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Striking the Right Balance for Human Dignity and Social Cohesion. Public Liberal Education between Common Values and Disparate Worldviews

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Striking the right balance for human dignity and social cohesion.

Public liberal education between common values and disparate worldviews

Manfred L. Pirner

Let me start with a case example. In Northern Bavaria, the part of Germany where I live, there used to be a small community of the *Twelve Tribes*, a fundamentalist Christian movement that originated in the United States. They aim to live like the early Jerusalem Christians and want to take the Bible literally as guide for their personal lives. Subjecting themselves to rigorous regulations, they work hard without pay, renounce personal property and practice the subordination of women under men. Repeatedly, the *Twelve Tribes* community has come into conflict with state authorities, because they reject public schooling – which is obligatory in Germany for children from the age of six. In their eyes, the modern values and especially the teaching of sex education and evolution theory in state schools contradict their own religious worldview. As their attempt to substitute public schooling by home schooling was rejected by German courts, culminating in some of the fathers' coercive detention, the community in 2006 applied for and was granted permission to establish their own private (state-supervised) school. However, a few years later an investigative journalist uncovered that in this school racist content was taught and kids were subjected to massive corporal punishment. Indeed, through a number of official investigations and legal trials it turned out that the community insisted on a literal understanding of those Bible verses that recommend parents to beat their children, most unequivocally in Proverbs 13:24, "Whoever spares the rod hates their children, but the one who loves their children is careful to discipline them." Some members of the *Twelve Tribes* community admitted that as a general

practice, children from the age of two onwards were beaten with a rod by their parents on a daily basis, and that in school the rod was also used regularly. As a consequence, the right of custody was withdrawn from the parents of 40 kids who were put into the care of state-run children's homes or foster families, and the school was shut down. Several parents and one teacher were sentenced to imprisonment, almost all of them on parole. Eventually, in 2017, the whole *Twelve Tribes* community emigrated to the Czech Republic, where home schooling is legally permitted and corporal punishment in education is still widely accepted. By that time, nearly all of the 40 children had returned to their families under diverse circumstances, but mainly tolerated with the argument that they had reached the age of 14 and therefore were regarded as adults by the community and not subjected to corporal punishment any longer.¹

To be sure, for the German context this is quite an exceptional case and far from typical of the German religious landscape. However, precisely in its exceptionality it may serve to illustrate some of the principle issues connected with the chasm between religious citizens and civil society in liberal, democratic countries that Hanan Alexander mentions in his introduction to this journal issue.

The case of the *Twelve Tribes* is an example of a community that widely segregates itself from the rest of society in order to be able to follow their religious tradition more consistently. In doing so, they legitimately exercise their right to live a self-determined life and in particular the right to religious freedom that liberal society grants them. On a first level, this society may regret that a whole community is not willing to participate in the common culture or contribute to the common good, but the state has to accept this as long as community members fulfill their basic duties as citizens, for instance to pay

¹ More information and references can be found in the German Wikipedia article "Zwölf Stämme".

taxes, and do not violate the law resp. other people's rights. On a second, deeper level, however, this is not just a matter of legal obligations, but a matter of the basic values that our society is based on and that imply a moral obligation by the state and civil society as a whole to care and engage for the human dignity and social cohesion of all citizens in order to sustain a humane life together. It is the self-chosen risk of liberal democratic societies that the inner acquisition of these basic values by their citizens cannot be enforced – because these values imply that all citizens are free and equal –, but is at best the result of a learning process. Laws and their enforcement should be viewed as secondary and ultimate measures to prevent severe violations of basic values by those who are not willing or able to conform with them. While principally, such laws mark a normative boundary which is supposed to constitute the toleration of diverse kinds of life styles and worldviews within such boundaries, the liberal state must rely on a critical number of citizens who endorse those laws and the basic values behind them from their own personal conviction.

In this context, public education is extremely important, because it has, among others, two major tasks: One is to acquaint the young generation with those basic societal values, not only by content learning but also by living these values in the public school context. The other is to learn how to communicate, cooperate and live together with people who are different – in the sense of a pedagogy of difference. The crucial task in school as well as in society at large is to strike the right balance between basic values on the one hand and open communication and negotiation on the other. Naturally, one major problem of liberal, democratic and pluralistic societies is that it is not easy to reach a consensus on basic values, because the very characteristic of such societies is that they grant freedom to diverse religious or secular worldviews, life-styles and values that may be extremely disparate. My conviction is that the tradition and discourse of

human rights that commenced with the UN Declaration in 1948 offers the best resources in this respect (see also Pirner 2016), for the following five major reasons.

1) From the start, human rights have been conceptualized as minimal norms to protect and provide the basic requirements for a life in human dignity. They have mainly drawn on experiences of the violation of human dignity – especially in the Holocaust – and not so much on a certain philosophy of the nature of human dignity.

2) From the start, human rights have been open to diverse justifications from diverse religious or secular worldviews and philosophies. Meanwhile, according to human rights experts, “for their own varied reasons, most leading comprehensive doctrines now see human rights as the political expression of their deepest values” (Donnelly 2013, 59).

3) In the context of widely recognized international treaties human rights have stood the test of broad international and intercultural acceptance, which recommend their potential for consensus also *within* pluralistic nation states.

4) From the start, human rights were not only regarded as an instrument for shaping national and international legislation, but also as embodying a set of values that should be spread and promoted by civil society, by NGOs, by religious and secular groups and movements and especially by education, with the aim to develop a *culture* of human rights.

5) Through the decades, human rights and the accompanying implementation instruments – despite all their misuses and instrumentalizations – have proven their humanizing dynamic and visionary power as well as their openness to further development, deepening, broadening and concretization.

One example of human rights’ humanizing potential is the effect the *Convention on the Rights of Persons with Disabilities* (CRPD, adopted 2006, ratified by 132 states, by Germany in 2009) has had on German society in general and public schools in particular

over the past years. The integration of children with disabilities into 'normal' public schools under the guiding concept of "inclusive education", which was significantly enhanced in the wake of the CRPD, has changed class atmosphere and school culture in many schools from achievement orientation to needs orientation, from struggling to produce the most high-performing students to endeavoring to promote the development of all students in the best way, for an inclusive society.

Another Convention with similar potential that in addition has a direct relevance for our case example is the *Convention of the Rights of the Child* (CRC, adopted 1989, ratified by 196 countries – all UN member states except the United States –, by Germany in 1992). Among other things, the CRC (in Articles 28 and 29) underscores every child's right to education as enshrined in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR, adopted 1966, Article 13 (1)), specifying that progressively at least primary education should be made "compulsory and available free to all". On school discipline, article 28 (2) reads: "States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention." One relevant reference in this context can be found in article 19 of the CRC, which stipulates that States Parties „are to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

Article 29 devotes itself to the major objectives of education in the following way.

“States Parties agree that 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;

- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) 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 and persons of indigenous origin;
- (e) The development of respect for the natural environment.”

Because schools face the same dilemma as society at large, namely that it has become ever more difficult to find a consensus on basic values that can serve as a foundation for educational objectives and for school culture, I suggest that human rights and especially children's rights can help schools to find such a consensus by offering an already consensus-based normative framework and impelling a dynamic debate between all the stake-holders in the school context. From the start, human rights have put human dignity and humane values center stage of public education and can thus function as a counter-weight against the current trend of economization and instrumentalization of schools. In this line, the CRC has put the child and its well-being at the center of all kinds of education and has offered a consensus-based normative framework for answering the controversial question of what the “human dignity”, the “well-being” or “the best interest” of the child may mean. For instance, one of the co-authors of the CRC, German emeritus professor Lothar Krappmann, recently published a manifesto showing how CRC values converge with and support basic ideas of reform pedagogy and progressive education (Krappmann and Petry 2016). He suggests concrete measures how schools

can be further improved under the inspiration of children's rights. For instance, he advocates to grant students more self-determination and participation in schools in the form of class councils and school parliaments, which will promote their self-confidence and better equip them to participate in future societal and political debates. In a national conference in Nuremberg this year, scheduled for October 3 and 4, we will further explore the relevance of children's rights for the development of public schools in Germany, with reference to such topics as citizenship education, educational justice, digitalization, freedom of religion and belief, children's rights in faith-based schools, and diverse forms of discrimination.² A considerable number of German schools have already developed a school program based on children's rights or human rights in general and have successfully reoriented their school and teaching culture.

I am coming back to our case example concerning the *Twelve Tribes* community. Mainly three human rights from the CRC are relevant in this context (that are mirrored in state legislation and court decisions): The right to education (Art. 28 and 29) and the right of the child to be protected "from all forms of physical or mental violence" (Art. 19), but also the right to freedom of religion and belief enshrined in Art. 14:

"1. States Parties shall respect the right of the child to freedom of thought, conscience and religion. 2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child."

As to the issue of corporal punishment, the case seems to be quite clear – although it should be recalled that in the whole of Germany, corporal punishment in schools was legally prohibited not before 1983 (Bavaria being the last federal state to do so), and the

² For more information see the website www.kinderrechte-tagung.fau.de

parents' legal right to corporal punishment of their children was abolished only in 2000. To be sure, even before, corporal punishment had to be proportionate and reasonable in order to be justifiable. Yet, this is one example showing how a changing moral sensitivity led to the modification of laws which again supported the change of moral sensitivity, and how human rights played an important part in this cycle of action.

The issue about home schooling is more intricate. Although the CRC and other human rights treaties do provide some guidance, the legitimacy of home schooling is controversial and regulated differently in different countries. In a model lawsuit in 2006 before the European Court of Human Rights (Konrad vs. Germany) Mr and Mrs Konrad complained against the German state's refusal to allow them to educate their two children at home in conformity with their own religious („Bible-abiding') beliefs. The Court agreed with the view of the German Federal Constitutional Court from 2003 that the prohibition of home schooling neither violated the applicant parents' right to educate their children nor the applicants' freedom of religion – although home schooling is legal in other EU countries.

“The Federal Constitutional Court stressed that the State's obligation to provide education did not only concern the acquisition of knowledge, but also the education of responsible citizens to participate in a democratic and pluralistic society. To hold that home education under the State's supervision was not equally effective for pursuing these aims was at least not erroneous. The acquisition of social skills in dealing with other persons who had different views and in holding an opinion which differed from the views of the majority was only possible through regular contact with society. Everyday experience with other children based on regular school attendance was a more effective means of achieving that aim. The Federal Constitutional Court found that the interferences

with the applicants' fundamental rights were also proportionate given the general interest of society in avoiding the emergence of parallel societies based on separate philosophical convictions. Moreover, society also had an interest in the integration of minorities. Such integration required not only that minorities with separate religious or philosophical views should not be excluded, but also that they should not exclude themselves." ³

As to the parents' right to raise their children according to their own religious views, the European Court points to the German courts' view that "the applicant parents were free to educate their children after school and at weekends. Therefore, the parents' right to education in conformity with their religious convictions is not restricted in a disproportionate manner". Also, the school's obligation of religious neutrality would prevent the children from any indoctrination against their will, while freedom of religion did not entail the freedom not to be confronted with other religious or non-religious views or with any possible conflicts between science and religion.

To conclude, I have tried to substantiate my conviction that human rights treaties as well as human rights discourse constitute a crucial and helpful basis and framework for pluralistic societies as well as public schools within them to negotiate consents on basic values. However, I would like to add that human rights themselves have to be safeguarded against secularist misunderstandings, but rather must be kept open to being connected with diverse cultural, religious or nonreligious worldviews. One primary task and chance of religious education – whether in the family, in the congregation, in faith-based schools or state schools – is to show young people (as well as adults) accessible bridges between their own religious worldviews and human rights

³ [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-76925%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-76925%22]})

values – and back again (see also Pirner et al. 2018; 2019). I wish that such bridges could have been built for the *Twelve Tribes* community.

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