



Human  
Rights  
Educators  
USA

*A national network dedicated to building a culture of human rights.*

April 20, 2016

TO: U.S. UPR Working Group 6, State Department US UPR Team

FROM: Rosemary Ann Blanchard, Co-Vice-Chair, Human Rights Educators USA

RE: Pre-Consultation Statement on Recommendations Related to Working Group 6

***Requesting a Stronger and more Clearly Identified Role for the U.S. Department of Education in Implementation of Existing US Human Rights Treaty Obligations for Human Rights Related Education of the Civil Population***

**Introduction and Statement of the Problem**

This analysis is made on behalf of Human Rights Educators USA, a civil society organization which “exists to promote justice, tolerance, and respect by cultivating an extensive, vibrant base of support for human rights education within the United States.”<sup>1</sup> HRE USA advocates for the full integration of human rights education (HRE) into the school-based education experience of every child attending public school in the United States. As described in this statement, a foundational introduction to HRE and International Humanitarian Law (IHL) within the K-12 educational experience is a necessary step in achieving the goals which the United States has undertaken in its response to the UPR in regard to such disparate compliance activities as:

- ‘conduct[ing] human rights awareness-raising activities for law enforcement officers’,
- ‘support[ing] human rights training for civil servants who need it’,
- ‘protect[ing] the human rights of migrant persons ... insofar as {the proposal} recommends compliance with our international human rights obligations’,
- ‘guarantee[ing] the enjoyment of human rights of the minorities and vulnerable groups in the country’,
- ‘ensuring equal access to education for vulnerable groups’,
- ‘implement[ing] the Declaration on Indigenous Peoples.... consistent with our 2010 Announcement of Support for the UNDRIP’,
- ‘tak[ing] measures and comprehensive programs aimed at developing sensitivities among cultures, creating the climate of mutual respect and expanding protection against all forms of discrimination’, and
- ‘tak[ing] effective measures to counter intolerance, violence, and discrimination against members of all minority groups’,<sup>2</sup>

In regard to Domestic Implementation of human rights treaty obligations generally, the field addressed by Working Group 6, the United States has stated its commitment to “combating discrimination and hate crimes

<sup>1</sup> From the HRE USA webpage, statement of history and mission ([http://www.hreusa.net/about\\_hre.php](http://www.hreusa.net/about_hre.php)).

<sup>2</sup> These statements are taken from the United States final responses to the UPR report and recommendations, as contained in the *Addendum of the United States of America to the Report of the Working Group on its Universal Periodic Review* submitted August 31, 2015 (<https://geneva.usmission.gov/2015/09/01/addendum-of-the-united-states-of-america-to-the-report-of-the-working-group-on-its-universal-periodic-review/>).

and promoting tolerance,” in ways and through existing laws which, the US statement assures are “consistent with our CERD obligations.”

In responding to recommendation 108 regarding domestic implementation, “that a mechanism be established at the federal level to ensure comprehensive and coordinated compliance with international human rights instruments at federal, local and state level,” the United States supported “in part,” noting that “international human rights obligations are implemented through a comprehensive system of laws and policies at all levels of government. We are taking steps to strengthen federal-level coordination, and are considering ways to improve implementation.”<sup>3</sup>

### **U.S. Department of Education – A Necessary Partner for Domestic Implementation**

These commitments all envision making various categories of adults in the United States more aware of, sensitive to and supportive of the human rights of various groups of targeted individuals. These are certainly necessary and important objectives. However, if the United States is serious about its commitment to “create the climate of mutual respect and expand[] protection against all forms of discrimination” and about “taking effective measures to counter intolerance, violence and discrimination,” then the U.S. government needs to include in its plan effective support and guidance for efforts at state and local levels to integrate human rights education into the public education system at every grade level.

The promised “steps to strengthen federal-level coordination” in ways that “improve implementation” at “all levels of government,” must fully involve the U.S. Department of Education and leverage its unique mechanisms for coordination with state and local educational agencies and with the public and private college and university systems. Otherwise, these interventions will fail to make use of efficient and effective mechanisms that are already in place. Further, without public education involvement, any comprehensive plan to “improve implementation” of “compliance with human rights instruments” lacks the foundational educational work which must be done to build an awareness and understanding of the fundamental principles of human rights, upon which various local, state and federal interventions can build.

### **US Treaty Commitments to Teach the Civil Population About Human Rights and Humanitarian Law**

In several of the HR and IHL related treaties which the United States has ratified and in various declarations which it has accepted, the state parties make a specific commitment to educate the civil population about the requirements of the treaty.

For example, the Convention on the Elimination of All Forms of Racial Discrimination, which the United States UPR addendum indicates is honored through existing laws, programs and practices, provides:

#### ***Article 7***

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

This treaty language, thus, incorporates the provisions of the Universal Declaration of Human Rights (UDHR) regarding educating the population about human rights:

#### **Article 26.**

---

<sup>3</sup> Ibid.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

**Article 50**

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides:

**Article 10**

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

Given the broad range of occupations, both professional and paraprofessional which fall within the educational expectations of Article 10, it is difficult to imagine an effective program of compliance that does not involve educating the general population about the essential expectations involved

Each of the four Geneva Conventions includes specific language committing the signatory to educating its civilian population on the terms of the Convention. For example, Article 144 of the 4<sup>th</sup> Geneva Convention provides:

**Article 144**

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population.

Similar language is contained in Article 47 of the 1<sup>st</sup> Geneva Convention, Article 46 of the 2<sup>nd</sup> Geneva Convention and Article 127 of the 3<sup>rd</sup> Geneva Convention. While the Geneva Conventions are not specific subjects of the UPR process, their human rights related provisions parallel comparable guarantees in a broad range of human rights treaties. It should be noted that both the ICRC and the American Red Cross stand ready to work with education providers in the United States to provide materials and expertise in support of these treaty responsibilities, if effective mechanisms of coordination and linkage can be facilitated.

**Civil Society Responds: National Council for the Social Studies Commitment to Human Rights and Humanitarian Law Education**

As a civil society professional organization, the National Council for the Social Studies is “the largest association in the country devoted solely to social studies education.” NCSS describes itself “as an umbrella organization for elementary, secondary, and college teachers of history, civics, geography, economics, political science, sociology, psychology, anthropology, and law-related education. “ As such, “NCSS engages and supports educators in strengthening and advocating social studies”<sup>4</sup>

Consistent with its core purpose, “To lead the community of social studies professionals in promoting a knowledgeable and engaged citizenry,”<sup>5</sup> NCSS, through its Board of Directors, periodically issues Position

---

<sup>4</sup> <http://www.socialstudies.org/about>

<sup>5</sup> <http://www.socialstudies.org/about/strategicplan>

Statements regarding key themes, processes and expectations for the social studies. In September of 2014, the NCSS Board of Directors adopted a Position Statement entitled “Human Rights Education: A Necessity for Effective Social and Civic Learning”<sup>6</sup>. In that statement, NCSS affirmed that

Human Rights Education, in both its civil and its humanitarian aspects, is a necessary element of social studies programs and should be integrated throughout the educational experience of all learners from early childhood through advanced education and lifelong learning.

The NCSS HRE statement specifically referenced the US treaty obligations to educate the civilian population about HR and IHL:

Agreements articulating universal standards for human rights and humanitarian conduct, such as the Universal Declaration of Human Rights and the Geneva Conventions, call on all nations to educate their civilian populations about their human rights and their responsibility to uphold and protect the rights of others, in all circumstances.

...Social studies educators in the United States have a special opportunity and a responsibility to contribute to this growing movement by integrating the fundamental concepts of universal human rights and international humanitarian law into a nurturing and yet rigorous education that prepares students to be compassionate, aware, and effective citizens and to work together to build a more livable world.

Consistent with this position, NCSS has included HRE in its expectations within the C3 (College, Career and Civil Life) Framework for Social Studies State Standards, in the Anthropology Supplement to the C3 Framework and in the recently developed National Standards for Preparation of Social Studies Teachers.<sup>7</sup> Yet, while NCSS is a prestigious civil society proponent of quality social studies education, it does not have either the authority or the resources to directly oversee the implementation of social studies education, including HRE, at the state, district or schoolhouse level. NCSS provides professional guidance. However, it is the governmental entities directly involved with publicly funded education that must be relied upon to bring these high standards to realization.

### **Needed: US Government Commitment to Encourage and Support HRE in Local Schools**

If the United States is serious about meeting its treaty commitments to disseminate information about its treaty-based human rights and humanitarian law obligations to the civilian population of the United States, and if it is serious about domestic implementation of its treaty-based human rights commitments, then it must undertake a program congruent with the shared responsibilities of the federal system of government for promoting universal education in human rights and humanitarian law. Since education is a primary responsibility of the states within the US federal system, and, within the states, through local school districts, it is essential that the US Government develop an effective mechanism for working with these state and local education providers. HRE USA raised this concern at the Town Hall which the U.S. State Department conducted on its UPR responses in July of 2015. We felt at the time that for our recommendations to be successfully incorporated into the United States’ UPR domestic implementation effort, the U.S. Department of Education must become directly involved and must coordinate the federal role to “ensure comprehensive and coordinated compliance with international human rights instruments at federal, local and state level” insofar as those instruments related to education and training of the civil population.

---

<sup>6</sup> [http://www.socialstudies.org/positions/human\\_rights\\_education\\_2014](http://www.socialstudies.org/positions/human_rights_education_2014)

<sup>7</sup>C3 Framework and Appendix at <http://www.socialstudies.org/system/files/c3/C3-Framework-for-Social-Studies.pdf> and site under construction for Standards for Preparation of Social Studies Teachers.

The National Council for the Social Studies has provided a valuable guideline for the K-12 and teacher education components of such a program in its Position Statement on Human Rights Education. The collaborative mechanism for such an initiative already exists in the relationship between the U.S. Department of Education and both state departments of education and local school districts. A variety of federal programs provide dollars for educational initiatives in local schools under grant and contract arrangements. The Department of Education has the authority and, we would argue, the responsibility to administer these various programs of educational funding in ways that support the treaty commitments that the United States has already undertaken to educate the civil population about HRE and IHL.

### **Meeting US Civil Instruction Obligations Through 2015 ESEA/ESSA Reauthorization**

A particular opportunity for the US government to fulfil its treaty obligations for instructing the civil population through the US Department of Education has become available through the recent reauthorization of the Elementary and Secondary Education Act, designated the Every Student Succeeds Act of 2015 (ESSA)<sup>8</sup>. Unlike the previous ESEA reauthorization, the No Child Left Behind Act, the ESSA includes specific provisions for programs supporting American History and Civic Education, both at the national level and within schools<sup>9</sup>

The U.S. Department of Education is the federal agency with the greatest authority and responsibility for framing the federal expectations for programs through which the ESSA will be implemented at the state and schoolhouse level. Therefore, the Department of Education is the federal agency through which the US government should now act to meet its longstanding treaty obligations for “combatting prejudices,” “strengthening respect for human rights and fundamental freedoms,” and assuring “civil instruction, so that the principles ..[of IHL] may become known to the entire population.” . Clearly, in any relevant rulemaking which takes place within ED, there must be attention to the treaty responsibilities for educating the civilian population, particularly in regard to those sections within ESSA that address civic and social education.

### **Needed Administrative Action by the US Department of Education – Policies, Guidance, Directives and Inclusion of HRE in Relevant Ongoing Rulemaking**

Clearly, the rulemaking process for the ESSA must address the many requirements and expectations for State Education Agencies (SEAs) and Local Education Agencies (LEAs). A thoughtful, and most likely lengthy and nuanced rulemaking process will necessarily be required. However, the US Department of Education also has available to it several other administrative tools for meeting the responsibilities of the US government in regard to the civil education requirements of the various HR and IHL treaties in the context of existing programs, structures and activities. The Secretary of Education has the authority right now to issue written policies, directives, and guidance to the program offices and the professional staff within ED advising them to exercise their current responsibilities in regard to the operation of their programs and their interactions with SEAs, LEAs and other non-Federal education entities in a way which supports the HR and IHL treaty obligations of the United States in regard to education. Such policies and directives are undoubtedly already in place in regard to assurances that programs receiving federal funds through ED do not discriminate against minorities or other protected groups. The policies, guidance and directives requested here go a further step by seeking ways within the existing statutory and regulatory structure to promote a more general education in the HR and IHL guarantees secured by treaty. They would also be a guide to ED personnel involved in the ESSA rulemaking process.

Such administrative policies, guidance and directives, while not having the force of stature or of rules which have gone through the rulemaking process, would be effective in guiding agency practice within their spheres

---

<sup>8</sup> S. 1177, 114<sup>th</sup> Congress, 2015-2016; 20 U.S.C. 6301, et. seq. as amended.

<sup>9</sup> See S 1177, ESSA, Title II, Part B, Subpart 3, American History and Civics Education, §§ 2231-2233, and other sections.

of relevance. Such policies and guidelines would also provide continuity between administrations, since they would become part of the operational protocols for the programs they address unless and until superseded.<sup>10</sup>

### **Conclusion:**

The United States has made international commitments on behalf of the nation as a whole in ratifying various human rights and humanitarian law treaties and in supporting key human rights declarations. Those commitments have included the promise to educate the people and the representatives of the different levels of government in our federal system about the fundamental principles contained in such treaties and declarations. Without such general education, actors at the various levels of government, especially local, state, and tribal and the American people themselves are denied the tools they need to play their full and appropriate roles in honoring their country's commitments and protecting its good name.

HRE USA requests the U.S. Department of State and the U.S. Department of Education to coordinate and integrate within their respective spheres the education-related responsibilities contained in human rights treaties ratified by the United States. With ED involvement, the United States can work, consistent with the federal system, to implement a framework for Federal-State-Local and Tribal<sup>11</sup> cooperation in incorporating education in human rights and international humanitarian law into school-based education at every level and into the preparation of educators at every level. Through such a coordinated effort, ED can contribute to the United States' performance of its human rights-related treaty commitments regarding education through its existing programs, granting authority and its interactions with State and Local Education Agencies. We hope that the US UPR Team will work with all parties to bring about this coordination. We further urge that the US Department of Education specifically acknowledge its role in this domestic implementation effort through appropriate written statements.

Comments, queries and responses to this statement should be directed to:

Rosemary Ann Blanchard, Co-vice-chair, HRE USA  
Associate Professor of Education Emeritus, CSUS  
1727 Los Jardines Pl., NW  
Albuquerque, NM 87104  
[rblnchrd@emeritus.csus.edu](mailto:rblnchrd@emeritus.csus.edu)  
(505) 280-1345

---

<sup>10</sup> Breer, C. A. and Anderson, S. W. (2001) Regulation Without Rulemaking: The Force And Authority Of Informal Agency Action. Rocky Mountain Mineral Law Foundation, Annual Institute Proceedings, Vol. 47, p.5-1 (2001), available from <http://www.dgslaw.com/articles/379427.pdf>

<sup>11</sup>Please note that in many programs administered by ED, the Bureau of Indian Education (BIE) is considered equivalent to a State Education Agency (SEA) for funding and oversight purposes.