

Values in Education: An Analysis of UN, European and African Human Rights Instruments

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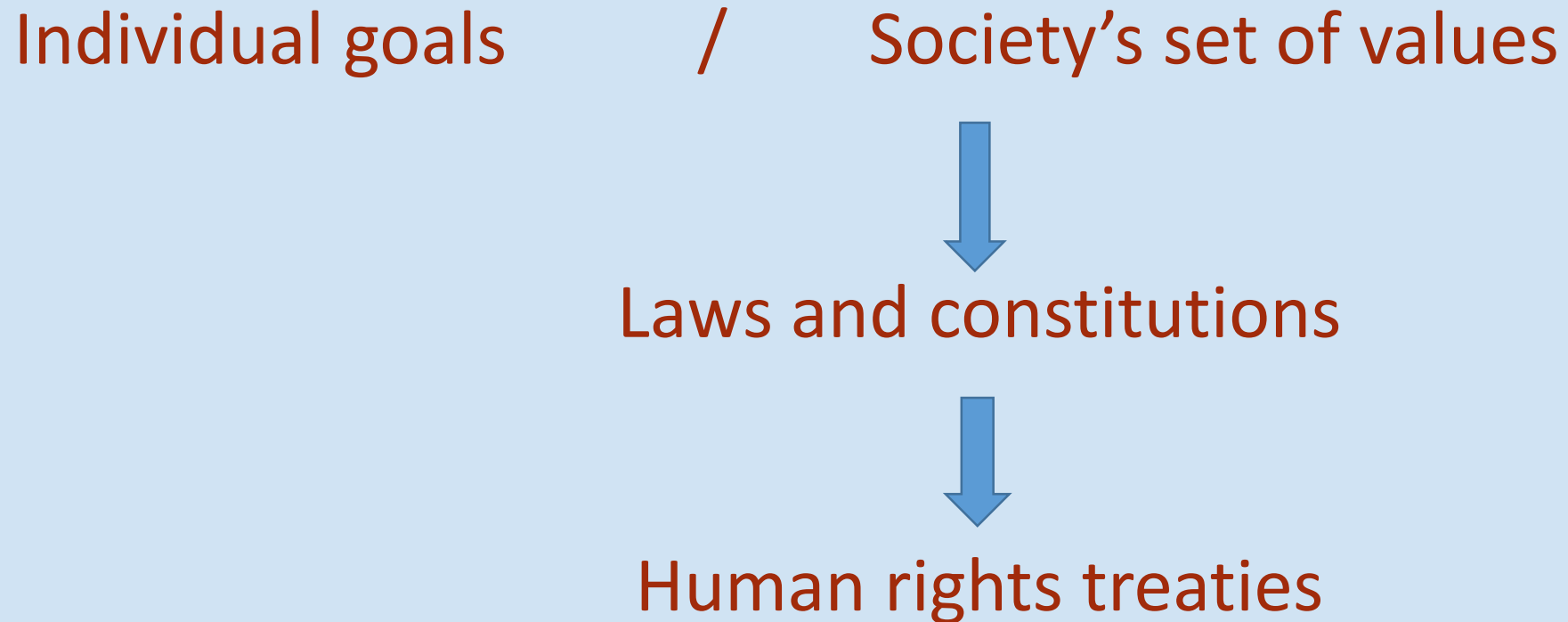
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Overview

- I) Introduction
- II) United Nations' human rights instruments
- III) European Court of Human Rights
- IV) Organisation of African Unity
- V) Final considerations

(I) Introduction



[Introduction]

Complexity of influences and values

Individuals

- learners
- parents
- owners of private schools

Groups

- teacher unions
- political parties
- private companies
- churches

Public bodies

- public administrations
- legislatures

(II) UDHR and UN-promoted treaties

- 1) Full development of the human personality and best interest of the child
- 2) Promoting understanding, tolerance and peace
- 3) Cultural background: language and convictions
- 4) Environmental conscience

(II.1) Full development of the human personality and best interest of the child

1948 UDHR Art. 26, para. 2

1959 DRC; 1989 CRC: Art. 29, para. 1: “(...) the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential (...)” (talents and moral sense)

1959 DRC, Principle 7: “The best interests of the child shall be the guiding principle of those responsible for his education and guidance; this responsibility lies *in the first place with the parents*” – But: child labour, underage marriage, genital mutil.

(II.1) Full development of the human personality and best interest of the child

1966 – ICESCR Art. 13, para. 1: “education shall be directed to the full development of the human personality and the sense of its dignity”

- Education as an empowerment right
- HRE as a human right itself

UDHR – “strengthening of respect for human rights and fundamental freedoms” and CRC “preparation for responsible child in society”

- Protection in order to enable healthy adulthood
- Gradual development of responsibility and maturity

(II.2) Promoting understanding, tolerance and peace

Most important principle of international law since the Charter of the United Nations (later also UDHR and CRC)

Importance of raising awareness of *society's complexity*, and of the need to *respect and equally* treat every individual *regardless of their social circumstances*. But these social circumstances are also important...

(11.3) Cultural background: language and convictions

- **Intermediate bodies:** the family, the community...
- Language, cultural values, moral, religious references...
- Even in ICCPR, art. 18, para. 4: “the right of parents to ensure that education is delivered in conformity with their own convictions”
- But there are important limits:
 - Education is *also* institutionalized (schools...)
 - Full development principle: also sex education or learning certain languages (Northern Cyprus, Turkey, Russia)
- But – What is the purpose of stressing specificity? **Stability and safety**

(II.4) Environmental conscience

From UN human right treaties, ONLY on CRC art. 29, para. 1.e

“The development of respect for the natural environment”

(Only USA have not ratified)

(III) European Convention and Court

Summarized in three ideas:

- States' margin of appreciation: religious and national symbols (Dahlab, Leyla Sahin, Lautsi 2, Dogru, Valsamis...)
- Best interest of the child: sex education and compulsory schooling (Kjeldsen, Jiménez Alonso, Konrad)
- Indoctrination in the classroom: compulsory teaching of religious values and neglect of certain religions (Folgerø, Zengin, Mansur Yalçın)

(IV) Organisation of African Unity

1981 (ACHPR “Banjul Ch.”); 1990 (African Child Charter); 2011 (ACDEG)

- 1) Development of the child’s personality
- 2) Respect for human rights, fundamental freedoms and democratic principles
- 3) Preparation for responsible life in a free society in the spirit of understanding among all peoples
- 4) (Positive) African morals, traditional values and cultures and other specific political principles
- 5) Respect for the environment and natural resources

(IV.1) Development of the child's personality

- 1990 African Child Charter
- SCHOOLING IS ESSENTIAL TO THIS AIM
 - African Commission on Human and Peoples' Rights (2013): "Many children are not in school despite the provision of free and compulsory education in some State Parties, due to socio-cultural and political considerations, among others"
 - Special Rapporteur on the Rights of Women in Africa (2012): Problem of girls' access to education remains 'dire'
 - ACHPR (2015): "exclusion of pregnant girls from the education system and refusing them to take public examinations, which violates their right to education and serves to perpetuate other discriminations against them"

(IV.2) Respect for human rights, fundamental freedoms and democratic principles

ACC: Empowerment right:

“fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples’ rights and international human rights declarations and conventions”

E.g., the “understanding of primary health care” (think of epidemics...)

(IV.3) Preparation for responsible life in a free society in the spirit of understanding among all peoples

- ACC, art. 11, para. 2 is close to CRC
- Differences (erased): Reasons unclear...
 - ‘peace’
 - ‘equality of sexes’
 - ‘friendship among all (...) *national* groups’ and ‘persons of indigenous origin’
- Differences (added):
 - Tribal group
 - Dialogue and mutual respect
 - “Peoples_s”: (h. and peoples’ rights: featured in Banjul, Commission, Court...)

(IV.4) (Positive) African morals, traditional values and cultures and other specific political principles

- ACC art. 11, para. 2:

“The education of the child shall be directed to:

(c) the preservation and *strengthening* of *positive* African morals, traditional values and cultures;

(e) the preservation of *national independence* and *territorial integrity*;

(f) the promotion and achievement of *African Unity* and *Solidarity*.”

- ACC art. 12:

“State Parties shall respect and promote the right of the child to fully *participate* in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.”

(IV.4) (Positive) African morals, traditional values and cultures and other specific political principles

- Unorthodox: to promote only 'positive' (such as *ubuntu* values)
- Dynamic notion of culture
- Political: independence and economical development.
 - > OAU inception 1963: Af. HoS and HoG “determined to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of our states, and to fight against neo-colonialism in all its forms”
 - > Banjul Charter 1990: “Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions”

(IV.5) Respect for the environment and natural resources

- **ACC – Education directed to:**
“the development of respect for the environment and **natural resources**”
(Expands CRC phrasing)
- **Cases:** Niger Delta (2001), Ogiek Community of the Mau Forest (2017)

Final considerations

Commonality:

- All three systems, certain **humanistic values**:
 - Full development of the personality (and child's best interest doctrine)
 - Promotion of understanding, tolerance and of specific cultural values.
- **Risk of cultural indoctrination** in both the European and the African contexts

Final considerations

Particular aspects:

- **African:**
 - Open understanding of culture;
 - Political indep., econ. dev. and environmental protection;
 - Strong, but not binding, proclamations from ACHPR (pregnant girls)
- **European:**
 - Margin of appreciation: crucifix in Italy; headscarf and other in France
 - Could reflect institutional strength
 - More opportunities to rule; less urgency to make general statements

Thank you!

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