. These provisions must also be seen in relation to CRC article 29 (1) subparagraph (d), which emphasise that education shall be directed to ‘The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups

⁴Committee on the Rights of the Child ‘General Comment No 1 The Aims of Education’ (17 April 2001) CRC/GC/2001/1, para 18.

⁵*The Rights of the Child in Norway: Norway’s Fifth and Sixth Periodic Reports to the UN Committee on the Rights of the Child – 2016*, p 36.

⁶Committee on the Rights of the Child (2018) Concluding observations on the combined 5th and 6th periodic reports of Norway, UN doc CRC/C/NOR/CO/5-6.

⁷The evaluation is based on an evaluation of structural and process indicators, as outlined in these two reports: OHCHR, *Report on Indicators for Promoting and Monitoring the Implementation of Human Rights* (2008) UN doc HRI/MC/2008/3; OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* (2012) UN doc HR/PUB/12/5.

⁸Hadi S Lile, ‘Human Rights Education’ in Malcolm Langford, Marit Skivenes and Karl H Søvig (eds), *Children’s Rights in Norway: An Implementation Paradox?* (Universitetsforlaget 2019) and Hadi K Lile, ‘FNs barnekonvensjon artikkel 29 (1) om formålet med opplæring: En retts sosiologisk studie om hva barn lærer om det samiske folk’ (PhD diss., Faculty of Law, University of Oslo, 2011).

and persons of indigenous origin.’ CESCR article 13 (1) also includes a similar formulation.

If one examines the wording of these provisions it is clearly stated that education shall be directed to the development of ‘respect for’ human rights. It does not say that education shall be directed to the development of knowledge ‘about’ human rights. CRC article 29 (1) (b) also refers to the development of respect for principles of the UN Charter. One of the fundamental aims of the UN, enshrined in the UN Charter article 1 (3) and article 55 is to promote ‘respect for human rights’. Again, the aim is not to promote knowledge ‘about’ human rights, but the word ‘respect’ is emphasised. When Article 29(1)(b) is read together with subparagraph (d) it becomes clear that HRE is first and foremost to be directed at changing hearts and minds, to promote tolerance and understanding, and combating prejudice and stereotypes against minorities and marginalised groups. The Committee on the Rights of the Child emphasises that: ‘The education to which every child has a right is one designed to [...] promote a culture which is infused by appropriate human rights values.’⁹ Thus, it is about creating the normative and cultural foundation for the rule of human rights law in society.

On 10 December 2004, the General Assembly proclaimed the World Programme for Human Rights Education. This programme is still ongoing in its fourth phase. As a product of this programme the General Assembly adopted The UN Declaration on Human Rights Education and Training in 2011. It emphasises that HRE encompasses education *about*, *through* and *for* human rights. However, one must distinguish between the ends and means of HRE. Certainly, it might help to learn ‘about’ human rights as means to promote respect, but it is not the aim of HRE in itself, as defined by the CRC and the CESCR. As the declaration also specifically emphasises, in article 2 (1), HRE is defined as ‘learning activities aimed at promoting universal respect for and observance of all human rights’.

One should remember that the foundation of HRE, as formulated in Article 26 (2) of the Universal Declaration of Human Rights (UDHR) was first formulated by the World Jewish Congress.¹⁰ During these negotiations they went so far as to proclaim that the ‘spirit of education’ was ‘[p]ossibly greater than that of all the other articles of the Declaration’.¹¹ They knew that whatever rights they had on paper, it would not result in real life ‘living law’ unless the attitudes and norms of the majority population changed.¹² It would not have helped Jewish children much to have learned *about*, *through* and *for* human rights. The aims of UDHR article 26 (2) to ‘... promote understanding, tolerance and friendship among all nations, racial or religious groups’ have also been taken out and are not part of the UN Declaration on HRE and Training. Thus, I think that the declaration has somewhat moved away from the original spirit of HRE, as formulated by the UDHR. The original spirit of HRE had an emphasis on teaching ‘respect’ for the rights of ‘other people’ and combating prejudice and intolerance.

⁹Committee on the Rights of the Child ‘General Comment No 1 The Aims of Education’ (17 April 2001) CRC/GC/2001/1, para 2.

¹⁰UN Commission on Human Rights (10 December 1947) UN doc E/CN.4/AC.2/SR.8, pp 3–4.

¹¹Commission on Human Rights (10 June 1948) E/CN.4/SR.67, p 13.

¹²For more on the concept of ‘living law’, the law that dominates life itself, see Eugene Ehrlich, *Fundamental Principles of the Sociology of Law* (WL Moss tr, Harvard University Press 1936) 493.

However, this new declaration is not legally binding and as far as I know it has had no impact on how Norway interprets or implements its HRE obligations, although it might have an impact on how the CRC article 29 (1) and the CESCR article 13 (1) should be interpreted. But the paragraph on ‘*about, through and for*’ must be interpreted in light of the first paragraph, which states that HRE is education ‘... aimed at promoting universal respect’ for all human rights, ‘... developing their attitudes and behaviours’ for the promotion of a ‘universal culture of human rights’. If it is enough for a government to teach children something ‘about’ human rights in general, not only will the implementation of the obligation of HRE become rather simple, but the whole purpose of HRE would be lost and obscured.

Having said that, there is a vast body of literature and opinions on what HRE really is.¹³ This article is not about the concept of HRE. It is first and foremost about the realisation of CRC article 29 (1) (b) held together with letter (d) and CESCR article 13 (1). Nothing more is meant by the concept of HRE in this article.¹⁴ This article is only about the legal realisation of legally binding commitments enshrined in these two conventions (CESCR and CRC), which Norway has ratified and incorporated into law in Norway; and it is only about primary and secondary education of children.

2. The Legal Foundation of HRE in Norway

This section will focus on the legislative framework, evaluating the commitment of the Parliament to the realisation of HRE. Is it fair to say that HRE has been incorporated and transformed into law in a way that reflects a clear commitment from the Parliament of Norway (Stortinget)? According to article 4 of the CRC, ‘States Parties shall undertake all appropriate legislative ... measures for the implementation of the rights recognized in the present Convention’. The Committee on the Rights of the Child emphasises that:

States parties need to ensure, by all appropriate means, that the provisions of the Convention are given legal effect within their domestic legal systems. [...] the Committee emphasises that it is crucial in addition that all relevant ‘sectoral’ laws [...] reflect consistently the principles and standards of the Convention.¹⁵

¹³It is difficult to pick the most important works on the topic, but I guess these references might get one started on the subject: Audrey Osler, *Human Rights and Schooling: An Ethical Framework for Teaching for Social Justice* (Teachers College Press 2016); Knut Vesterdal, ‘The Roles of Human Rights Education in Norway: A Qualitative Study of Purposes and Approaches in Policy and in Upper Secondary Schools’ (PhD diss., Norwegian University of Science and Technology 2016); Hugh Starkey, *The Challenge of Human Rights Education* (Council of Europe 1991); Katarina Tomasevski, ‘Are We Educating Children as People with Rights or Just Talking About It?’ in A Alen and others (eds), *The UN Children’s Rights Convention: Theory Meets Practice* (Intersentia 2006), 165–69; Gudmundur Alfredson, ‘The Right to Human Rights Education’ in Asbjørn Eide, C Krause and A Rosas (eds), *Economic, Social and Cultural Rights: A Textbook* (2nd edn, Martinus Nijhoff 2001); Claudia Lenz, Sanna Brattland and Lise Kvande, *Crossing Borders: Combining Human Rights Education and History Education* (Lit Verlag 2016). See also *The International Journal of Human Rights Education* and the newly established journal called *Human Rights Education Review*.

¹⁴HRE is a big concept with different meanings. Sometimes, for instance, one is talking about HRE in relation to police officers, lawyers, nurses, etc. And the legal justification for HRE can be drawn from many sources. For instance the Ministers of the Council of Europe has called for HRE through Recommendation R (87) 7 on ‘Teaching and Learning about Human Rights in Schools’. For an article on this see Hugh Starkey, ‘The Council of Europe Recommendation on the Teaching and Learning of Human Rights in Schools’ in Hugh Starkey, *The Challenge of Human Rights Education* (Council of Europe 1991) 20–38. In this article I only seek to interpret CRC article 29 (1) and CESCR article 13 (1), not define HRE in general.

¹⁵Committee on the Rights of the Child ‘General Comment No 5 General Measures of Implementation of the Convention on the Rights of the Child’ (27 November 2003) CRC/GC/2003/5, para IV.

In General Comment No 1 on the Aims of Education, the Committee ‘... calls upon all States parties to take the necessary steps to formally incorporate these principles into their thinsp;... legislation at all levels’.¹⁶ In short, if the Parliament is fully committed to the realisation of HRE, they should ensure that article 29(1) (b) and (d) is incorporated into law, that it is given legal effect and that the national laws are in harmony with these provisions.

2.1. The Constitution (article 109)

On 13 May 2013, the Norwegian Parliament (Stortinget) adopted a range of new provisions in the Constitution of Norway. Amongst the new provisions was article 109 on the right to education. It includes not only the right to access to education, but also includes a sentence on the content and aims of education. It provides that ‘... education shall safeguard the individual’s abilities and needs, and promote respect for democracy, the rule of law and human rights’. This wording is, to a significant degree, in conformity with article 29(1) (b) and CESCR article 13 (1), and apparently gives HRE in Norway constitutional legal protection. However, as will become clear, I will argue that the commitment of the legislator is somewhat obscured by a lack of clear directions on how this constitutional provision should be interpreted. In addition, there are repeated statements in educational law and other legal sources suggesting that Norwegian majority values (Christian and humanist heritage and tradition) have a preference over human rights, that they define what human rights are and how they should be interpreted.

Article 109 of the Constitution must be read with article 2 of the Constitution, which states that: ‘Our values will remain our Christian and humanist heritage. This Constitution shall ensure democracy, a state based on the rule of law and human rights.’ The Constitutional Commission, which drafted the new constitutional human rights provisions, stated that to some degree the content of education would contribute to the realisation of article 2.¹⁷ They emphasised that article 109 will function as a legal barrier for the legislator to ensure that education will not fall short of the minimum standards of the constitution.¹⁸

However, the Constitutional Commission also argued (based on a loose assumption) that article 109 of the Constitution only reflected the aims of education enshrined in the purpose clause of the Education Act, Section 1-1. They said that:

The text proposed by the committee included in The Constitution, is to a large degree meant to be in conformity with the essence of the elaborative purpose clause of the Education Act Section 1-1, but The Education Act may be said to go a bit further. The inclusion of the basic requirements of education will thus not change the current state of law.¹⁹

¹⁶Committee on the Rights of the Child ‘General Comment No 1 The Aims of Education’ (17 April 2001) CRC/GC/2001/1, para 17.

¹⁷Inge Lønning and others, ‘Dokument 16 (2011–2012) Rapport til Stortingets presidentskap fra Menneskerettighetsutvalget om menneskerettigheter i Grunnloven’ (Stortinget 2011), 224.

¹⁸Ibid 198.

¹⁹Ibid 225. This is my translation from Norwegian. This is the original Norwegian text: ‘De formuleringene som utvalget foreslår inntatt i Grunnloven, er langt på vei ment å være sammenfallende med kjernen i den omfattende formålsparagrafen i opplæringslova § 1-1, men opplæringslova må nok sies å strekke seg noe lengre. Grunnlovsfesting av krav til den grunnleggende opplæring vil således ikke endre dagens rettstilstand.’

Thus, the government was not to worry about implementing new policies on education in Norway.

2.2. The purpose clause of the Education Act

The purpose clause (Section 1-1) of the Education Act constitutes the primary law for the design of the curriculum plans, which are the basis for everything that happens in schools. There are two parts of the curriculum plan – the overriding part and the detailed parts of curriculum plan. The ‘Overriding Part’ of the Norwegian Curriculum Plan specifies the overriding normative principles of education in Norway. It provides direction to the specific aims of each subject in the detailed Norwegian Curriculum Plan.²⁰ The curriculum plan as a whole provide the foundation for all the subjects, the textbooks and teaching materials and the teacher education, including the teacher education curriculum, in-service training schemes and most of the school policies in general.²¹

It is stated that the Overriding Part of the Norwegian Curriculum Plan is to elaborate the aims of education enshrined in Section 1-1 of the Education Act. However, neither CRC article 29 (1), CESC article 13 (1), nor article 109 of the Constitution is mentioned.²²

Thus, to understand the real ‘living law’ of HRE in Norway, one must grasp how the concept of human rights should be understood in Section 1-1 of the Education Act, because that is the main legal provision that gives direction to the curriculum plans, which is the basis for education in Norway. As long as article 109 of the Constitution, CRC article 29 (1) and CESC article 13 (1) do not provide direction to the Overriding Part of the Norwegian Curriculum Plan and the detailed curriculum plans, it is unlikely that they have any effect on education in Norway.

2.2.1. The concept of human rights in the purpose clause

Does the purpose clause (section 1-1) of the Education Act promote respect for human rights and does it fulfil the aims of HRE? The concept of human rights is mentioned only once in the Education Act. It appears in the second paragraph of the all-important Section 1-1 of the Education Act (the purpose clause). It is stated that:

Education and training shall be based on fundamental values in Christian and humanist heritage and traditions, such as respect for human dignity and nature, on intellectual freedom, charity, forgiveness, equality and solidarity, values that also appear in different religions and beliefs and are rooted in human rights.

²⁰Utdanningsdirektoratet, ‘Overordnet del – verdier og prinsipper for grunnopplæringen’ (Government of Norway 2017) <www.regjeringen.no/contentassets/37f2f7e1850046a0a3f676fd45851384/overordnet-del---verdier-og-prinsipper-for-grunnopplaringen.pdf> accessed 3 July 2018.

²¹See Utdanningsdirektoratet, ‘Overordnet del – verdier og prinsipper for grunnopplæringen’ (Government of Norway 2017) 2–3; Regulations Relating to the Framework Plan for Primary and Lower Secondary Teacher Education for Years 1–7 (Ministry of Education and Research on 7 June 2016), s 1 (2); Regulations Relating to the Framework Plan for Primary and Lower Secondary Teacher Education for Years 5–10 (Ministry of Education and Research on 23 November 2016), s 1 (2). Both of these regulations can be accessed here: Ministry of Education and Research, ‘Rammeplaner for høyere utdanning’ (Government of Norway 21 March 2018) <www.regjeringen.no/no/tema/utdanning/hoyere-utdanning/rammeplaner/id435163/>

²²Utdanningsdirektoratet, ‘Overordnet del – verdier og prinsipper for grunnopplæringen’ (Government of Norway 2017) <www.regjeringen.no/contentassets/37f2f7e1850046a0a3f676fd45851384/overordnet-del---verdier-og-prinsipper-for-grunnopplaringen.pdf> accessed 3 July 2018. See also s 1 (2) of the regulations mentioned above (ibid), which emphasise that teacher education ‘should be grounded’ in the Education Act in addition to the curriculum plan, but neither article 109 of the Constitution, CRC article 29 (1) nor CESC article 13 (1) is mentioned.

A plain reading of the text itself makes it hard to see how the purpose clause promotes respect for human rights. Education shall be based on ‘Christian and humanist heritage and traditions’. A set of examples of this heritage are indicated by the words ‘such as’. Then, it is merely stated that these examples also appears in ‘different religions and beliefs’ and are ‘rooted in human rights’.

There is no case law that elaborates the concept of human rights in the purpose clause. Thus, to clarify the meaning of the purpose clause one must visit the preparatory works.

Before the present purpose clause was adopted, a government-appointed research commission was mandated to investigate the issue and to present a law reform proposal to the Parliament. The Bostad Commission was deeply divided between members that wanted to promote Christian and humanistic values and those who wanted to emphasise human rights values.²³ As a compromise, they proposed the following text, in relation to human rights:

Education in schools [...] shall be based on respect for the human dignity, intellectual freedom, charity, equality and solidarity, as these core values are expressed in Christian and humanistic heritage, different religions and faiths and as they are rooted in human rights.²⁴

In this proposal, the core values were supposed to be ‘respect for the human dignity, intellectual freedom, charity, equality and solidarity’. However, when this proposal was discussed in parliament, the majority were not happy with the status of Christian and humanistic values as appearing to occupy a secondary position in education. They insisted that they should be the core value. Thus, they replaced the core values of education in the proposal with Christian and humanistic heritage and tradition. Then, they kept the core values of the proposal, adding forgiveness and respect for nature, but only making these examples of Christian and humanistic heritage and tradition, as referred to above. In addition, they emphasised that the examples ‘... also appear in different religions and beliefs and are rooted in human rights’.²⁵ The parliament could, and maybe should have for the sake of clarity, put a dot after Christian and humanistic heritage and tradition. It is unclear why they decided to provide examples and then add a sentence about how the examples are rooted in human rights. If the Parliament had the intention of emphasising that education shall promote respect for human rights, why not just say so?

To answer that one must go to the preparatory work that says something about that decision. The Standing Committee on Church, Education and Research Matters stated that:

A modernized objects clause must be able to balance two main purposes: the need for a secure value anchoring for students and the challenges and opportunities of today’s multicultural society. The Committee believes it is important for the objects clause to express a set of values that most people can endorse regardless of religious, cultural or national affiliation.²⁶

²³Inga Bostad and others, ‘NOU 2007: 6 Formål for framtida’ (Government of Norway 2007), 19–25 and the preamble.

²⁴Ibid 14.

²⁵Standing Committee on Education and Research, ‘Innst. O. nr. 22 (2008–2009)’ (Stortinget, 20 November 2008).

²⁶Ibid 3. I have translated the text cited. This is the Norwegian text: ‘En modernisert formålsparagraf må greie å ivareta to hensyn: behovet for en trygg verdiforankring for elevene, og utfordringene og mulighetene i dagens flerkulturelle samfunn. Komiteen mener det er viktig at formålsparagrafen uttrykker et sett av verdier som flest mulig kan slutte opp om uavhengig av religiøs, kulturell eller nasjonal tilknytning.’

That sounds good from a human rights perspective. Human rights are indeed common values that transcend religions, cultures and nations. However, then the Committee proceeds to explain that:

However, the Committee is of the view that it is essential for objects clause to also express clearly the ethical, cultural and religious heritage and context that shape our society. It is therefore both natural and necessary to emphasise, in the objects clause, the importance of the values of Christian and humanist heritage and tradition for the design of the common values in society, which also finds expression in different religions and beliefs and are rooted in human rights. This is a common reference framework, providing a solid value foundation for the school's activities.²⁷

Thus 'the ethical, cultural and religious heritage and context that shape our society' is the Christian and humanistic heritage and tradition of Norway. Notably, they do not refer to any scientific research to back this statement. It is certainly very difficult to provide reliable and valid data on the cause and effect of what values have shaped society; however, one could certainly argue that international human rights laws, to a significant degree, and not just Christian and humanistic values, have shaped the conditions for many minorities in Norway. Norway is a small country and our economy and our security to a large degree depend on good relationships with other countries.²⁸ The Sámi Rights Committee that was appointed by the government following the Alta river dam conflict was deeply divided. They found common ground in the Covenant on Civil and Political Rights (CCPR) article 27, agreeing that Sámi people should not be denied the right to their culture and language.²⁹ The report of the committee led to the establishment of the Sámi Parliament and article 108 of The Constitution. I would say article 27 of the CCPR, not Christian or humanistic heritage, was the main force for change. The same could be said for almost all the victories in the fight for Sámi rights in Norway.

Since the Committee emphasises that Christian and humanistic heritage and tradition have designed common values in society, one might argue that education should only be directed by those parts of the Christian and humanistic heritage and tradition that are indeed common to other religions and are rooted in human rights. However, even if that was true, it would mean that human rights are only relevant to the degree that they harmonise with Christian and humanistic heritage and tradition. Frédérique Brossard Børhaug points out that Christian and humanistic values would not be regarded as rights in France.³⁰

If one replaces Christian and humanistic values with Islamic Sharia, would the Norwegian Parliament still feel that the law promotes respect for human rights? The text of the law would read something like this:

²⁷Ibid. Here is the original Norwegian text: 'Samtidig er det etter komiteens oppfatning avgjørende at formålsbestemmelsen også gir klart uttrykk for hvilken etisk, kulturell og religiøs arv og kontekst som bidrar til å forme vårt samfunn. Det er derfor både naturlig og nødvendig å uttrykke i formålsparagrafen hvilken betydning verdiene i kristen og humanistisk arv og tradisjon har for utformingene av det som er felles verdier i samfunnet, som også kommer til uttrykk i ulike religioner og livssyn og som er forankret i menneskerettighetene. Dette er en felles referanseramme som gir et solid verdifundament for skolens virksomhet.'

²⁸For an analysis of the impact of human rights norms, see Thomas Risse, Stephen C Ropp and Kathryn Sikkink, *The Power of Human Rights: International Norms and Domestic Change* (Cambridge University Press 2009).

²⁹Carsten Smith and others, 'NOU 1984: 18 Om samenes rettsstilling' (Government of Norway, 15 June 1984).

³⁰Frédérique Brossard Børhaug, 'Kapittel 4: Kunnskapsløftets antirasistiske verdikurs' in Ola H. Kaldestad and others (eds), *Grunnverdier i Pedagogikk* (Fagbokforlaget 2007) 79.

Education and training shall be based on fundamental values in Islamic Sharia

heritage and traditions, such as respect for human dignity and nature, on intellectual freedom, charity, forgiveness, equality and solidarity, values that also appear in different religions and beliefs and are rooted in human rights.

An interesting point I would also add is that the Norwegian government (29 September 2016) submitted a protest against Somalia for making this reservation: ‘The Federal Republic of Somalia does not consider itself bound by [...] any other provisions of the Convention contrary to the General Principles of Islamic Sharia.’³¹ The Government of Norway considered this reservation ‘... incompatible with the object and the purpose of the Convention’.³² Thus, the Norwegian government does not accept that other countries commit to human rights provisions by declaring that it only applies within the framework of their own national values and traditions. In light of this the text of the purpose clause, and the reasoning of the Parliament for adopting it, is somewhat in conflict with the government’s foreign policy.

2.2.2. Democracy and diversity

It is also stated in the purpose clause, section 1-1 of the Education Act, that:

Education and training shall provide insight into cultural diversity and show respect for the individual’s convictions. They are to promote democracy, equality and scientific thinking [...] All forms of discrimination shall be combated.

There are no preparatory works or case law that can provide insight into how these sentences should be understood. Thus, one must interpret the text based on its face value, trying to substantiate a broad consensus on how the concepts should be understood.³³ Although human rights are not mentioned one might argue that these sentences amounts to the same as HRE. However, I would argue that this is not necessarily the case, and given that the promotion of respect for human rights is not mentioned at all in the Education Act or the preparatory works, it is not natural to interpret these sentences in light of human rights law.

The words ‘insight into cultural diversity’ are not necessarily the same as promoting respect for the rights of minorities and people with different cultures. To promote ‘equality’ and combat ‘discrimination’ might mean that all human beings have the same rights and that the rights of minorities and indigenous people should be respected equally. But there is a reason why we have so many specific human rights conventions that specify the rights of minorities, indigenous peoples, persons with disabilities, women’s rights and children’s rights. The premises for what ‘equal’ means often lead to misunderstandings and disagreements. The majority might have a tendency to think that minorities are equal and are not discriminated against as long as they have access to the same services as the majority. Minorities may argue that services are not equal unless services accommodate their right to be different. For some Norwegians, minority and indigenous peoples rights are viewed as a

³¹The United Nations Treaty Collection, ‘Declarations and Reservations on the Convention on the Rights of the Child’ (status as 3 July 2018) <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en#EndDec>

³²Ibid.

³³One might also go to the curriculum plan for guidance, but then again the main function of the purpose clause is to give direction to the curriculum plan. I will come back to the curriculum plan below. See ss 3.4 and 3.5.

threat to democracy and equality. For instance, the organisation Ethnic Democratic Equality (EDL) have mobilised considerable support in the North of Norway. Their main aim is to combat what they consider to be ‘ethnic rights’, which they see as discrimination. In the name of equality, they use every opportunity to combat indigenous (Sámi) people’s rights.³⁴

To provide ‘respect for individual’s convictions’ is fairly close to promoting respect for the right to freedom of religion and belief, but to respect a person’s conviction might be different from respecting that person’s right. The real challenge and test of ones attitudes and values is when somebody does or say something that one think is utterly wrong or immoral. What does it mean to ‘respect other people’s conviction’, without referring to human rights? At some point one must be able to say that other people’s conviction is harmful and wrong. Human rights provide a natural boundary for what convictions that are unacceptable. To provide respect for all individual convictions regardless of substance is impossible.

As for the promotion of ‘democracy’, one may argue that human rights should be a fundamental part of any democracy – that human rights are implicitly referred to as part of the concept of democracy. However, there have been significant high level disagreements about whether human rights are part of the concept of democracy in Norway. During the political debate about the adoption of human rights provisions in the constitution, the issue of so-called judicialisation of society was a significant topic.³⁵ The concept was launched in Norway by the public Power and Democracy research project. The majority of the Power and Democracy Committee concluded that human rights conventions contributed to an alarming judicialisation of society, which involved a transfer of power from the democratically elected legislative powers to the judicial powers. They saw this as a threat to democracy.³⁶ The dangers of judicialisation was also part of the decision by the Norwegian Parliament for not ratifying the Third Optional Protocol of the CRC.³⁷ Thus, there is no broad consensus in Norway that democracy and human rights are the same.

2.3. The Human Rights Act

Both the CESCRC and the CRC has been incorporated into the Human Rights Act. It means that the conventions themselves are part of Norwegian law, with a heavier legal status than the Education Act. However, when the Parliament incorporated the conventions, the aims of education enshrined in CESCRC article 13 (1) and CRC article 29 (1) were not discussed in relation to Section 1-1 of the Education Act.³⁸ The Parliament changed the purpose clause for private schools (s 1-1 of the Private Education Act), and adopted a text very similar to that of CRC article 29 (1), but said nothing about the purpose clause for public schools (s1-1 of the Education Act). Most students in Norway attend public schools.³⁹ As the Parliament did not make any active decision on public education, the CRC article 29 (1) has not been incorporated into the curriculum plan, which in effect means that it has no direct influence on public education in Norway.

³⁴Etnisk Demokratisk Likeverd <<http://edl.no/index.php>> accessed 3 July 2018.

³⁵Arnulf Tverberg, ‘Grunnloven og velferdsstatens menneskerettigheter’ (2014) Lovdatas grunnlovssider LDG-2014-5.

³⁶Øyvind Østerud and others, ‘NOU 2003: 19 Makt og demokrati’ (Government of Norway, August 2003) ch 6.

³⁷The Standing Committee on Foreign Affairs and Defence, ‘Innst. 161 S (2016–2017)’ (Stortinget 17 January 2017) 2.

³⁸Ministry of Justice and Public Security, ‘Ot.prp. nr 45 (2002–2003)’ (Government of Norway 21 March 2003).

³⁹Ibid, para 8.3; Ministry of Education and Research, ‘Ot.prp. nr 33 (2002–2003) Om lov om frittstående skolar (friskolelova)’ (Government of Norway 20 November 2002).

2.4. The right to a good psychosocial environment

According to the Committee on the Rights of the Child the school environment ‘must’ reflect the values of HRE, as mentioned above. They emphasise that: ‘A school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29 (1).’⁴⁰ Thus, I will here say a little bit about the legislation on the right to a good psychosocial environment.

According to section 9a-2 of the Education Act, all students have the right to a safe and good school environment that promotes health, well-being and learning. And according to section 9A-3 schools shall have ‘... zero tolerance for offences such as bullying, violence, discrimination and harassment’.

Initially the government did not think that it was realistic to legislate for a ‘right’ to a good psychosocial environment and zero tolerance on bullying.⁴¹ However, the Norwegian parliament insisted on making legislative provisions safeguarding the individual’s right to a good psychosocial environment, and the law was strengthened with a ‘zero tolerance’ clause in 2017.⁴²

In a study by Trond Welstad and Simen Warp of complaint cases on the right to a good psychosocial environment to the County councils (*fylkesmenn*) in 2010, they concluded that the problem was not the text of the law, but that the main challenge was the realisation of the law in the schools.⁴³ The study was funded by the Ministry of Education and Research. When the Parliament, based on the proposal from the ministry nevertheless decided to strengthen the text of the law, it might be seen as a political move to show decisiveness in the fight against bullying, but other measures were in reality needed. In fact, when the text of the law becomes so unrealistic that the text of the law is regarded as a symbolic vision, respect for the law might decline and the reality on the ground might actually become worse.

One might argue that in order to realise zero tolerance on bullying one must promote respect for human rights, including the rights of minorities. However, Chapter 9A of the Education Act places the responsibility for realising the right to a good psychosocial environment and zero tolerance on bullying squarely on each school alone. The focus of the law is on combating bad behaviour and monitoring the schools to make sure they take this task seriously. Chapter 9A of the Education Act does not talk about the promotion of specific attitudes, including respect for human rights. There seems to be no link between HRE and the fight against bullying.

It might be because bullying is seen as a sub-category of aggressive behaviour, and prejudices are not part of the anti-bullying programmes.⁴⁴ According to Dan Olweus, one of the leading anti-bullying psychologists in Norway:

⁴⁰Committee on the Rights of the Child ‘General Comment No 1 The Aims of Education’ (17 April 2001) CRC/GC/2001/1, para 19.

⁴¹Ministry of Education and Research, ‘Ot.prp. nr 72 (2001–2002)’ (Government of Norway 3 May 2002) para 6.2.2.

⁴²Standing Committee on Education and Research, ‘Innst. O. nr 7 (2002–2003)’ para 2.1; Prop.57 L (2016–2017) Endringer i opplæringslova og friskolelova (skolemiljø).

⁴³Trond Welstad and Simen Warp, *Realiseringen av elevenes rett til et godt psykososialt miljø i skolen og et elevombuds rolle: Utredning av opplæringslovens kapittel 9a og behovet for å opprette et permanent elevombud* (Institutt for offentlig retts skriftserie nr 7/2011) 5.

⁴⁴Dan Olweus, *Bullying at School: What We Know and What We Can Do* (Blackwell 1993).

Many also believe erroneously that students who are overweight, wear glasses, have different ethnic origin, or speak with an unusual dialect are particularly likely to become victims of bullying. All of these hypotheses have thus far failed to receive clear support from empirical data.⁴⁵

Erling Roland, another world-renowned researcher on bullying from Norway, concludes in the same manner referring back to Dan Olweus.⁴⁶

However, although this might seem as a sober scientific conclusion, it has been largely rejected by many other studies. Stephen J. Minton gives an overview of a range of studies of self-reported bullying by lesbian, gay, bisexual and transgender (LGBT) students in Canada, Ireland, Northern Ireland and Norway.⁴⁷ He gives an overview of studies on students with sensory and physical disabilities in England, Ireland and Northern Ireland. Minorities (including LGBT people, young members of alternative sub-cultures, those with physical and intellectual disabilities or other special education needs – all of whom experience broader patterns of marginalisation, and sometimes aggressive prejudice in society) report higher incidence rates of being subjected to school bullying. Hence, according to Stephen Minton, it appears that prejudice is at least influential on specific patterns of bullying behaviour, but this has not received sufficient attention in either the conceptualisation of bullying, nor in the design of programmes to prevent and counter it.⁴⁸ My own studies on Sámi students also indicate that these students might be more likely to be bullied than other students.⁴⁹

If students who belong to groups exposed to a higher level of prejudices in society are more at risk of being bullied the responsibility for realising the right to a good psychosocial environment should not only fall on schools alone, but must be seen in relation to the broader obligations of HRE, including the curriculum, teacher education and schools policies in general.

However, the situation in Norway today is that the laws of HRE are seen as more or less irrelevant for combating bullying, since Dan Olweus and Erling Roland have pointed out that there is no link between being different and being bullied.

3. Implementation Efforts of the Government

Moving on from the legal framework, this section asks whether the curriculum provides an effective framework for the actual realisation of HRE, or does it merely ‘... superimpose the aims and values of CESC article 13 (1) and CRC article 29 (1) on the existing system without encouraging any deeper changes?’⁵⁰

⁴⁵Dan Olweus, ‘A Profile of Bullying’ (2003) 60(6) *Educational Leadership* 14.

⁴⁶Erling Roland, *Mobbingsens psykologi* (Universitetsforlaget 2007) 44–45.

⁴⁷Stephen J Minton, *Marginalisation and Aggression from Bullying to Genocide: Critical Educational and Psychological Perspectives* (Sense 2016), 18–29.

⁴⁸Minton, *Marginalisation and Aggression*; Stephen J Minton, ‘Prejudice and Effective Anti-Bullying Intervention: Evidence from the Bullying of Minorities’ (2014) 66(2) *Nordic Psychology* 108; Stephen J Minton and others, ‘The “Whole-School/Community Development” Approach to Preventing and Countering Bullying: The Erris Anti-Bullying Initiative (2009–2011)’ (2013) 32(2) *Irish Educational Studies* 233.

⁴⁹Hadi S Lile, ‘Human Rights Education’ in Malcolm Langford, Marit Skivenes and Karl H Søvig (eds), *Measuring Child Rights in Norway* (Universitetsforlaget 2018); Hadi K Lile, ‘FNs barnekonvensjon artikkel 29 (1) om formålet med opplæring: En retts sosiologisk studie om hva barn lærer om det samiske folk’ (PhD diss., Faculty of Law, University of Oslo, 2011) 530–50.

⁵⁰Committee on the Rights of the Child ‘General Comment No 1 The Aims of Education’ (17 April 2001) CRC/GC/2001/1, para 18.

3.1. Making a plan

Many studies on multicultural education and anti-racism education emphasise how difficult it is. To promote respect for the rights of people subject to prejudices in society is a great pedagogical challenge. If the didactical and pedagogical strategy is superficial one might end up making attitude worse, despite having good intentions.⁵¹ The former Special Rapporteur on Education, Katarina Tomaševski (2001), explains that:

The words of caution about educational programmes merit repeating: ‘Forcing a prejudiced person to read or hear exhortations on tolerance may only increase his prejudice. Overenthusiastic appraisals of the contributions of a minority may create a reaction of distaste for members of that minority; and programmes improperly presented, even with the best intentions, may create an awareness of group difference that did not previously exist.’⁵²

Thus, it seems clear that it is difficult to realise HRE. Efforts might actually promote intolerance and increase the disrespect for the rights of minorities and/or other marginalised groups. To avoid making such mistakes it seems only natural to conclude that the government should develop some sort of educational plan to realise HRE, not just do things randomly.

According to Article 4 of the CRC States Parties shall undertake all appropriate ‘administrative, and other measures for the implementation of the rights recognized in the present Convention [...] to the maximum extent of their available resources.’ In relation to the realisation of article 29 (1) the Committee on the Rights of the Child:

... calls upon States parties to develop a comprehensive national plan of action to promote and monitor realisation of the objectives listed in article 29 (1). If such a plan is drawn up in the larger context of a national action plan for children [...] the Government must ensure that it nonetheless addresses all of the issues dealt with in article 29 (1) and does so from a child-rights perspective.⁵³

The government of Norway has not developed a national plan of action to realise article 29 (1), and they have not addressed the issues dealt with in article 29 (1) as part of any other plans either. The Committee on the Rights of the Child also emphasises that:

The effective promotion of article 29 (1) requires the fundamental reworking of curricula to include the various aims of education and the systematic revision of textbooks and other

⁵¹It is impossible to give a satisfying list of scholarly works that supports these claims, but here are a few: Stephen M Fishmana and Lucille McCarthy, ‘Talk about Race: When Student Stories and Multicultural Curricula are Not Enough’ (2005) 8 (4) *Race Ethnicity and Education* 347; Sabina E Vaughta and Angelina E Castagnob, ‘I Don’t Think I’m a Racist: Critical Race Theory, Teacher Attitudes, and Structural Racism’ (2008) 11(2) *Race Ethnicity and Education* 95; Shirin Housee, ‘Should Ethnicity Matter When Teaching about “Race” and Racism in the Classroom?’ (2008) 11(4) *Race Ethnicity and Education* 415; Elizabeth de Freitas and Alexander McAuley, ‘Teaching for Diversity by Troubling Whiteness: Strategies for Classrooms in Isolated White Communities’ (2008) 11(4) *Race Ethnicity and Education* 429; Oakleigh Welply, ‘“I’m Not Being Offensive but ...”: Intersecting Discourses of Discrimination towards Muslim Children in School’ (2017) 21(3) *Race Ethnicity and Education* 370; Alan McCully and Jacqueline Reilly, ‘History Teaching to Promote Positive Community Relations in Northern Ireland: Tensions Between Pedagogy, Social Psychological Theory and Professional Practice in Two Recent Projects’ in C Psaltis, M Carretero and S Čehajić-Clancy (eds), *History Education and Conflict Transformation* (Palgrave Macmillan 2017).

⁵²Katarina Tomaševski, ‘Annual Report of the Special Rapporteur on the Right to Education’ (2001) E/CN.4/2002/60, para 36; Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, ‘Report on the Prevention of Discrimination’ (1949), E/CN.4/Sub.2/40, para 17 (c) and 177.

⁵³Committee on the Rights of the Child ‘General Comment No 1 The Aims of Education’ (17 April 2001) CRC/GC/2001/1, para 23.

teaching materials and technologies, as well as school policies. Approaches which do no more than seek to superimpose the aims and values of the article on the existing system without encouraging any deeper changes are clearly inadequate.⁵⁴

As I understand this, the educational system, as a whole, must be changed. It is not enough to keep the existing system and ‘superimpose the aims’ of CRC article 29 (1), and then blame it on individual schools if studies show that HRE have not been realised.

3.1.1. Norway’s opposition to a national plan of action

In the 2014 Universal Periodic Review at the UN Human Rights Council, Turkmenistan called upon Norway to ‘develop a national action plan for human rights education that consists of a thorough needs assessment and programmes for human rights education at all levels’.⁵⁵ Norway did not accept this recommendation, stating that:

An action plan is not considered the optimal measure at this point in time. The topic of human rights is well integrated into educational curricula. Higher education and teacher training institutions are particularly encouraged to increase their cooperation on human rights education. This is expected to lead to intensified efforts while preserving institutional autonomy in higher education.⁵⁶

However, teacher education curriculums are defined by government regulations specifying that the curriculum shall be based on the Education Act and the National Curriculum Plan, which mostly promotes Christian and Humanistic heritage and tradition as the foundation for education, and as mentioned the status of HRE is somewhat obscure and unclear.⁵⁷ The government regulations do not mention the CRC or the Constitution article 109.⁵⁸ It is stated, in these regulations, that teachers should have knowledge ‘of child rights’, but not on how to teach respect for human rights,⁵⁹ which is not the same thing.⁶⁰ It is also stated that HRE is well integrated into the curriculum plans, but based on what evidence? HRE is not based on teaching ‘about’ human rights or topics that are only remotely associated with the concept.⁶¹ It is a difficult educational aim to achieve in societies in which there exists a certain level of hostility towards some groups. One therefore needs to develop an evidence-based educational methodology to achieve the aims of HRE, and that plan needs to address the challenges of facing the hostility towards those groups exposed to the most stigma in society.

As for the argument on ‘institutional autonomy in higher education’ it does not apply to the objects clause, section 1-1 of the Education Act. According to the government regulations for teacher education, higher educational institutions that educate teachers are obliged to base their education programs on the Education Act and the curriculum plans.⁶² Besides, there has not been any opposition, as far as I know, from any of the

⁵⁴Ibid, para 18.

⁵⁵Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review – Norway’ (2014) A/HRC/27/3, para 131.68.

⁵⁶Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review – Norway’ (2014) A/HRC/27/3/Add.1, Addendum para 131.68.

⁵⁷See paras 2.2, 2.3 and 2.4 above on the Education Act and the National Curriculum Plan.

⁵⁸See above note 21.

⁵⁹See above note 21, s 2-(2) in both of the regulations.

⁶⁰See above para 3.1.

⁶¹For a more detailed analysis of the Curriculum plan in relation of HRE, see Kristin Sørumsdalen, ‘Menneskerettsopplæring som opplæringsmål’ (2017) 43(4) *Kritisk juss* 157.

⁶²See above note 21, s 1 (2) of both regulations 17.

teacher colleges against basing their curriculum on article 29 (1), but they have not received any incentives or requests from the government to do so. It is the government that has the responsibility for making sure that the convention is realised.

Norway has not only found it unnecessary to adopt a national plan of action on HRE, but has not taken care to interpret the aims of education in article 29 (1) and assess how they can be realised in Norway. One might ask what message that sends to teachers and students.

3.2. The government mapping of HRE in Norway

In the 2009 Universal Periodic Report (UPR), Norway was criticised for its lack of attention to HRE. The Norwegian government promised in response ‘... to undertake a study to define any need for improved coordination and further reinforcement of human rights education in Norway’.⁶³ The task was delegated to a consultant in the Norwegian Directorate for Education and Training. He wrote a report called a Mapping of Human Rights and Democracy Found in the Norway Curriculum Plan. The report is very thin, only four pages. It does not start with a legal analysis (or any analysis) of what the obligation of human rights education entails and what it should include. It simply finds a random EU definition of HRE, which has nothing to do with the UN conventions. It is based on a search for words in the curriculum plan that can be remotely associated with human rights or democracy. Based on this, the report concludes that democracy and human rights have been well integrated into the curriculum plan. However, first of all any mapping or evaluation of international legal commitments should include a legal analysis of what this commitment entails. Second, searching for random words that are related to democracy or human rights, and concluding that there are many relevant words, does not say anything about the plans likelihood of realising these legal commitments, especially since the plan was not designed to realise the HRE aims in the first place.

3.3. New overriding part of the curriculum plan

As mentioned above, the curriculum plan is the actual foundation for almost everything that happens in schools.⁶⁴ On 1 September 2017 the government adopted the new Overriding part of the Curriculum Plan, formerly known as the ‘General part’ of the curriculum plan. The new Overriding part of the Curriculum Plan is based on a report by a government appointed committee led by the professor in pedagogy, Sten Ludvigsen. The Committee was instructed by the government to maintain education based on the purpose clause of the Education Act.⁶⁵ The Committee contained no members with legal competence or a background in human rights. No mention is made of any international human rights conventions, nor article 109 of the Constitution. In fact the word ‘rights’ is barely mentioned at all in the report – once in a sentence about democracy,⁶⁶ and once in a sentence about what ‘may be relevant’ in relation to social environmental issues.⁶⁷ The

⁶³Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Norway’ (2010) A/HRC/13/5, 103.

⁶⁴See above para 2.2.

⁶⁵Sten Ludvigsen and others, ‘NOU 2015: 8 Fremtidens skole – Fornylse av fag og kompetanser’ (Government of Norway 15 June 2015) para 1.2.2.

⁶⁶Ibid, para 2.5.2.

⁶⁷Ibid para 3.2.3.

primary emphasis is on innovation, adaption to the working life, and relevance to businesses and economic improvement.

Based on the report the Government initiated a formal consultation to collect input on the drafting of the new general part of the curriculum plan, as well as a conference with online streaming. HRE was not prominent in any of the discussions. During the conference human rights was not mentioned by the Minister of Education or by any others at the conference; and neither was the Constitution nor CRC article 29 (1) mentioned.⁶⁸

Following the report from the Ludvigsen-Committee (NOU 2015:8) The Standing Committee on Church, Education and Research Matters (of the Parliament) also issued a statement about how they wanted the Overriding part of the Curriculum Plan to be drafted. They did not mention human rights and they simply urged the government to draft the curriculum in such a way that it would contribute to an increased focus on 'values' in schools and to a better implementation of the purpose clause (s 1-1) of the Education Act.⁶⁹ Notably, Christian and Humanistic heritage and traditions were the only values given priority in the key policy document on education in Norway.⁷⁰

Nonetheless, there is a section in the overriding part of the curriculum plan focused on the dignity of human beings. In that section it is stated that:

Human rights are founded on human dignity and are an important basis for the rule of law. They build on universal values, which applies to anyone no matter who they are, where they come from or where they are. The Convention on the Rights of the Child is a part of human rights and gives children and young people special protection. Education must be in conformity with human rights, while at the same time providing students with knowledge about human rights.⁷¹

This formulation is, however, very general and provides no concrete directions for the curriculum, just the vague affirmation that human rights build on 'universal values', and thus not only on Christian and Humanistic heritage and traditions. The CRC is mentioned, and education 'must' provide student with knowledge 'about human rights'. This is what the Overriding part of the Curriculum Plan say that is most relevant to HRE, which is certainly an improvement from the former Overriding part,⁷² which only presented human rights as part of Christian and Humanistic heritage and traditions.⁷³ However, as I argue in the introduction, the aims of HRE are not to teach children 'about human rights', but to teach 'respect' for human rights, and promote a culture '... which is infused by appropriate human rights values'.⁷⁴

3.3.1. *The detailed national curriculum plans*

The detailed curriculum plans are divided into concrete learning outcomes and overall aims for each specific subject according to each grade. The Overriding part of the

⁶⁸Unfortunately, I was not made aware of the conference and none of my HRE-research colleagues attended it either.

⁶⁹Innst. 19 S (2016–2017), p. 22, § IV.

⁷⁰See above § 2.3 and § 2.4.

⁷¹Utdanningsdirektoratet, 'Overordnet del – verdier og prinsipper for grunnopplæringen' (Government of Norway 2017), 5 <www.regjeringen.no/contentassets/37f2f7e1850046a0a3f676fd45851384/overordnet-del---verdier-og-prinsipper-for-grunnopplaringen.pdf> accessed 3 July 2018.

⁷²Then called the General Part of the Curriculum Plan.

⁷³Utdanningsdirektoratet, 'Generell del av læreplanen' (Government of Norway 25 August 2015) <www.udir.no/laring-og-trivsel/lareplanverket/generell-del-av-lareplanen/>

⁷⁴See above para 1.1.

curriculum plan is meant to give direction to the detailed curriculum plans. This, however, has not been revised and is based on the old General part of the curriculum plan. Having said that parts of these detailed plans have been revised during the course of political debates in Norway on certain subjects. Following my PhD in 2011 the Sámi Parliament pushed successfully for the inclusion of specific learning outcomes on the rights of Sámi people and to include learning outcomes on the history of oppression and the fight for Sámi rights.⁷⁵ This led to these two learning outcomes in social science for tenth grade students:

- Present the main features of the history and culture of Sámi from the mid-nineteenth century until today and the consequences of the Norwegianisation policy and the Sámi peoples fight for their rights.⁷⁶
- Give an account of the main principles of the UN Charter, the Universal Declaration of Human Rights and the most essential UN Conventions, including the ILO Convention on the Rights of Indigenous Peoples, show how these appear in legislation, and discuss the consequences of human rights violations.

These formulations should be seen in relation to the recently added main educational aims of the subject social science, which among other things states that: ‘Central to the work of social science is understanding of and support for fundamental human rights, democratic values and equality.’ Some of the learning outcomes do not mention rights specifically, but may contribute to attitudes of respect. For instance students should be able to ‘[c]onverse about love and respect, variation in sexual orientation and relationships and family, and discuss consequences of lack of respect for differences’.

There is no room for doing an elaborate analysis of all the detailed curriculum plans in this article. It was done by Kristin Sørumshagen in 2017. She concluded that there are several relevant learning outcomes that emphasise the importance of human rights in general and the importance of equality, respect and tolerance, in many subjects across the curriculum plans. However, she emphasised that there is a lack of specific aims on promoting respect for minorities and indigenous peoples. And there is a lack of emphasis on what human rights that need to be strengthened in light of the situation in Norway.⁷⁷ She contends that:

The most prominent weakness of the curriculum plan is that the international legal aims of education have not been considered during the drafting of the curriculum plan. It was not considered in the preparatory works that creates the moral framework for the Norwegian school. The legislature has skipped the perhaps most important prerequisite to fulfill the requirement of human rights education, namely the mapping of which rights are not realized in Norway, and the preparation of an overall plan to strengthen these rights. [...] Unless the legislature is able to convince society of the fact that we need to strengthen

⁷⁵Sámi Parliament, ‘Sametingets vedtak om reviderte læreplaner og anmodning om konsultasjoner om reviderte læreplaner’ (Facebook 30 April 2013) <www.facebook.com/photo.php?fbid=10151416449866403&set=pb.531231402.-2207520000.1507215096.&type=3&theater>

⁷⁶The Norwegianisation policy was an assimilation policy that lasted more than a hundred years: see Henry Minde, ‘Assimilation of the Sámi: Implementation and Consequences’ (2005) *Gáldu čála – Journal of Indigenous Peoples Rights* no 3 (2005).

⁷⁷Kristin Sørumshagen is a lawyer who recently did an evaluation of the curriculum plan in relation to HRE according to the CRC. For a more detailed analysis of the curriculum I would thus refer to her work: Kristin Sørumshagen, ‘Menneskerett-sopplæring som opplæringsmål’ (2017) 43(4) *Kritisk juss* 165, 167.

respect for human rights, CRC article 29 (1) (b) becomes nothing more than a nice rule on piece of paper.⁷⁸

My principal concern about the curriculum plans is not that the concept of human rights is missing. My principal worry is the randomness of the selection of relevant educational aims in the curriculum plans. The inclusion of the aims discussed above, were included in the curriculum plan only after pressure from the Sámi Parliament, and even then they lacked an overall plans for HRE concerning Sámi rights. When the detailed curriculum was first drafted the Sámi Parliament just wanted to include as many Sámi educational aims in the curriculum as possible. However, one might argue that there are too many educational aims on Sámi people spread across the whole curriculum, including in gymnastics. That might create a danger of making teachers annoyed about teaching about the Sámi people in so many subjects, without any explanation of why. I have met many teachers who have expressed their frustration and distaste for this topic. Perhaps it is more important to focus on some core subjects, like history education, to realise HRE and promote respect for the rights of Sámi people.

Teaching respect for the rights of groups that are subject to prejudice in society is genuinely difficult. There is this attitude component attached to prejudice, that functions as a shield against information and new knowledge that can threaten that prejudice.⁷⁹ In addition, as Katarina Tomaševski points out, if the educational approach is not well planned one might make prejudice even worse, even with the best intentions.⁸⁰ Thus, although there are many well-formulated educational aims in the curriculum plan that might very well promote respect for the rights of minority groups, the government should nevertheless adopt an overall well-crafted and evidence-based plan on how to realise HRE in Norway.

4. Conclusions

Norway is a country with a strong commitment to human rights abroad, in its foreign policy. It is regarded as the most developed country in the world according to the UNDP. A majority of Norwegians are very proud of their country and regard the Norwegian culture as superior to that of others. I think this proudness affects the country's commitment to HRE. The aims and values of HRE are superimposed on to the system without encouraging any deeper changes. Human rights are seen as part of Norwegian values, and thus HRE is not seen as necessary in itself – or, more accurately, promoting Norwegian values is seen as the same as HRE.

The legal foundation of HRE appears strong on the surface. The CRC article 29 (1) and CESCR article 13 (1) have been incorporated into law with preference over the Education Act. Additionally, in 2013, the Parliament (Stortinget) adopted a new purpose clause on education in The Constitution (article 109) that specifically says that: 'The education shall [...] promote respect for democracy, the rule of law and human rights.' However, what matters for actual education in schools is what laws that give direction to the Overriding curriculum plan and the detailed curriculum plans.

⁷⁸Ibid 174.

⁷⁹Gordon W Allport, *The Nature of Prejudice* (first published by Perseus Books 1988) in Charles Stangor, *Stereotypes and Prejudice* (Psychology Press 2000) 23.

⁸⁰See above note 52.

It is only the purpose clause of the Education Act (s 1-1) that gives direction to these curriculum plans, not the Constitution article 109, CRC article 29 (1) nor CESCR article 13 (1). Section 1-1 of the Education Act reflects a strong commitment from the Parliament to give majority Norwegian values preference. The law provides that Education shall be based on ‘... fundamental values in Christian and humanist heritage and traditions’. Human rights are only mentioned as something that corresponds with examples of these ‘fundamental values’ of education in Norway. In the preparatory works of the Education Act the Parliament emphasises that it is ‘... essential for the purpose clause to also express clearly the ethical, cultural and religious heritage and context that shape our society’. According to the Parliament that is ‘Christian and humanist heritage and traditions’, and these fundamental Norwegian values have shaped the ‘common values’ in society, and thus provide a ‘... solid value foundation for the school’s activities’. International human rights are clearly not the product of Norwegian Christian and humanistic heritage and traditions, and the rights of minorities and indigenous (Sámi) people are not based on these Norwegian majority values. On the other hand, the government of Norway define human rights as ‘the hearth’ of Norwegian foreign policy, and they are very annoyed when other states declare that their commitment only applies within the framework of their own national values and traditions.

The government should adopt an evidence-based plan to revise the curriculum plan with the aim to realise its HRE obligations in Norway. They should have done this when the CESCR and the CRC were incorporated into the Human Rights Act, giving these conventions preference over the Education Act. And they could and should have done it when the Parliament adopted article 109 of the Constitution. However, the government has refused to do any of this. An action plan is not considered ‘... the optimal measure at this point in time’. When the time might come, nobody knows. Having said that, the curriculum plans does indeed include some learning outcomes designed to promote respect for human rights and the rights of Sámi people; but without any overall plan on HRE some of these learning outcomes might very well instil negative attitudes despite their good intentions.

Disclosure Statement

No potential conflict of interest was reported by the author.