

INTEGRATING HUMAN RIGHTS EDUCATION IN SCHOOLS: LEGISLATION, CURRICULUM AND PRACTICE

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Given the increasing focus internationally on human rights education in the past two decades, this article examines recent developments in both human rights legislation and education in Australia. Despite opportunities to effectively integrate human rights education into school programs provided by a new Human Rights Framework and National Curriculum, there have been only limited outcomes to date for human rights education. Failure to systemically integrate human rights principles, topics and practices into school curriculum has resulted in a missed opportunity to create a human rights culture and improve understandings of human rights for Australian students.

I INTRODUCTION

Nelson Mandela famously stated that 'Education is the most powerful weapon which you can use to change the world'.⁴ The argument of this article is that education for human rights forms a fundamental component for education and the progression of all societies, and that the responsibility of states in this regard cannot, and should not be understated. Of course, the importance of human rights education is not a new idea. The notion of educating about human rights has formed part of an international human rights framework since the adoption of the Universal Declaration of Human Rights in 1948 and the urging of State Parties by the United Nations (UN) to disseminate the Declaration and to educate citizens about its contents. All major UN human rights treaties since the Universal Declaration of Human Rights have incorporated human rights education.

Drawing on information published by the Office of the United Nations High Commissioner for Human Rights (OHCHR) report,⁵ the table contained in Appendix 1 to this article provides an overview of the multiple treaties and other international instruments for human rights education. In light of this comprehensive provision, and ratification by incorporation into domestic law, it is curious that, even in an advanced nation such as Australia, the promotion and furtherance of human rights education in schools continues to be at least, debatable, and at most, under threat. Strong argument for the desirability of incorporating human rights in all formal and informal learning and importantly within educational processes has been put internationally by the United Nations in its Conventions and World Programmes (below) and nationally in Australia by bodies such as the Australian Human Rights Commission and the Australian Council for Human Rights Education.⁶ The vital role of human rights education in schools to the adoption of values and principles essential to the functioning of a democratic, inclusive and just society is beyond debate.

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It has been well documented by research which points to the importance of not simply education within the formal curricula but learning in tandem with school communities characterised by processes and practices which show respect for human rights and citizenship⁷

In addition to the provisions outlined in the attached table, the 1993 World Conference on Human Rights in Vienna led the United Nations to adopt the Vienna Declaration and Programme of Action (1993) This measure called on all states and institutions to include human rights, humanitarian law, democracy and rule of law as subjects in the curricula of all learning institutions in formal and non-formal settings⁸ The subsequent establishment by the United Nations of the Decade of Human Rights Education from 1995-2004 represented the first concerted effort to support human rights education across UN member states and culminated in the World Programme for Human Rights Education proclaimed in December 2004⁹ This was established with the stated objective of promoting 'a common understanding of basic principles and methodologies of human rights education, to provide a concrete framework for action and to strengthen partnerships and cooperation from the international level down to the grass roots' The World Programme is structured in consecutive phases: the first phase (2005-2009) focused on human rights education in the primary and secondary school systems, the second phase (2010-2014) focuses on human rights education for higher education and on human rights training programmes for teachers and educators, civil servants, law enforcement officials and military personnel¹⁰ The third phase which will cover the period from 2015-2019 is currently under development¹¹ Importantly it is aimed at providing guidance and training for educators in all sectors of education¹⁷

In December 2011 the UN General Assembly adopted the *Declaration on Human Rights Education and Training* This declaration defines human rights education as comprising (Article 1)

all educational training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing to the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights

The Declaration highlights three key dimensions of human rights education (Article 2)

- (a) Education about human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms of their protection,
- (b) Education through human rights, which includes learning and teaching in a way that respects the rights of both educators and learners
- (c) Education for human rights which includes empowering persons to enjoy and exercise their rights and to respect the rights of others

It also states that human rights education needs to be based on the principles of the Universal Declaration of Human Rights and other relevant international treaties and instruments as well as relevant regional and national standards and principles (Article 4) States are identified as having the primary responsibility for promoting human rights education and training (Article 7) The training of teachers and others involved in education in human rights principles is identified as a key strategy (Article 3)

It is against this background of the development of a nascent international framework for human rights education that this article considers first children's rights generally within the Australian human rights context. Secondly, it considers the human rights framework as set out in legislation currently existing in Australia. Thirdly, it explores the place of human rights education in the Australian school system. The fundamental precept of this article is that:

Human rights education is both a right in itself, as well as a way of protecting human rights. Human rights education gives all children and young people a foundation to build a culture of respect for human rights. This provides both knowledge about human rights and the laws that protect all people, and helps children and young people to gain the skills need to promote, defend and apply human rights in daily life.¹³

II THE PLACE OF CHILD RIGHTS

There has been a growing interest in teaching children about their rights particularly within the broader context of human rights generally; and a belief that children should start learning about their rights in the early school years. While children possess the same human rights as adults, they also have special rights specifically contained in the UN *Convention on the Rights of the Child* (UNCROC). While Australia ratified UNCROC in 1993, it has still not been comprehensively implemented into Australian law. The Child Rights Taskforce report *Listen to Children* found that there remains no enforceable remedies in the event of a violation of many of the rights in the Convention.¹⁴ The Report also noted the lack of reference to child rights or UNCROC in the Australian Curriculum.¹⁵ Furthermore, it is recorded in a UNICEF report *The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries* which compares approaches in a range of countries to determine the most effective ways of embedding children's rights into domestic law.¹⁶ In the examination of Australia as one case study it found:

... the current [Australian] national school curriculum contains no mention of child rights or the CRC, although it does include reference to human rights in the general capability of ethical behaviour. It has been suggested, however, that human rights education in Australian schools remains limited in the absence of a legislative mandate.¹⁷

Furthermore, in its concluding comments about children's rights in Australia, the report stated:

... that there is not yet a culture of children's rights. Those working with and for children choose language such as 'child-centred' in preference to the language of rights, and there is still public anxiety surrounding human rights. Children's rights can be a stigmatizing concept, and the CRC is used as an afterthought rather than as an explicit framing for law and policy... it remains to be seen whether children's rights will be promoted more effectively through integration into a broader human rights framework and culture, or whether the distinctive nature of children's rights will be lost in the general mix.¹⁸

There is evidence that where children have learnt about children's rights in school they show more respect for the rights of others in their attitudes toward other children and toward adults. Research has also shown that students who learn about children's rights have more positive attitudes toward children from minority backgrounds.¹⁹ In addition, the Australian Human Rights Commission quotes a study which found that in schools where values were embedded in the content and pedagogy of the classroom, children exhibited 'increased empathy, tolerance, understanding and respect; increased sharing and team work; and greater willingness to tell the

truth and accept responsibility for their actions ... [and] decreased playground fighting'.²⁰ The contribution of human rights education in schools towards conflict prevention, safety and security in assisting in countering extremism, has been well documented in the UK particularly within the context of the work of UNICEF in the UK's Rights Respecting Schools.²¹ This has special significance in Australia in terms of the controversy relating to the ethnically and racially divisive nature of the current Government implementation of counter terrorism moves.²²

The value of educating children about their rights under the *United Nations Convention on the Rights of the Child* in the Rights Respecting Schools program has also been well documented in the work of Covell and Howe.²³ Their case studies focussed on the extent to which the program had improved the behaviour and academic achievement of students in a range of economically disadvantaged schools in Hampshire in the UK. The research concluded that children's rights education, when fully implemented, provides one means of 'narrowing the gap between socially disadvantaged children and their more advantaged peers'. They found that providing children with this knowledge was empowering which led to greater engagement in their schools reducing the potential for education failure.

In light of the weight of evidence, it is curious that, while great attention is paid by developers of national curricula and education policy to curriculum content such as Mathematics, Science or English, less attention has hitherto been paid to the inclusion of human rights education. Despite this apparent reticence, it is heartening to note the initiatives by the Australian Human Rights Commission in this direction. They have formulated examples which aim to assist teachers in identifying and using practical opportunities in their teaching human rights content in the Australian Curriculum. In introducing these examples on the Commission website, Gillian Trigg, President of the Human Rights Commission says:

The Australian Curriculum provides a rich opportunity for children and young people to learn about their human rights and the importance of respecting the rights and freedoms of others... The importance of human rights education is recognised in a number of human rights treaties including the Convention on the Rights of the Child. Human rights education is a right in itself. But it's also a way of protecting human rights.²⁴

III HUMAN RIGHTS LEGISLATION IN AUSTRALIA

A Federal Legislation

In common with comparative jurisdictions such as the UK and New Zealand which similarly have 'dualist' systems, Australia's commitments to international human rights treaties do not take immediate effect in Australian law on ratification but require specific domestic legislation to be legally enforceable. The Australian Human Rights Commission reminds us that: 'Without such legislation there is no legal way within the Australian court system to ensure that the rights in any international human rights treaty will take precedence over any state or territory legislation that is inconsistent with the treaty'.²⁵

The primary human rights treaties which have been incorporated specifically into domestic Australian law are the International Convention on the Elimination of All Forms of Racial Discrimination (incorporated into the *Racial Discrimination Act 1975* (Cth)); the Convention on the Elimination of All Forms of Discrimination Against Women (incorporated into the *Sex Discrimination Act 1984* (Cth)); and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (incorporated into the *Crimes (Torture) Act 1988* (Cth)).²⁶

Commonwealth anti-discrimination law is currently found in four separate pieces of legislation, each of which deals with different grounds of discrimination:

- *Racial Discrimination Act 1975* (Cth) (RDA) – dealing with discrimination on the basis of race and immigrant status;
- *Sex Discrimination Act 1984* (Cth) (SDA) – dealing with discrimination on the basis of sex, marital status, pregnancy, potential pregnancy, breastfeeding and family responsibilities;
- *Disability Discrimination Act 1992* (Cth) (DDA) – dealing with discrimination on the basis of disability; and
- *Age Discrimination Act 2004* (Cth) (ADA) – dealing with discrimination on the basis of age.²⁷

A fifth Act, the *Australian Human Rights Commission Act 1986* (Cth), establishes the Australian Human Rights Commission and regulates the processes for making and resolving complaints under the other four Acts. There are also provisions relating to discrimination in employment in the *Fair Work Act 2009* (Cth).²⁸ There are significant differences in the drafting and coverage of protections under each of these pieces of Commonwealth legislation, which add to the complexities facing organisations and individuals attempting to comply with Australian law.

As part of its commitments under the new National Human Rights Framework, the previous federal Labour Government drafted the *Human Rights and Anti-Discrimination Bill*, with the aim of consolidating the five existing Commonwealth anti-discrimination Acts into a single piece of legislation. One of the stated objects of the new draft legislation was ‘to give effect to Australia’s obligations under the human rights instruments’.²⁹ Despite being primarily a consolidation exercise, the Draft Bill proposed several changes from existing Commonwealth anti-discrimination law, including a single, simplified test for discrimination applying to all attributes. In addition, significant changes proposed the introduction of new protected attributes of sexual orientation and gender identity, and recognition of discrimination on the basis of a combination of attributes; and a streamlined approach to exceptions. These included a new general exception for justifiable conduct and the preservation of religious exceptions (with some limitations applying to Commonwealth-funded aged care services provided by religious organisations).³⁰

The Senate Legal and Constitutional Affairs Legislation Committee reported on the draft Bill in February 2013.³¹ Key recommendations included that *gender identity* and *intersex status* be included as protected attributes in the new legislation; that *status as a victim of domestic violence* be included as a protected attribute; that *irrelevant criminal record* be included as a protected attribute; and the removal of exceptions allowing religious organisations to discriminate against individuals in the provision of services, where that discrimination would otherwise be unlawful.³²

However, the former government announced in March 2013 that it was delaying introducing these reforms into parliament, leading to criticisms from some human rights groups that it had ‘failed in its commitment to deliver on a key plank of its *Human Rights Framework*’.³³ Instead, the government introduced the *Sex Discrimination Amendment (Sexual Orientation Gender Identity and Intersex Status) Bill 2013* into Parliament, to provide ‘new protections against discrimination on the basis of sexual orientation and gender identity’.³⁴ The resulting *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth) inserted new grounds into the *Sex Discrimination Act 1984* (Cth) makes it unlawful to discriminate against

a person on the basis of sexual orientation, gender identity and intersex status under federal law. Same-sex couples are now also protected from discrimination under the definition of ‘marital or relationship status’. These new protections will particularly apply to lesbian, gay, bisexual, trans-, gender diverse and intersex people.

The future of the broader proposed human rights legislative reforms under the conservative Coalition Government elected in September 2013 is uncertain and at the time of publication of this paper, the proposed consolidation bill remains in hiatus.

B *State Legislation*

Due to the division of powers between the Commonwealth and states under the Australian constitution, state governments enact and administer a number of laws relating to human rights observance, including those relating to the administration of justice, land matters, health and education issues.³⁵ Each state and territory in Australia also has legislation in place that addresses a number of the rights protected by UN treaties, for example, in the context of equal opportunity and anti-discrimination.³⁶ As a result there is a web of state and territory anti-discrimination and equal opportunity legislation (for example, the *Anti-Discrimination Act 1977* (NSW), *Equal Opportunity Act 2010* (Vic)). Although these fundamentally embrace the same human rights principles, there are small differences in each in terms of the protections they offer.

It is important to note also that in addition to specific anti-discrimination legislation, two jurisdictions have enacted human rights legislation. The *Human Rights Act 2004* (ACT) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic) aim to protect a range of fundamental human rights in relation to the acts of public authorities and bodies performing a public function. They are not however supreme law as is the *US Constitution* or the *Canadian Charter of Rights and Freedoms*, but have statutory status only, in common with the UK *Human Rights Act 1998* and the *New Zealand Bill of Rights Act 1990*.

The combination of state and federal legislation leads to a complex system of enforcing human rights within the Australian federal system. This complexity is inevitable in a country which has nine legal systems, with both state and federal courts, and a number of national and state-based tribunals and agencies, all with varying and sometimes overlapping jurisdictions. This can lead to confusion and uncertainty about which legislative framework applies in any given situation, and which agency or tribunal should be contacted to report alleged breaches of rights. It is against this background that we consider the state of human rights education in Australia generally, and particularly in Australian schools.

IV HUMAN RIGHTS EDUCATION IN AUSTRALIA

A *Recent Initiatives*

In response to the increased emphasis on human rights education internationally and demands for enhanced protection for and promotion of human rights in Australian law, a number of initiatives over recent years have sought to develop a human rights education framework in Australia. For example, a round of consultations undertaken nationally in 2009 aimed to establish how Australia could better protect and promote human rights. Key findings included a lack of awareness about human rights in Australia and outcomes included recognition of the need for human rights education specifically through the development of a national human rights education plan.³⁷

Subsequently, the *Human Rights Framework* (by the Federal Attorney-General's Department in April 2010)³⁸ established a Parliamentary Joint Committee on Human Rights to provide greater scrutiny of legislation for compliance with international human rights obligations. The Framework also established the requirement for each new Bill introduced into Parliament to be accompanied by a Statement of Compatibility with international human rights obligations.³⁹ The importance of human rights education is one of the five key principles of the Framework which outlines the government's commitment to 'investing in a comprehensive suite of education initiatives to promote a greater understanding of human rights across the community'. The National Human Rights Action Plan (2012)⁴⁰ mapped out commitments to prioritising human rights education through the granting of funds to Non-Government Organisations (NGOs) to deliver community education and engagement programs; develop an education and training package for the public sector; increase funding to the Australian Human Rights Commission (AHRC) for its community education program; and continue to work with schools, states, territories and the Curriculum authorities to ensure that human rights and principles are included in the national curriculum.

While these moves are indicative of a renewed emphasis on human rights education, it is imperative that the measures go hand in hand with practices and procedures in schools which form the template for citizenship and human interaction underpinned by rights principles. Human rights education in schools, while necessarily embodied in a formal sense within the national curriculum, also needs to be reinforced in the operation of the school community. While this progression to 'practising citizenship' or 'democratic education' is not the subject of this article, it is attracting considerable attention in Australia and worldwide within a wide range of contexts.⁴¹

Sadly, the future of human rights education generally in Australia has recently been dealt thrown into doubt in the short term at least. In the June 2014 federal government budget⁴² it was announced that the Commonwealth Human Rights Education Programme will be ceased from 1 July 2014, thereby achieving savings of \$1.8 million over four years.

Has human rights education in schools suffered the same fate?

B *The Place of Human Rights Education in Australian Schools*

The need for improved human rights education in Australian schools was highlighted in the findings of the *National Consultation on Human Rights*.⁴³ The report listed a significant number of submissions that were critical of the extent of human rights education available in the Australian community, and there was strong support for better human rights education in schools,⁴⁴ which was seen as an essential component of creating a broader human rights culture in the wider community.⁴⁵ According to one participant reported in the study:

I've spent 12 years, like most people, in schools, then university ...and not once did I see the promotion of human rights during my education, as is required by the UN Declaration.⁴⁶

A submission by the Human Rights Law Resource Centre argued that recent research on human rights education in Australian schools 'has found it to be ad hoc' and 'well short of what is mandated by Article 29 of the Convention on the Rights of the Child.' More than 80% of students surveyed by one researcher did not receive any human rights education during their formal schooling. The Human Rights Law Resource Centre argued that the available evidence indicated that 'Australia has not achieved a systematic and integrated approach to human rights education', attributing this to issues such as an overcrowded curriculum, the lack of a government mandate and corresponding resources, and a lack of training.⁴⁷

The importance of embedding human rights education within the school curriculum and of undertaking professional development for teachers related to HRE was noted

A number of submissions emphasised the importance of making human rights education part of the curriculum for all primary and secondary school students and of ensuring that all pre-service and in-service teachers receive human rights education and training⁴⁸

C Human Rights Education in the Australian School Curriculum

Despite moving towards developing a new national curriculum, the provision of education in Australia remains largely a state or territory responsibility. Each state and territory has its own education system, with its own department responsible for public education, as well as Catholic and Independent School bodies, with their own funding structures and educational priorities. Again, the status of the new National Curriculum under the current federal government is uncertain, with the stated policy for schools promising to 'review the national curriculum and refocus the Australian Curriculum, Assessment and Reporting Authority'⁴⁹

A recent study involving the authors of this article was the first national investigation of the place of human rights education in the new national curriculum and that of each state and territory⁵⁰. It was found that explicit and mandatory opportunities for students to study human rights education exist in only a handful of subjects, primarily available in the senior secondary years. This means that only a small number of students are likely to study human rights issues to any significant extent during their schooling. This study was undertaken at a time when a set of curriculum learning areas and subjects across Australian schooling systems are in a state of transition, and when a number of national syllabus documents are in the process of being approved and implemented in all states and territories.

This study also found a lack of national coordination and leadership to ensure that the issue of human rights education is appropriately integrated into the school curriculum. Whilst recognising that non-government organisations (NGOs) are undertaking outstanding work in promoting human rights in schools, the report found that this tends to happen on an *ad hoc* basis, and it is difficult for sustained relationships to be developed between NGOs and schools. The lack of opportunities for teachers to learn about human rights education, in either teacher education programs or via professional development opportunities, was also noted⁵¹. For sustained change and to ensure quality pedagogical practices in the teaching of human rights issues, teachers need professional development support and access to quality innovative resources that enable global perspectives and linkages to highlight human rights issues.

In terms of curricula, this study also found that there is a relatively narrow base of subjects in the curriculum spectrum across Australia that specifically offer human rights based learning opportunities for students. Opportunities for students to have related learning experiences in a more generalised sense about fairness and respect exist, but these are not always couched in terms of human rights issues⁵². The report notes fairly damningly that

The study of human rights issues takes place without any clear overall definition of rights and mostly without any overarching context or link back to UN declarations, treaties, conventions or recent Australian rights legislation⁵³

The report also finds that the approach to human rights education in Australian schools is indeed often *ad hoc* and reliant on individual teacher interest⁵⁴

D *Lost Opportunities?*

The development of an Australian national curriculum provided valuable opportunities to include human rights issues and topics in a number of key learning areas and subjects. In response to draft school curriculum documents released by the Australian Curriculum, Assessment and Reporting Authority (ACARA), the Australian Human Rights Commission (AHRC) released a position paper on *Human Rights Education in the national school curriculum*.⁵⁵ The AHRC identified that *at a minimum*, a focus on human rights and Australian values needed to be integrated into existing general capabilities statements, cross-curriculum priorities and across all learning areas.⁵⁶ It argued that the new National Australian Curriculum documents needed to ensure:

- the inclusion of a specific general capability or cross-curriculum priority focused on human rights and Australian values;
- the integration of human rights principles and values in the descriptions of relevant existing general capabilities and cross-curriculum priorities; and
- the inclusion of relevant human rights issues and examples in *each* learning area.⁵⁷

In this way human rights education in schools could contribute to the fulfilment of Australia's international human rights commitments.⁵⁸

Recent research on human rights education once again highlights the potential positive impact of educating children and young people about human rights and children's rights.⁵⁹ However, to achieve such an impact the approach to human rights education in Australian schools will need to move beyond the current *ad hoc* model and become a more coordinated program, with designated staff, resources, teacher training and professional development to support implementation. NGOs are already doing valuable human rights work in Australian schools and it is encouraging that the number of NGOs offering human rights education has grown massively in recent years.⁶⁰

Most importantly however, the strategic opportunities offered by the current development of the new Australian national curriculum should be utilised to ensure appropriate representation of human rights issues in all relevant learning areas, subjects and cross-curriculum priorities. In the absence of an effective integration of human rights education into the new national curriculum, Australian schools are likely to continue to find it difficult to prioritise human rights issues to the extent necessary to have a sustained impact on student learning.

V CONCLUSION

This article has provided an overview of Australia's international human rights commitments and the legislative framework for human rights in Australia. Against this background it has then focused particularly on the state of human rights education in the Australian school system. It is clear that there are particular challenges within a federal system to ensuring that international human rights obligations entered into by the Commonwealth government are enforceable under Australian law. With the current Coalition Government, the future of the review of the legislative framework for human rights at the federal level is uncertain. Indeed it is unclear the extent to which the entire National Human Rights Framework is a priority of this Government. The cessation of the Human Rights Education Programme announced in the June 2014 budget means that human rights education in Australia will take a further and major step backwards. It remains to be seen whether hope may be taken from the endorsement of the new Prime Minister Malcolm Turnbull of the 2015 International Human Rights Education conference.⁶¹

While the national consultation on human rights undertaken in 2009 revealed a lack of consensus on the necessity for formal recognition of human rights in the Australian constitution, there was nevertheless a strong sense by many respondents that more needed to be done to educate Australians about their rights and their responsibilities to respect the rights of others. Despite this widespread community support for human rights education and the opportunity provided by the development of a new national curriculum to integrate human rights systemically into the learning of all Australian students, efforts to implement such principles into formal learning and practice in Australian schools seem destined to remain principally reliant on the interest and good will of individual teachers.

This piecemeal approach needs to change.

The Council of Europe published a policy tool⁷ for decision makers implementing education for democratic citizenship and human rights education which was based upon a review of European experiences of implementation of such initiatives. It identifies some of the key components required for successful implementation. These include the importance of making education for democratic citizenship and human rights education a policy priority, having clear regulations to underline its importance within education policies, and allocating resources to close the gap between policy development and implementation. The significant impact of including citizenship and human rights education explicitly within the primary and secondary school curricula is also emphasised based on the experience of most European countries. There is a need to engage with political and civil society partners in policy formation, implementation and review. The development of robust review and measurement frameworks is also essential to ensure there is a strong evidence base and sustainability built into education for democratic citizenship and human rights.

These findings resonate strongly with those identified by Burridge et al⁶ in their 2014 study of the state of play for human rights education in Australia. The need for networks to exchange information and to promote good practice, and for funding for specialist staff to continue to support the development and implementation of human rights-related curricula at a state and federal level, were seen as important educational priorities for the future. As ACARA continues to roll-out the new national curriculum, there is a valuable opportunity for human rights issues to be embedded within curriculum support documents in all relevant cross-curriculum priority areas.

The study highlighted the importance of incorporating human rights into teacher training and professional development and the need for continuing development of the relationships between human rights NGOs and schools. Importantly the study pointed to the need for developing strategies to disseminate exemplar teaching practices and resources relating to human rights, using those that are already in place in some Australian schools. Despite all of these findings based on extensive European experience in implementing human rights education in Australia, all the indicators appear to suggest that human rights education – at least in the short term, will continue to be something that is widely seen to be desirable but that continues to be implemented in a desultory fashion without an effective plan to ensure that it has a real impact on the majority of Australian students.

In her introduction to *How to use Human Rights Examples for the Australian Curriculum*, Gillian Triggs, President of the Australian Human Rights Commission, stated:

Human rights education enables students to learn from Australia's history and proud record on human rights. It is a way to build an equal, respectful and inclusive Australia that values human rights. Human rights education gives all students a foundation to build a culture of respect for human rights. This provides both knowledge about human rights

and the laws that protect all people and helps students gain the skills needed to promote, defend and apply human rights in daily life.⁶⁴

These words provide clear and simple justification for the prioritisation of systematic and concerted inclusion of human rights education into every facet of the formal school curriculum, and also into all processes for interaction within school communities. Australian society deserves no less.

Keywords: human rights; human rights education; human rights legislation; school curriculum.

ENDNOTES

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- 2 Research Associate, Faculty of Arts and Social Sciences, University of Technology Sydney.
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* The writers acknowledge that this article is drawn from a study of which they were members of the project team, with the consent of all team members: N. Burrige, A. Chodkiewicz, AM. Payne, S. Oguro, S. Varnham & J. Buchanan (2013) 'Human Rights Education in the School Curriculum', *Cosmopolitan Civil Societies Research Centre*, University of Technology Sydney, Australia. The original research was funded by the Australian Attorney-General's Department through the Human Rights Education Framework Grants program.
- 4 Speech delivered at the launch of Mindset Network, Planetarium, University of the Witwatersrand Johannesburg South Africa, July 16, 2003.
- 5 Office of the High Commissioner for Human Rights (OHCHR), *Human Rights Education and Human Rights Treaties*, 1999 <<http://www.ohchr.org/Documents/Publications/HRTreaties2en.pdf>>.
- 6 <www.humanrights.gov.au/education/human-rights-school-classroom>; <[humanrightseducationaustralia.com](http://www.humanrightseducationaustralia.com)>, respectively.
- 7 Most recently, see Alison E.C. Struthers 'Human rights education: education about, through and for human rights' (2015) 19(1) *The International Journal of Human Rights* 53–73; Tristan McCowan 'Human rights within education: assessing the justifications' (2012) 42(1) *Cambridge Journal of Education* 67–81.
- 8 OHCHR, *United Nations Decade for Human Rights Education (1995-2004)* <<http://www.ohchr.org/EN/Issues/Education/Training/Pages/Decade.aspx>>.
- 9 European Agency for Fundamental Human Rights: <<http://fra.europa.eu/en/world-programme-human-rights-education>>; see also <<http://www.ohchr.org/EN/Issues/Education/Training/Pages/Programme.aspx>>.
- 10 Ibid.
- 11 See Draft Plan of Action for Third Phase which contains guidance for government and non-government institutions, human rights institutions and civil society: <http://www.ohchr.org/Documents/Publications/WPHRE_Phase_2_en.pdf>.
- 12 The Australian Council for Human Rights Education has stated its intention to respond to a request for feedback by making a submission to the OHCHR in Geneva – see: <<http://humanrightseducationaustralia.com/about.php>>.
- 13 Australian Human Rights Commission, *Children's Rights Report 2014, National Children's Commissioner*, 22. <https://www.humanrights.gov.au/sites/default/files/document/publication/Children's%20Rights%20Report%202014_2.pdf>
- 14 Child Rights Taskforce, 'Listen to Children' (2011) NGO Child Rights Report Australia <<http://www.ncylc.org.au/images/2011report.pdf>>.
- 15 Ibid 28.

- 16 Laura Lundy, Ursula Kilkelly, Bronagh Byrne & Jason Kang, *The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries* (2012), <http://www.unicef.org/uk/Documents/Publications/UNICEFUK_2012CRCimplementationreport%20FINAL%20PDF%20version.pdf>
- 17 Laura Lundy et al, above n 16, 33–34
- 18 Ibid 35
- 19 See also a recent UK study Avril Keating & Tom Benton ‘Creating cohesive citizens in England? Exploring the role of diversity, deprivation, and democratic climate at school’ (2013) 8(2) *Education, Citizenship and Social Justice* 165–184
- 20 Australian Human Rights Commission, 2011, *Human rights education in the national school Curriculum Position Paper of the Australian Human Rights Commission*, 13 May 2011, 4 <<<http://humanrights.gov.au/education/positionpaper/index.htm>>
- 21 See for example, Lynn Davies ‘The Potential of human rights education for conflict prevention and security’ (2010) 21(5) *Intercultural Education* 463–471
- 22 *National Security Legislation Amendment Act (No 1) 2014* (Cth)
- 23 K Covell, R B Howe & J L Polegato, ‘Children’s human rights education as a counter to social disadvantage: A case study from England’ (2011) 53(2) *Educational Research* 193–206, K Covell, ‘School engagement and rights-respecting schools’ (2010) 40(1) *Cambridge Journal of Education* 39–51, K Covell, R B Howe & J K McNeil, ‘Implementing Children’s Human Rights Education in Schools’ *Improving Schools* (2010) 13(2) 1–16
- 24 <<https://www.humanrights.gov.au/sites/default/files/document/publication/TightED-eng-maths-science-hist-geo.pdf>> See also <<https://www.humanrights.gov.au/education/human-rights-school-classroom>> for a long list of resources provided for teachers
- 25 Australian Human Rights Commission undated *Voices of Australia Resource Sheet 5 Protection of Human Rights in Australia*, <http://humanrights.gov.au/education/voices_of_australia/5_resource.html> It should be noted however that the High Court of Australia suggested in *The Minister of Ethnic Affairs v Teoh* (1995) 128 ALR 353 that the ratification of a treaty created a ‘legitimate expectation’ that the government would act in accordance with the treaty, however this legal principle has not been universally accepted – see the High Court in *Minister for Immigration and Multicultural Affairs Ex Parte Lam* (2003) 195 ALR 502
- 26 <http://humanrights.gov.au/education/voices_of_australia/5_resource.html>
- 27 Commonwealth of Australia, 2013, *Report of the Senate Legal and Constitutional Affairs Legislation Committee on the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012*, February 2013, 3 <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Committees?url=legcon_ctte/anti_discrimination_2012/report/index.htm>
- 28 Australian Government Attorney-General’s Department, 2011 *Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper*, September 2011, 5 <<http://www.ag.gov.au/Consultations/Documents/ConsolidationofCommonwealthanti-discriminationlaws/Consolidation%20of%20Commonwealth%20Anti-Discrimination%20Laws.pdf>>
- 29 Australian Government Attorney-General’s Department, 2012, *Human Rights and Anti-Discrimination Bill 2012 Exposure Draft Legislation* November 2012, 3 <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Committees?url=legcon_ctte/anti_discrimination_2012/info/index.htm>
- 30 Commonwealth of Australia, 2013, *Report of the Senate Legal and Constitutional Affairs Legislation Committee on the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012*, February 2013, 4 <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Committees?url=legcon_ctte/anti_discrimination_2012/report/index.htm>
- 31 Above n 30
- 32 Ibid
- 33 Human Rights Law Centre, 2013, ‘Delay on stronger anti-discrimination laws met with extreme disappointment’, 20 March 2013, <<http://www.hrlc.org.au/delay-on-stronger-anti-discrimination-laws-met-with-extreme-disappointment>>

- 34 Australian Government Attorney-General's Department, (AGD (c)), undated, *Commonwealth Anti-Discrimination Law Reforms*, <<http://www.ag.gov.au/Consultations/Pages/ConsolidationofCommonwealthanti-discriminationlaws.aspx>>.
- 35 Australian Human Rights Commission, undated, *Voices of Australia - Resource Sheet 5. Protection of Human Rights in Australia*, <http://humanrights.gov.au/education/voices_of_australia/5_2resource.html>.
- 36 Above n 27, 3.
- 37 Commonwealth of Australia, 2009, *National Human Rights Consultation Report*, downloadable from <http://www.ag.gov.au/RightsAndProtections/HumanRights/TreatyBodyReporting/Pages/HumanRightsconsultationreport.aspx>>, Chapter 6.
- 38 Australian Government Attorney-General's Department (AGD (a)), undated. *Australia's Human Rights Framework*, <<http://www.ag.gov.au/RightsAndProtections/HumanRights/HumanRightsFramework/Pages/default.aspx>>.
- 39 Ibid.
- 40 Commonwealth of Australia, 2012, *National Human Rights Action Plan*, <<http://www.ag.gov.au/Consultations/Documents/NationalHumanRightsActionPlan/National%20Human%20Rights%20Plan.pdf>>.
- 41 See for example: S. Varnham, T. Booth & M. Evers, 'Let's Ask the Kids: Practising citizenship and democracy in Australian Schools' (2011) 16 (2) *International Journal of Law and Education*, 75. For international studies see: L. Davies, 'Pupil Democracy in England' (2002) <<http://www.childresearch.net/CYBRARY/EVISION/2002/DAVIES.HTM/>>; A. Keating & T Benton, 'Creating cohesive citizens in England? Exploring the role of Diversity, deprivation and democratic climate at school' (2013) 8 *Education, Citizenship and Social Justice*; A Holt, D Martin, C Hayden & C Nee, 'Schooled in Democracy? Providing democratic values as a whole-school approach to violence prevention' (2011) 13(3) *Crime Prevention and Community Safety* 205; and Education Commission of the States, Denver, Colorado, *Every Student a Citizen: Creating the Democratic Self. Campaign for Action: Compact for Learning and Citizenship. National Study Group in Citizenship in K-12 Schools* (2000) <http://www.cpn.org/topics/youth/k12/pdfs/Every_Student_A_Citizen.pdf>; Rothstein, R. What produces a Voter? Seemingly Not Civics Class, *New York Times*, 2001, July 11 quoted in C Gibson, *From Inspiration to Participation: A review of perspectives on youth civic engagement* (2001) The Grantmaker Forum on Community and National Service, <<http://www.gfens.org>>.
- 42 <http://www.budget.gov.au/2014-15/content/bp2/html/bp2_expense-05.htm>.
- 43 National Human Rights Consultation Committee Report (2009), <<http://www.humanrightsconsultation.gov.au/Report/Pages/National-Human-Rights-Consultation-Report---Chapter-6.aspx>>.
- 44 Ibid 136.
- 45 Ibid 137.
- 46 Ibid 134.
- 47 Ibid 137.
- 48 Ibid 137–8.
- 49 Liberal Party of Australia media release, August 2013, *The Coalition's policy for schools: Putting students first*, <<http://www.liberal.org.au/latest-news/2013/08/29/coalitions-policy-schools-putting-students-first>>. This policy became a reality in the June budget - http://www.budget.gov.au/2013-14/content/myefo/html/12_appendix_a_expense-06.htm, accessed 25 June 2014.
- 50 N. Burrige, A. Chodkiewicz, AM. Payne, S Oguro, S. Varnham & J. Buchanan (2013) '*Human Rights Education in the School Curriculum*', Cosmopolitan Civil Societies Research Centre. University of Technology Sydney, Australia.
- 51 A similar finding was made by Varnham, Booth & Evers 2010-2012 study exploring citizenship and democracy in Australian schools, see Sally Varnham, Tracey Booth & Maxine Evers, 'Let's Ask the Kids: Practising citizenship and democracy in Australian Schools' (2011) 16 (2) *International Journal of Law and Education* 75.
- 52 Above n 50.
- 53 Ibid 7.

- 54 Ibid 27
- 55 Australian Human Rights Commission 2011, *Human rights education in the national school Curriculum Position Paper of the Australian Human Rights Commission*, 13 May 2011, <<http://humanrights.gov.au/education/positionpaper/index.html>>
- 56 Above n 55, 6
- 57 Ibid 6-7
- 58 Ibid 5
- 59 Felisa Tibbits & Peter G Kirshschlaeger, 'Perspectives of Research on Human Rights Education' (2010), 2(1) *Journal of Human Rights Education* 16
- 60 Above n 55, 7
- 61 The Hon Malcolm Turnbull MP, Prime Minister of Australia, Message from the Prime Minister, 6th International Human Rights Education Conference, 3 December 2015 <<http://ihrec2015.org/sites/default/files/MS15-693%20International%20Human%20Rights%20Education%20Conference.pdf>>
- 62 David Kerr & Bruno I osito (2010) *Strategic support for decision makers Policy tool for education for democratic citizenship and human rights* Council of Europe Publishing
- 63 Nina Burridge, John Buchanan & Andrew Chodkiewicz, 'Human Rights and History Education An Australian Study (2014) 39(3) *Australian Journal of Teacher Education* 28
- 64 Australian Human Rights Commission, *Human Rights Examples for the Australian Curriculum (English History Geography Science and Maths – Foundation to Year 10) 2014 1* <<https://www.humanrights.gov.au/our-work/education/publications/human-rights-examples-australian-curriculum>>

Appendix 1

Table: International Instruments Comprising Provisions Relating to Human Rights Education

PROVISIONS RELATING TO HUMAN RIGHTS EDUCATION				
Universal Declaration of Human Rights	Preamble	Article 26		
International Covenant On Economic, Social And Cultural Rights	Preamble	Article 2 and General Comment 3, CESCR	Article 13 Right to Education	
International Covenant On Civil And Political Rights	Preamble	Article 2 and General Comment 3, HRC		
International Convention On The Elimination Of All Forms Of Racial Discrimination	Article 2	Article 7		
Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment	Article 2	Article 10		
Convention On The Elimination Of All Forms Of Discrimination Against Women	Article 2	Article 10	General Recommendation Number 3, CEDAW	
Convention On The Rights Of The Child	Article 4	Article 17	Article 19	Articles 28, 29 and 42
Convention On The Rights Of Persons With Disabilities	Article 4	Article 8		
Vienna Declaration and Programme of Action	Part I, Paras 33-34	Part II, Paras 78-82		
Plan of Action for the United Nations Decade for Human Rights Education	Para 2			
Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban South Africa (2001)	Declaration paras 95-97	Programme of Action paras 125-139		
World Plan of Action for Human Rights Education (2005-ongoing)				
Revised draft plan of action for the first phase (2005-2001) of the World Programme for Human Rights Education	Paras 1-4			

