

HUMAN RIGHTS IN CIVIC EDUCATION
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During the second half of the twentieth century, the ideas of human rights and representative democracy, in tandem, became prominent throughout the world. The flagrant abuse of human rights anywhere often became a matter of abiding concern everywhere, and the advancement of democracy and civil liberty was avidly promoted by some countries and celebrated by many others.

The advocacy and admiration of human rights and representative democracy continue unabated in most parts of our world today. Most governments in the nation-states of our world claim to be representative democracies, list human rights in their constitutions, and acknowledge the legitimacy of international interest in the rights of individuals, even if some nation-states do it grudgingly or superficially.¹

Both the established and nascent democracies of our world recognize that civic education is a key to the maintenance and improvement of this form of government and to protection of the human rights guaranteed to the people of a democracy. What is a sound civic education about representative democracy and human rights? What are its distinguishing characteristics?

Well, civic education is teaching and learning the knowledge, intellectual skills, participatory skills, and dispositions required for competent and responsible citizenship in a democracy. Table 1 depicts the four-component model of a fully developed and potentially successful civic education. Table 2 is a framework of concepts at the core of

¹ *Freedom in the World, 2006*: <www.freedomhouse.org/>.

the knowledge component in the four-component civic education model. Notice that the concept of *human rights* is tightly connected to the other main ideas of the framework, which are constitutionalism, representative government, citizenship, civil society, and market economy. (Tables 1 and 2 are presented in the Appendix of this paper.)²

At least *five essential characteristics* of a sound civic education about representative democracy and human rights can be drawn from the ideas in Tables 1 and 2. These essential characteristics can be used as guidelines for the inclusion of human rights in the curriculum of civic education. They can also function as baselines for the assessment or appraisal of curricular materials pertaining to human rights.

What are the five essential characteristics? Why are they justified? How can they be used to improve teaching and learning of human rights in civic education?

The ***first essential characteristic*** of teaching human rights in civic education is the integration of this concept within a framework of ideas by which representative democracy is recognized and understood in our world, such as the core concepts of the framework presented in Table 2.

The idea of human rights is best taught within a conceptual context that enables the learner to understand how it is connected to other core concepts in the theory and practice of representative democracy, such as democratic elections, constitutional government and the rule of law, citizenship, and civil society. The idea of human rights is least understood when taught and learned discretely, as a stand-alone idea, separated

² The ideas in Tables 1 and 2 have been presented in several publications by John J. Patrick, such as “Content and Process in Education for Democracy” in *The International Journal of Social Education*, Vol. 20, No. 2 (Winter 2006): 1-12 and *Understanding Democracy* (Oxford University Press, 2006).

from the conceptual context that enables the learner to fully comprehend it theoretically and practically.

The political history of modern times, which should be an important part of the civic education of pre-adults, indicates that the best guarantor of human rights is a healthy representative democracy, based on a well-designed and operational constitution. According to the highly respected annual survey of political rights and civil liberties by Freedom House, three core concepts of the framework in Table 2—constitutionalism, representative government, and human rights—are theoretically and practically inseparable. The 89 “free countries” of the 2006 Freedom House report, those in which human rights are most protected and least at risk, are distinguished by constitutional government, the rule of law, and representative democracy achieved by free, fair, contested, and regularly scheduled elections in which practically all of the adult population is eligible to vote. By contrast, human rights are least protected and most at risk in the 45 countries labeled by Freedom House as “not free.” These “not free” countries, such as Cuba, China, Iran, North Korea, and Syria, are also not authentic representative democracies. And, although they have written constitutions, none of them has a genuine constitutional government.

When learners study human rights within a conceptual context, such as the core ideas in Table 2, they will understand that practical protection for human rights has been possible only through the constitution-based governmental institutions of the world’s democratic and sovereign nation-states and through functional multi-national institutions, such as those of the European Union. Through this realistic kind of civic education, students are provided an opportunity to learn that human rights protection varies greatly

from country to country, as shown by the annual Freedom House surveys. Security for the rights of individuals depends upon what their nation-state's constitution says about human rights and the capacity of their government to enforce the rights guaranteed in the constitution. A sound civic education about human rights, therefore, will reveal that human rights charters are not self-enforcing; rather, their implementation depends upon the well-functioning machinery of a constitutional and representative democratic government. Students will *not* learn this practical lesson about the enforcement of human rights guarantees, if their curriculum mostly involves the discrete examination of international human rights documents. And they will *not* learn the realistic lesson of practical human rights protection, if the curriculum of civic education ignores or slights the conceptual context that reveals the close connections of representative democracy, constitutionalism, and human rights in the free and democratic nation-states of our world.

The ***second essential characteristic*** of teaching about democracy and human rights within civic education is the careful unpacking of the concept of human rights in order to confront the complexity and controversy associated with defining, using, and justifying this idea.

Students first of all should learn that the rights of individuals are justifiable claims to act or be treated in certain ways, which, if they would be exercised and enjoyed, are enforced by law through institutions of government. The special designation of *human rights* has been given to those rights considered so fundamentally important that they belong equally to all human beings, by virtue of their common membership in the human species. Thus, human rights are constitutionalized; that is, they are perpetually

guaranteed by the supreme law of a constitution and thereby protected from abridgment by ordinary legislation, by the outcomes of a democratic election, or by the expressions of majority will in public opinion polls. This idea was eloquently expressed in 1943 by an Associate Justice of the United Supreme Court, Robert H. Jackson, who wrote, “The very purpose of a bill of rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities. . . . One’s right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly and other fundamental rights may not be submitted to vote; they depend on the outcome of no election.”³

Students should also learn early in their study of human rights that there is both international consensus and controversy about what is or is not a human right. For example, there appears to be broad agreement that such political and personal rights as freedom of speech, religion, assembly, and association are human rights and thereby objects of constitutional protection in a good government. And there is ongoing controversy about whether such social and economic entitlements as guaranteed employment, minimal income, and environmental protection should also be constitutionalized and thereby recognized as inviolable human rights. Or should they be viewed as benefits of the democratic public policy process, achieved through ordinary legislative actions, and subject to modification or elimination through subsequent enactment of statutes by majority vote of the people’s representatives in government?

In general, political and personal rights, such as those guaranteed by the United States Bill of Rights, and those listed in Chapters I and II of the *Charter of Fundamental Rights of the European Union*, are guaranteed by the constitutional provisions of nation-

³ *West Virginia State Board of Education v. Barnette* 310 U.S. 524 (1943).

states; these constitutional provisions prohibit a government from doing something to someone, such as depriving her or him of the right to voluntarily join a civil association or political party, the right to freely profess a religion, and the right to possess and use private property for personal benefit.

By contrast, the implementation of social, economic, and environmental rights, such as those listed in Articles 22-25 of the *United Nations Universal Declaration of Human Rights* and Chapter IV of the *Charter of Fundamental Rights of the European Union*, requires empowerment of the government to do something for individuals or groups, such as provision of health care to the elderly or indigent, provision of public housing for those in need, and regulation of industries to protect the natural environment.⁴ The constitutions of many European nation-states, for example, include the kinds of social and economic rights listed in the *Charter of Fundamental Rights of the European Union*.

There are continuing issues throughout the world concerning two key questions about different categories of human rights, which should be emphasized in the curriculum of civic education. *First*, what should the constitutional governments of democratic states be prohibited from doing to any human being under their authority? The responses to this question will be examples of the fundamental political and personal/private rights of individuals, which can be readily and justly guaranteed through a well-designed constitution and the limited government that it yields. *Second*, what should the constitutional government of a democratic state be empowered and required to do for every human being under its authority? The responses to this question will involve

⁴ The *Charter of Fundamental Rights of the European Union* and the *United Nations Universal Declaration of Human Rights* are available on the World Wide Web: <www.europarl.europa.eu/>.

debate about the extent to which a representative and constitutional democracy can or should constitutionalize certain social, economic, and environmental rights and thereby cast them as inviolable human rights. Discussion of these two key questions about the meaning, uses, and justifications for human rights should be centrally included in any sound curriculum of civic education about democracy and human rights.

The **third essential characteristic** of a good civic education about democracy and human rights is emphatic and pervasive examination of the inevitable tension in every authentic democracy between majority rule and minority rights.

Students who learn about human rights in terms of the framework of concepts in Table 2 will learn that the very essence of democracy is rule by the majority. But, they will also come to understand that unlimited majority rule is incompatible with the rights of minorities, another essential principle of democracy in modern times. So, they will confront continuing issues about majority rule in conflict with minority rights, which must be resolved if their democracy would be sustained.

The Constitution of the Czech Republic, for example, recognizes that an authentic democracy conjoins majority rule with minority rights. Article 6 says, “Political decisions shall stem from the will of the majority, expressed by means of a free vote.” It also says, “Minorities shall be protected by the majority in decision-making.”⁵

Political philosophers have warned and political experience has taught us that unlimited majority rule will yield oppression of people out-of-step with the majority. The inevitable consequence of unchecked majority rule is tyranny of the majority. Thomas

⁵ The Constitution of the Czech Republic is available on the World Wide Web: <www.oefre.unibe.ch/law/ic/ez00000.html>.

Jefferson, third President of the United States of America, eloquently expressed the desired relationship of majority rule with minority rights in a constitutional and representative democracy. In his First Inaugural Address in 1801, President Jefferson said, “All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression.”⁶ Majority rule is unjust and intolerable if it violates the human rights of minorities. However, rejection of the majority rule principle by minorities would destroy democracy. Thus, every sustainable democracy must reconcile the inescapable tensions of majority rule and minority rights.

Effective teaching and learning of the paradoxical relationship of majority rule and minority rights in a democracy involves examination of case studies that raise two generic questions. First, under what circumstances and to what extent should majority rule be limited by law in order to protect the human rights of minorities? And conversely, under what circumstances and to what extent should the human rights of minorities be limited in order to sustain the stability of majority rule? Through examination of cases drawn from the political life in their country and in other countries, students will learn that these generic questions are never resolved once and for all. Rather, they are dealt with on a case-by-case basis in such a way that the paradoxical relationship of majority rule and minority rights is maintained while the particular conflicts are resolved, at least momentarily, according to the rule of law.

⁶ *Messages and Papers of the Presidents: 189-1897*. (Washington, DC: Published by authority of Congress, 1901), p. 322.

The generic paradox of democracy—majority rule with just protection of minority rights—is confronted and managed variously in the different democracies of our world. This variation reflects differences in constitutional design and institutional structures and functions, which prompt us to consider the value of comparative analysis in teaching and learning about human rights and democracy.

So, the *fourth essential characteristic* of a desirable civic education is teaching comparatively and internationally about human rights and democracy.

Students first of all should learn how to use the core concepts in Table 2 in the Appendix of this paper to compare and differentiate countries that are genuine democracies, which truly protect human rights, from those countries that are neither democratic nor free. Although these core concepts in Table 2 may be practiced differently in various countries, every authentic democracy is based upon them in one way or another.

Next, students should learn how to comparatively analyze constitutional and institutional variations among authentic democracies in terms of the core concepts in Table 2. Thus, they will learn the various viable ways that different constitutional democracies define and protect the rights of people under their authority. And, through the use of comparison, students will likely achieve greater comprehension of human rights protections through the constitutional government of their own country.

In every one of the world's democratic and free countries, the constitutional government is simultaneously empowered and limited for the purpose of securing the rights of individuals under the government's authority. The people grant their

constitutional government sufficient power to protect them against disorder, instability, or assaults that could put their rights to life, liberty, and property at risk. And the people impose certain constitutional limitations on their government to prevent it from using power to abuse their guaranteed rights. Thus, in every successful and sustainable democracy, there is civil liberty only within the context of law and order. However, comparative analysis reveals the variations in how the different democracies of our world establish and maintain security for human rights through limited government and the rule of law.

Through comparative analysis, students can learn similarities and differences in constitutional and political methods used by different democracies to protect the rights of individuals. For example, by using comparative analysis, American students will learn that such familiar ideas as judicial independence and judicial review are used variously in different democracies to achieve the same end—the checking of executive and legislative powers to protect the people against human rights abuses. And they will find that a few successful democracies, such as the Netherlands and Britain, have not used judicial review, or constitutional review as it is called in most countries, to nullify actions of government that violate constitutionally enshrined rights.

Through comparative studies of stronger and weaker democracies and the factors associated with the success or failure of democracy, students will also learn about the critical importance of civic virtue in the sustainability of democracy, which points to the fifth and final item in my list of essential characteristics by which to recognize a sound civic education about human rights and democracy.

The *fifth essential characteristic* of a good civic education about human rights and democracy is emphatic treatment of civic dispositions and virtues of the people in a constitutional democracy. Examples of these dispositions and virtues are presented in the fourth component of the model of civic education in Table 1. Perhaps the most important civic disposition listed in Table 1 is promotion of the common good, conceived primarily as equal protection for the human rights of each member of the community.

Since ancient times, political philosophers and politicians have stressed the relationship between good government and good citizens. In the era of classical antiquity, Aristotle noted that virtue among the people was a necessary ingredient of a healthy and sustainable community. And during the founding era of the United States of America, James Madison recognized the close connection of good character among the people to the vitality and viability of a constitutional republic. In a speech at the Virginia Ratifying Convention in June of 1788, Madison said, “Is there no virtue among us? If there be not, no theoretical checks, no form of government can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people is a chimerical idea.”

Later on, during the 1830s, Alexis de Tocqueville observed during his famous visit to the United States how the strong and noble character of American citizens buttressed the institutions of constitutional government, which enabled democracy in America to succeed. He recognized that if most citizens of the community have developed certain traits of good character or “habits of the heart”, then there would be good constitutional government that secured the rights of the people. If civic virtue was

absent or weak, however, not even the best constitution or institutions would yield a good government, which could secure the rights of the people.

The observations of Aristotle, Madison, and Tocqueville suggest strongly the importance of lessons about civic morality in the education of citizens about human rights and democracy.

In conclusion, I recall and review my list of five essential characteristics of a sound civic education for and about democracy and human rights. These five essential characteristics are certainly not a complete list of recommendations for the teaching and learning of human rights within the curriculum of civic education. However, I strongly claim that they are among the qualities needed to teach well about human rights in civic education.

First, teach the idea of human rights within a framework of core concepts by which representative democracy is defined and understood internationally.

Second, confront the complexity and controversy associated with defining, using, and justifying the idea of human rights in a constitutional and representative democracy.

Third, examine the inevitable and ongoing conflict in every genuine constitutional and representative democracy between majority rule and minority rights.

Fourth, teach comparatively and internationally about human rights in a constitutional and representative democracy.

Fifth, teach the civic dispositions and virtues that enable citizens to secure equal protection for the human rights of everyone in their community through the institutions of constitutional and representative democracy.

APPENDIX

Table 1

A FOUR-COMPONENT MODEL OF CIVIC EDUCATION

1. KNOWLEDGE OF DEMOCRACY AND HUMAN RIGHTS

- *core concepts about representative democracy and human rights*
- consensus and controversy (issues) on the meaning and uses of core concepts
- landmark decisions in response to human rights issues
- constitution and institutions of government in a representative democracy
- practices of democratic citizenship
- *history of democracy and human rights in particular countries and internationally*

2. INTELLECTUAL SKILLS OF CITIZENSHIP IN A DEMOCRACY

- identifying and describing information about political and civic life
- analyzing and explaining information about political and civic life
- synthesizing and explaining information about political and civic life
- taking, defending, and evaluating positions on public policies and events
- thinking critically about political and civic life

3. PARTICIPATORY SKILLS OF CITIZENSHIP IN A DEMOCRACY

- interacting with individuals and groups to promote common interests
- monitoring public events and issues
- deliberating and deciding about public policy issues
- influencing public policy decisions
- implementing public policy decisions
- *acting to improve political and civic life, including protection of human rights*

4. DISPOSITIONS OF CITIZENSHIP IN A DEMOCRACY

- *affirming the common dignity and worth of every human being*
 - respecting, protecting, exercising rights possessed equally by all human beings
 - participating responsibly in the political and civic life of the community
 - practicing such virtues as self-restraint, fortitude, prudence, justice, and charity
 - *promoting the common good of the community, including equal protection for the human rights of all members of the community*
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Table 2: CORE CONCEPTS ON DEMOCRACY AND HUMAN RIGHTS

1. CONSTITUTIONALISM

- rule of law (due process, equal protection, equal justice)
- limited government (enumeration and distribution of powers)
- supreme law embodied in a constitution (framework for government, usually a written document)

2. REPRESENTATIVE GOVERNMENT

- popular sovereignty (the people as source of authority for government)
- electoral democracy (free, fair, contested, and regular election of representatives)
- inclusive rights to vote and otherwise participate in civic and political life
- accountability of government to the people
- constitutional government (limited government and the rule of law)

3. CITIZENSHIP

- citizens constitute the people of the democracy
- status of the citizen (rules for natural and naturalized citizenship)
- civic identity (common identity of the people, the citizens)
- civic dispositions (character traits of the good citizen)
- civic duties and responsibilities
- rights exclusive to the status of citizen, such as voting
- citizenship anchored in constitutionalism

4. HUMAN RIGHTS

- political and public rights
- personal and private rights
- economic and social rights
- cultural or ethnic group rights
- environmental rights
- rights guaranteed within constitutionalism (ordered liberty, rule of law)

5. CIVIL SOCIETY

- pluralism and diversity in society (voluntary civil association)
- multiple and overlapping social/cultural identities
- private social resources and power for private and public uses
- countervailing power against government (non-governmental organizations)
- freedom to acquire, cultivate, and use social capital
- social freedom within a context of governmental regulation (rule of law)

6. MARKET ECONOMY

- freedom of exchange and enterprise (regulated through the democratic political process)
 - private economic resources and power for private and public uses
 - countervailing power against government (non-governmental enterprises)
 - freedom to acquire, cultivate, and use economic capital
 - economic freedom within a context of governmental regulation (rule of law)
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