

Human Rights Law in a Multicultural Regional University: A reflective experience in pedagogy

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This paper is based upon the author's experiences as a teacher of human rights law at the University of the South Pacific. He emphasises the need to design a learning environment that allows students to share experiences, and thereby realise that they personally have a potential role in transforming or maintaining the human rights environment in their countries. The need to reduce compartmentalisation in curricula, and to include human rights throughout a variety of courses is also discussed.

Introduction

Since the adoption of the Universal Declaration of Human Rights in 1948, the global community has sought to make the dissemination of human rights a core policy agenda through diverse initiatives and instruments. Prominent among these were: the Principles of the International Congress on the Teaching of Human Rights, 1978; the Malta Recommendations on Human Rights Teaching, Information and Documentation, 1987; the World Plan of Action on Education for Human Rights and Democracy, 1993; the Vienna Declaration and Programme of Action, 1993; the United Nations Decade for Human Rights Education, 1995-2004; and the Guidelines for National Plans of Action for Human Rights Education, 1997. These initiatives have been complemented by similar programmes across regional and national frontiers.

Despite all these initiatives aimed at establishing a culture of respect for human rights through education, there remains the challenge of identifying viable pedagogical approaches towards the realisation of this goal. While the teaching of human rights encompasses the broader contexts of formal and informal education, the focus of this article is the challenge encountered in teaching human rights as a distinct or integral part of substantive subjects within a legal education curriculum. Interestingly, the challenge of appropriate human rights pedagogy confronts educators in institutions of legal education across diverse geo-political regions of the world.

This article argues that, in this age of globalisation, purposeful human rights education must emphasise the need for students to be conscious of the nearness of and, sometimes, the inevitable link between general human rights issues and local/personal concerns. While mindful of other approaches canvassed by human rights educators in different socio-cultural settings, this article reflects my personal experiences in the teaching of human rights to South Pacific students. In view of the diverse backgrounds from which these students are drawn, the article examines why my approach to teaching the human rights curriculum at the University of the South Pacific (USP) holds the promise of yielding positive learned responses for achieving the goals of human rights education as envisaged by those strategic initiatives earlier mentioned. While not disparaging conventional classroom approaches to education, this article emphasises the significance of shared experiences among students as an approach that raises the consciousness in each student to become a potential role actor in human rights protection and promotion at interpersonal and larger societal levels.

Human rights education: the theoretical context

In today's world, the human rights challenge across cross-cultural settings would appear to be more about mass dissemination by every means that would communicate these rights as moral and legal norms capable of enhancing the dignity of human beings (Frost 1995; Åkermark 1998; Concepcion 1999:30).

While human rights education entails the mobilisation of every stratum of humanity for the accomplishment of its goals, the approaches for respective sectors of human endeavour demand the development of contextually suitable approaches. In many respects, the university institution lends itself as a fundamental forum for the intellectual training of men and women who will advance the cause of developing further cutting-edge approaches towards enlightening other segments of human society. The characteristics of independence and a liberal atmosphere for critical enquiry make the university a viable platform for mobilising high quality intellectual resources for the development of human rights education strategies for those who will equip others.

Backer (2002: 131-132) rightly defines the role of a university in the global human rights education agenda when he posited that universities:

... must consciously engage in a sort of missionary activity... This missionary activity must cultivate fundamental changes in communities... and among all religious, ethnic, and indigenous communities... This is difficult work for academics; as the tools of a universalising creed, academics will have to overcome the tension between one of the core norms of universal individual human rights—respect for cultural differences—and the purpose of the universal individual human rights project itself... Academics, in their role as teachers, must be prepared to further a set of meta-norms which cannot be disputed, and which must be protected against incursion in the name of national tradition or culture or religion or ethnicity or indigenous status.

This challenge is pertinent in universities providing professional training for practitioners of the law. In diverse legal traditions, the educational training of this class of professionals still runs in incredibly outmoded ways. Many law curricula strictly compartmentalise subjects under conventional names—Law of Torts, Law of Contract, Constitutional Law, Jurisprudence and so on—thereby sustaining the unproductive conceptual gap among legal fields and blurring the integrative idea of law (Åkermark 1998: 8; Steiner 2002: 319-320). What is fundamentally wrong with this old-fashioned approach to legal education is that it distorts the perceptions of prospective legal minds about social challenges and policy dilemmas within narrow stereotypes, and blunts the critical enquiry necessary to inspire solutions to manifold social and interpersonal challenges through ample legal norms.

Numerous experienced human rights educators have argued that legal education must become an opportunity for the interdisciplinary understanding of complex personal and collective, social and cultural conflicts and problems that are common challenges in the societies within which the legal mind would operate (Frost 1995: 701; Steiner 2002: 324; Rembe 2002: 304-305; Minow 2002: 2-6; Backer 2002: 133-136). However, no matter what superlative characteristics an educational curriculum exhibits, the ultimate test of its usefulness must lie in the outcome of its pedagogy.

This article flows from the premise that appropriate human rights education within a law programme leading to vocational careers must be suitable for the analysis and understanding of global, regional and national problems by local legal actors. It contends that purposeful human rights education must respond to the demands of critical reasoning and the evolution of pragmatic responses to local and global challenges and conflicts. In the South Pacific context, my first-hand experience evokes an appeal for an innovative pedagogical approach that not only designs globalised curriculum but one which also facilitates qualitative teaching methods. Such an approach should be one that guarantees the transfer of helpful interdisciplinary skills, as well as assessment methods that boost the confidence of every student in visualising active future roles in human rights work. While an appropriate nomenclature for this approach might be elusive at this point, its characteristics commend it as a significant human rights model suitable for such a culturally diverse university as the USP—a student-centred, practice-oriented curriculum and a pedagogy that places role-plays and students' critical reflections above the conventional teacher-knows-it-all model.

My approach brings the law student closer to the real-life experience of a conscientious human rights advocate. In this context, the student does not merely view human rights as a one-way platform for solving every personal and societal problem, but rather appreciates them as tools for emancipating the self, for influencing policy, and for advocating reform while recognising the limitations to their validity as legitimate norms.

Human rights in the South Pacific: The role of USP

The University of the South Pacific, which forms the nucleus of this article, is one of the only two visible regional universities in the world (the other is the University of the West Indies). The University was established in 1968 to provide for the higher educational needs of its twelve member countries (Cook Islands, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu). With some 21,000 students from all these countries and beyond on its enrolment, USP operates as a multi-modal university from three major campuses in Fiji, Samoa and Vanuatu and twelve smaller ones spread across 33 million

square kilometres of ocean surface, and across five different time zones (USP 2006). These statistics point to the enormous diversity of culture, history, politics and society in the South Pacific region.

Broadly speaking, all the member countries of the USP region are either independent, self-governing, or in associated arrangements with other countries. This fact on its own introduces a significant slant to the human rights profile of each of the countries in this region.

In the context of international human rights, USP member countries have persistently demonstrated marked reluctance towards the ratification of or accession to the United Nations' human rights treaties. At the regional level, there is no supranational human rights system for either the South Pacific region or the broader Pacific/Oceania or Asia-Pacific regions. Apart from the initiatives spearheaded by the Law Association of Asia and the Pacific (LAWASIA) in the mid-1980s, further developments towards the goal of a regional human rights system for the South Pacific have practically stalled. Diverse explanations and justifications have been proffered for this trend but the details of such need not becloud the thrust of this article.

At the national level, within the respective jurisdiction of each USP member country, apart from Niue and Tokelau, there is a written constitution that contains a Bill of Rights setting out fundamental rights and freedoms. Expectedly, the effective interpretation and application of these Bills of Rights primarily depends on the quality of the judges, magistrates, lawyers and other persons involved in the administration of justice in these respective jurisdictions. This setting has led to the common realisation of the need for high-quality human rights education in the South Pacific region. In terms of promotional agenda for human rights, USP member countries record a low profile on the establishment of national human rights institutions. In the entire region, only Fiji has a national human rights commission.

As the addition of a legal education programme to the curricula of the USP was a later development in the university's experience, it meant that all those who sought a career in law had to look elsewhere—to Australia, New Zealand or, later, Papua New Guinea, among other jurisdictions (Northey 1979: 60). The consequences of this type of scenario were predictable.

Due to the disparities in the practical remoteness of those jurisdictions, notwithstanding the fact that they were common law jurisdictions, it meant that South Pacific Island lawyers who trained abroad still needed proper training to acquire the understanding necessary for integrating their foreign-based legal education into the indigenous peculiarities of South Pacific societies. This is a dilemma that remains as potent today as it was more than three decades ago, whether the practitioners or officials involved are indigenous or foreign (Northey 1979; Farran 1997: 104). The role of customary law in the legal system, constitutionalism, and the administration of justice in USP member countries is so pronounced that a quick fix of local human rights challenges through foreign methods is impracticable if not impossible. After all, human rights must realistically fit into local situations.

The foregoing overview of the human rights profile of USP member countries thus presents the context in which USP makes its entry point in this discourse.

In general, the responsibility for teaching at USP lies with its four composite Faculties (Arts & Law, Business & Economic, Islands & Oceans, and Science & Technology), a College of Foundation Studies as well as an array of other independent research institutes. Teaching is delivered in face-to-face and distant learning modes in an overwhelming number of courses. The School of Law, a semi-autonomous unit within the Faculty of Arts & Law, has the direct and primary responsibility for the teaching of human rights within the law degree programmes. Although an optional human rights module (erroneously tagged 'Personal Rights' in the earlier years) featured in the LL.B curriculum of USP since its School of Law was established in 1995, the teaching of human rights at the postgraduate level has become a regular feature of the optional courses available in the School's LL.M programme only recently. I coordinate the teaching of the subject at the LL.B and LL.M levels in face-to-face and online modes. Outside the School of Law, there are human rights components in some other subjects taught within the Departments of Education, History & Politics, Sociology and Geography (USP, 2006). For law graduates who choose to pursue professional legal training, the School of Law offers such training through its branch in Suva, Fiji (formerly known as the Institute of

Justice and Applied Legal Studies, IJALS). Here, human rights are taught as a component of one of the core subjects—Human Rights and Family Law (IJALS 2005; USP 2006).

By its stated vision, the USP is committed to enhancing the potential for Pacific peoples to lead free and worthwhile lives, and to being an active stakeholder in the overall development of USP member countries (USP 2006). Apart from providing the atmosphere for its teaching staff to adopt practical pedagogical approaches to the delivery of intellectual skills, the University also facilitates tremendous opportunities for research in developing further innovative approaches.

Just as every member of the USP academic staff recognises the cultural peculiarities which inform the learning proficiency and attitudes of the University's vast multi-cultural pool of students, so has my teaching of human rights at the University's School of Law taken into perspective these peculiarities in formulating appropriate pedagogy. My approach to human rights teaching helps each student to *personally* view human rights as tools that empower human beings to fully develop and exercise their potential and to satisfy their spiritual and other needs, and as culture-neutral values through which every human being receives reciprocal respect and protection of dignity. The result has been encouraging as each student seeks deeper insight into critical issues of personal dignity and society life. The increasing number of students writing their LL.B and LL.M research essays in the human rights field reinforces this assertion.

Teaching human rights law: personal pedagogical reflections

My approach to the teaching of human rights law at USP is the result of my experience among USP students in other law courses with which I have been involved: Administrative Law and Public International Law. The assumptions upon which this approach runs are given below.

1. Even when USP law students are interested in an elective/optional law subject, they are likely to avoid taking it if they perceive that the reading load will be heavy.
2. When it comes to elective law courses, USP students are prone to

follow the persuasion of their course mates (particularly those of their respective nationalities) – flowing from the description and outline of courses during the pre-enrolment period.

3. Because of the peculiar trappings of *kastom* as well as cultural norms and practices in the USP region, virtually every student that elects the Human Rights module in the law programme comes into the classroom with a barrage of personal sentiments, misconceptions and prejudices about human rights.
4. Because USP countries have been reluctant in acceding to the seven principal United Nations (UN) human rights treaties, even postgraduate students in human rights are generally oblivious of the operations of the international human rights regime. In the absence of a regional human rights system, their level of professional practice does not extend beyond their municipal courts and institutions.¹

Since I coordinate the face-to-face and online modes of the Human Rights course at the LL.B and LL.M levels, it has been possible to mainstream my teaching approach into all the component aspects of the course. Learning from previous experience in other law subjects taught at USP, I have streamlined the outlook of the curriculum in a way that destroys the popular notion among USP law students that the syllabi of law courses are overwhelming. The principal advantage here is that the course is able to attract students who, notwithstanding their interest, ordinarily would have avoided taking the course on the ground of its volume.

At the introductory stage, which usually covers the first week of teaching, the first poser is: “What are human rights?” The question has always generated diverse responses as the students are drawn into the ‘battle of definitions’, each describing the concept according to his/her background experience, stereotypes, prejudices and misconceptions. That stage sets the ball rolling for further definitional engagements.

In terms of the curriculum, the course synopsis proceeds from abstract philosophical terminologies that have become routine absolutes in numerous human rights textbooks and whose meanings are more often assumed than

¹ I wish to enter a *caveat* here: these hypotheses may not reflect in other contexts at the USP. The indices here are from my personal observations only.

assured, such as *universalism, cultural relativism, individualism, collective/group rights, generations of rights, feminism, democratisation, genocide, xenophobia* and so on. One fascinating outcome of this preliminary brainstorming is that students continue classroom debates via the online discussion forum in rigorous fashion. Every aspect of the course adopts the same approach, facilitating free, open, interpersonal and interactive participation. Because each student is thus an 'owner' of the debates/discussions, they readily come to understand how volatile some human rights issues can be at supranational levels as well as within local political settings. As proof of this awakening, there is a chain of discussions on questions such as whether animals are or should be covered by human rights; abortion and the right to life; homosexuality and the right to equality and freedom from discrimination; universal women's rights and customary law; the death penalty issue and euthanasia; and the responsibility of governments *vis-à-vis* the homeless, HIV/AIDS victims, the disabled and the elderly.

The presentation of the topics proceeds from the universal to the regional, the regional to the national, and the national to the local and personal. In discussing genocide, for example, while the minds of the students focussed almost exclusively on the Rwandan experience, they responded with marked astonishment when this author informed them that the UN was already investigating the occurrence of the phenomenon in West Papua from 1969, a location much closer to home.

Similarly, in discussing the right to health and freedom from discrimination in respect of people suffering from HIV/AIDS, which the students had considered an exclusive African tragedy, they were shocked to discover statistics showing the ravaging spread of HIV/AIDS in their South Pacific territories and the official denial of its existence in some states. Furthermore, after the interactive presentation of the promise of the UN human rights treaties and mechanisms as well as the strengths of the three existing regional human rights systems (African, European and the Inter-American), there was an air of astonishment when the face-to-face students reflected on the impossibility of enforcing many human rights norms within their national jurisdictions. This practical impossibility was either because their countries are not state parties to the relevant UN human rights treaties,

or there is no similar regional apparatus that supranationally monitors their countries' human rights conduct, or their countries' constitutions do not recognise certain human rights, socio-economic rights in particular, such as the right to health, the right to education, the right to housing and the right to social security.

In my LL.B Human Rights class for 2006, there were 44 face-to-face students and about ten DFL students drawn predominantly from nine USP member countries (including two from the USA and one from New Zealand), with a gender composition that heavily weighed on the female side. The multicultural composition of the class provoked me to evolve methods that relate to the sensitivities of these students as individuals and as collectives. The psychological component reflects in the personal connection brought into each topic of the course. This involves:

- the level to which even the conduct of lectures, tutorials and online discussions demonstrate human rights norms in practice;
- the level to which equality (particularly gender) is protected in the course;
- the emphasis on the immediate relevance of each topic to the student;
- the extent to which questions posed by students connect with human rights realities and the responses that seemingly disconnected questions generate from other students.

For assessment purposes, there is a compulsory semester essay of 3000 words maximum on a practical human rights issue. This represents 20% of the total mark. Each student also writes a three-hour examination at the end of the semester, representing 60% of the total mark. The examination covers key areas for philosophical and practical application, and no question is compulsory. The remaining 20% of the mark is assigned from the participatory role of each student. Participation in this sense is student-centred. Through classroom and online discussions, students are helped to develop critical thought processes about what has been taught and learnt. Methodologically, students can bring newspaper articles or other information that might have eluded the class. This might be information garnered from a student's personal experience or communitarian tradition, or even folklore or local culture. Whatever a student contributes to topical

discussion earns him/her a commensurate mark per week. Further, since I discovered that there are face-to-face students who are more comfortable with online discussions, I have adapted the requirement of mandatory tutorial class participation to accommodate this. Psychologically, these students are more stable with the arrangement as it allows them to preserve their cultural preference for 'physical' silence while they make incisive written submissions on topical human rights issues.

This array of assessment methods allows students to select the one they are more comfortable with, since they realise that they own the process and these methods are transparent and objective. The benefit here is the sense of belonging and active participation that it stirs in each student. It must also be mentioned that, beyond the mere fulfilment of academic requirements, it is obvious that the students daily demonstrate the impact of the subject in their day-to-day life.

One overarching element of my approach to teaching human rights in the face-to-face mode is the sensitising effect of every topic, classroom discussion, textual reference and illustration. The situation is not particularly different with the DFL students, as students in this category are able to 'feel' the pace of our vibrant classroom discussions through the critical but forward-looking contributions by on-campus students to our online Discussion Forum.

In all, without compromising professionalism, the basic advantage of this pedagogical approach is that it provides a linkage between the learnt realities and challenges of human rights and the reflective responses of the students. From the totality of my first-hand experience of teaching human rights at a culturally complex university like the USP, time is turning my hypothetical assumptions into verifiable realities.

Human rights education in the South Pacific: pointing to the future

All the foregoing reflects the overall pragmatic outlook of the USP School of Law in the qualitative delivery of legal education. However, the approach that I have adopted within the context of the university's broader outlook encounters an inherent challenge in its ultimate effect in that it is limited

to the delivery of human rights education in the USP law programme. This shortfall points to a larger future responsibility for law graduates produced under the present scheme.

As an immediate starting point, human rights should not only be carved out as a distinct module in the professional legal training programmes offered by the USP School of Law; the School should also revise its curriculum and pedagogy to meet the topical demands of a globalised age without excluding positive communitarian values.

In strengthening human rights culture in the South Pacific, there remains the challenge of training other actors in the field across the region. I contend that an urgent need arises for the training and/or re-training of all stakeholders and every segment of Pacific Island societies in general towards a culture of respect for human rights norms, and instilling the consciousness in them that every human rights violation engenders another. For now, there is rather too much rhetoric than action in this regard.

While governments and traditional institutions may naturally not be inclined to promote human rights education in the South Pacific, the responsibility devolves on civil society groups, particularly law societies, to lead the way for mass mobilisation for human rights. Litanies of human rights provisions in national constitutions and treaties serve little or no purpose if their contents are not made known to human beings who are their ultimate beneficiaries. The assimilation of human rights by individuals is capable of strengthening genuine democratisation, conflict resolution and good governance. Such personalisation of human rights by every human being in the South Pacific is the central objective of this article.

Conclusion

The reasoning here is that the dominator 'teacher-knows-it-all' model cannot fit into the ideal and demand of human rights promotion. My approach to the teaching of human rights, therefore, canvasses a considerable role for the student in the process of imparting reflective understanding of human rights norms. Bearing in mind the cultural challenges at USP, this approach works together with methods that help students to perceive themselves

as inevitable actors in the promotion of human rights, at personal and collective levels. Beyond the scope of classroom indoctrination, therefore, I canvass an approach that would transmit human rights to the larger society for activism, administration and other application as each student might find most appropriate.

Far from being an *ex cathedra* pronouncement on what approach is best for the teaching of human rights in every context, however, this article represents a rendition of my personal experiential reflections on the teaching of the subject to potential practitioners, interpreters, teachers and administrators of law in a multicultural university. This article would therefore have achieved its purpose if it stimulates further intellectual discourse in addressing the broader challenge of human rights promotion and protection in the South Pacific.

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