# Religion, Human Rights and Education in Pluralistic Societies

***Re-visiting John Rawls and Jürgen Habermas***

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## 1 Introduction

In present pluralistic societies John Rawls' major question of "how citizens who remain deeply divided on religious, philosophical, and moral doctrines, can still maintain a just and stable democratic society"[1] seems to be more pressing than ever. One piece of evidence of this urgency can be seen in the fact that the German Bundestag initiated a nation-wide *Research Institute for Social Cohesion*, endowed with a budget of 40 million euros that started its work in June 2020.[2] Of course, the reasons for social disintegration, polarization and divide are manifold, but growing cultural as well as value-, worldview- and religious diversity certainly describes one important factor.

Public schools, on the one hand, mirror society with its problems and challenges, but, on the other hand, they hold the potential of laying the basis for a peaceful and beneficial coexistence. It will be argued in this chapter that for both society in general and for public education in particular, human rights recommend themselves as extremely helpful points of reference and orientation that can promote social coherence and a humane way of living together. Based on the political philosophies of John Rawls and Jürgen Habermas, it will be advocated that human rights in their three dimensions as codified international conventions, as the representation of a consensus in fundamental values, and as a framework for public discourses can serve as a foundation for and catalyst of fruitful communication and collaboration across cultural and worldview differences. Therefore, it will be concluded, human rights education should receive more attention in public education contexts in general, and in public religious education in particular.

Accordingly, the first two sections of the following text will be occupied with outlining the major aspects of the concepts of Rawls and Habermas. In the third section, within the Rawls-Habermas framework and with reference to the concept of "public theology", the relationship between human rights and religion will be discussed, which in the fourth section is concretized with regard to public education. The fifth section then focuses on Religious Education as a subject at public schools, followed by a conclusion.[3]

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[1] J. Rawls, *Political Liberalism. Expanded Edition* (New York: Columbia University Press, 2005), 10.
[2] See https://www.fgz-risc.de/ (accessed 29 November 2021).
[3] In the following I draw from and partly adopt text passages from M. L. Pirner, "Public Religious Pedagogy: Linking Public Theology, Social Theory and Educational Theory", *International Journal of Public Theology (IJPT)*, 11/3 (2017) 328-350. I

## 2 John Rawls: "Public Reason" and "Overlapping Consensus"

In a first answer to his above-quoted question of how social cohesion can be attained in pluralistic societies, Rawls makes clear that this cannot happen by aiming at a common comprehensive doctrine of the good life, because the very characteristic of such societies is that they embrace citizens with different and sometimes conflicting comprehensive doctrines.[4] Rather it suffices to find a consensus on basic "political conceptions" or "political values", such as, we might say, the values of the Universal Declaration of Human Rights. Asking how such a consensus can be reached, Rawls basically offers two answers. The first is based on the supposition that almost all citizens are capable of reason and therefore of "reasoning in the public forum about constitutional essentials and basic questions of justice" in terms of what Rawls calls "public reason". Consequently, in this first mode of justification, the political conception "is worked out first as a freestanding view that can be justified *pro tanto* without looking to, or trying to fit, or even knowing what are, the existing comprehensive doctrines".[5] To illustrate this point, Rawls refers to the fact that many citizens come to affirm the principles of justice incorporated into their respective national constitutions without seeing any particular connection between those principles and their comprehensive worldviews.[6]

In view of the critical discussion that Rawls' concept of public reason has triggered especially among his communitarian and religious readers, it is important to note that his idea is not one of a "secular" reason in an ideological sense. In his essay "The Idea of Public Reason Revisited" (1999) he explicates how he imagines "public reason" to come about:

> Citizens realize that they cannot reach agreement or even approach mutual understanding on the basis of their irreconcilable comprehensive doctrines. In view of this, they need to consider what kinds of reason they may reasonably give one another when fundamental political questions are at stake. I propose that in public reason comprehensive doctrines of truth or right be replaced by an idea of the politically reasonable addressed to citizens as citizens. Central to the idea of public reason is that it neither criticizes nor attacks any comprehensive doctrine, religious or nonreligious, except insofar as that doctrine is incompatible with the essentials of public reason and a democratic polity.[7]

Rawls also emphasizes that political liberalism "does not try to fix public reason once and for all in the

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also draw from M. L. Pirner, "Human Rights, Religion, and Education. A Theoretical Framework", in M. L. Pirner *et al.* (eds.), *Human Rights and Religion in Educational Contexts* (Cham: Springer International Publishing, 2016) 11-27.

[4] J. Rawls, *Political Liberalism*, 10.

[5] *Ibid*. at 389.

[6] *Ibid*. at 160.

[7] J. Rawls, "The Idea of Public Reason Revisited", in J. Rawls, *Collected Papers* (Cambridge, Mass.: Harvard University Press, 1999) 573-615, at 547.

form of one favored political conception of justice".[8] Rather, public reason is understood to be dynamic and open to development. And, as Rawls explicitly points out, it must be distinguished "from what is sometimes referred to as secular reason or secular values". He defines secular reason as "reasoning in terms of comprehensive nonreligious doctrines" whereas public reason confines itself to the realm of political values and is in itself neither religious nor nonreligious.[9] This is why, among others, concepts derived from religious traditions such as "Catholic views of the common good and solidarity" are also admitted to contribute ideas of public reason, as long as "they are expressed in terms of political values".[10]

To sum up, Rawls' first answer to the question of how a consensus on political values can be reached in a society of ideological differences is that it can be developed as a "freestanding concept" on the basis of public reason. Rawls argues that this is principally sufficient to provide common ground in a pluralist society.

However, Rawls' second answer is that the societal consensus significantly gains breadth, depth and stability, if, in addition to the freestanding justification – and challenged by it –, the political conceptions can be linked to different comprehensive doctrines and shown to be compatible with them: "[…] [E]ven though a political conception of justice is freestanding, that does not mean that it cannot be embedded in various ways – or mapped, or inserted as a module – into the different doctrines citizens affirm."[11] In this mode of an "overlapping consensus" that allows for an integration of the internal perspectives of comprehensive doctrines into public discourse Rawls sees the most reasonable, deepest and most sustainable basis for social cohesion.

It should be noted here that the overlapping consensus in Rawls' terms is not just the result of an empirical stocktaking of different religions and worldviews in order to find commonalities. As Heiner Bielefeldt has pointed out, it is rather a normative idea, which, it is true, "allows for a variety of religious or ideological views, but at the same time marks the boundaries of tolerance".[12] The underlying normative premise namely is that individuals – and also religions – "acknowledge each other in their difference through granting each other equal freedom and equal participation".[13] In this way, for Rawls, the "basic rights, liberties and opportunities" embedded in a freestanding political conception are assigned a normative priority over the norms of comprehensive doctrines.[14] Rawls' hope is that the political conception, which has been worked out on the basis of public reason, will be able to challenge the comprehensive doctrines

[8] *Ibid*. at 582.
[9] *Ibid*. at 583.
[10] *Ibid*. at 583.
[11] J. Rawls, *Political Liberalism*, 387.
[12] H. Bielefeldt, *Philosophie der Menschenrechte. Grundlagen eines weltweiten Freiheitsethos* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1998), 146 (my translation).
[13] *Ibid*. at 147.
[14] J. Rawls, *The Idea of Public Reason Revisited*, 581-82.

and that it "will have the capacity to shape those doctrines toward itself".[15] This, we might add, is exactly what happened with the concept of human rights in general and with certain human rights in particular: They have challenged and still are challenging diverse religions, prominently the Christian churches and Islamic communities, to affirm them and to acknowledge them as stimulations for their own internal development towards a more humane and inclusive ethos. A contemporary example of this kind of process is the challenge constituted by the "UN Convention on the Rights of Persons with Disabilities" that has not only triggered multiple state activities to improve the situation of disabled people, especially in schools, but also stimulated or supported in the churches a revised understanding of, for instance, biblical texts and theological concepts of disability.

I have tried to visualize the concept of John Rawls, as described above, in a graphic.

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## 3 Jürgen Habermas: Complementary Learning Processes of Religious and Non-Religious Citizens

Jürgen Habermas agrees with Rawls that a societal consensus merely as a *modus vivendi,* in which citizens accept political concepts or values for pragmatic reasons and irrespective of their worldviews, is not an ideal basis for a beneficial coexistence. Rather should "religious citizens have to acquire the secular legitimation of the community on the premises of their own faith".[16] In this way, in Habermas' German context, the two big churches, the Roman-Catholic and the Protestant Church, in the course of the 20th century have come to approve of and support liberalism and democracy which they formerly opposed. Such a change of mentality, Habermas argues, cannot be prescribed or legally enforced, but "is at best the consequence of a learning process".[17]

However, in Habermas' view, such a learning process is also necessary on the part of the non-religious citizens. "Do not", he asks, "the same normative expectations that we direct towards an inclusive civic society prohibit a secularist denigration of religion just as much as, for instance, the religious rejection of equal rights for men and women?"[18] Consequently, Habermas advances the concept of a *"complementary learning process"* of religious and non-religious citizens. His central idea is that both sides, secular reason and religion, should become *self-reflective* and aware of their restrictions so that they develop a willingness to listen to each other, take each other's contributions to public discourse seriously, and eventually also

[15] J. Rawls, *Political Liberalism*, 389.
[16] J. Habermas, *Nachmetaphysisches Denken II. Aufsätze und Repliken* (Berlin: Suhrkamp, 2012), 324 (my translation).
[17] *Ibid*. at 325 (my translation).
[18] *Ibid*. at 326 (my translation).

learn from one another.[19]

For his own philosophical discipline and agnostic position Habermas has repeatedly advocated openness to learning from religious traditions and positions, and he has argued that the "special articulative power" and "semantic potential" of those traditions, when it comes to vulnerable forms of humane coexistence, have not yet been exhausted.[20] Such learning processes should also be facilitated by the constitutional state because it must be in its interest "to conserve all cultural sources that nurture citizens' solidarity and their normative awareness".[21]

As to the hermeneutical question of how such learning processes can be possible, the concept of "translation" plays a crucial role for Habermas. He points to the fact that in the history of philosophy contents from the Christian tradition have repeatedly been transformed into a generally accessible language by "conserving translations". Habermas' classic example is Immanuel Kant's translation of the Christian topic of God creating humans in his image into the secular concept of human dignity.[22] For Habermas, translation is the mode of a "secularization that does not destroy", that rather preserves the semantic potential of religions instead of declaring it obsolete. However, he also emphasizes that a complete translation is not possible. "When sin turned into guilt and the trespassing against divine commandments into the violation of human laws, something got lost."[23]

## 4 Human Rights and Public Theology in the Framework of Rawls and Habermas

So far, the argument has been developed that the political philosophies of Rawls and Habermas can serve as a framework for clarifying the relationship between, on the one hand, common political values that constitute a basis for social cohesion and, on the other, particular religious values and perspectives. It has already been indicated that human rights values are widely regarded as such common political values in the Rawlsian sense. Thus, the developed framework sheds an instructive light on the discourse on human rights and human rights education. It denies a purely *secularist reading* of human rights that views religions solely as part of the problem that human rights try to solve. It rather advocates a *pluralist reading* of human rights that sees religions also as part of the solution, *i.e.* as possible contributors to strengthening and promoting a universal human rights culture. In this view, the roots of human rights "in diverse, secular as well as religious traditions point to the fact that they can and should be underpinned, interpreted, concretized and further developed today from such diverse perspectives".[24] Also, in this view, an emphasis would be laid

[19] J. Habermas, *Between Naturalism and Religion. Philosophical Essays* (Cambridge: Polity, 2008), 111-112.
[20] J. Habermas, *Glauben und Wissen. Friedenspreis des Deutschen Buchhandels* (Frankfurt am Main: Suhrkamp, 2001), 25 (my translation).
[21] J. Habermas, *Between Naturalism and Religion,* 111.
[22] *Ibid*. at 110.
[23] J. Habermas, *Glauben und Wissen*, 24 (my translation).
[24] M. L. Pirner, *Human Rights, Religion, and Education*, 12.

on the necessity to contextualize human rights into diverse cultures, religions and worldviews:

> The universality of human rights, it may be argued, does not exclusively depend on the universality of human reason but can also rely on the universal communal ethical fundamentals of diverse religious traditions, such as have, for instance, been assembled in the declaration "A Global Ethic" by the Parliament of the World's Religions in 1993[25] […] or been chosen as a basis for joint action by the NGO Religions for Peace[26] […].[27]

And examples mentioned by Rawls such as Martin Luther King or Mahatma Gandhi – and beyond, e.g. Eleanor Roosevelt or Desmond Tutu – show that important active commitment for human rights was and can be motivated as well as grounded by religious beliefs.

In a more systematic perspective, such religious engagement for promoting human rights is connected with an inclination within most major religions to care not only for fellow-believers but also for people beyond one's religious community. In the Christian context this inclination and obligation is primarily linked to the commandment to love one's neighbour as oneself and often conceptualized as "public theology". Public theology denotes and reflects the willingness and interest of churches, Christian institutions and individuals to contribute to the common good in the public space. In this connection, often Dietrich Bonhoeffer is quoted with his famous contention that "[t]he church is only church when it is there for others"[28].

However, it is not so easy to convince sceptics of the positive role of Christian actors in the promotion of human rights, as the Roman-Catholic Church and mainline Protestant churches had for a long time been hostile against the development of human rights. For the Roman Catholic Church, the Second Vatican Council (1962–1965, especially the Council document "*Dignitatis humanae"*) marked a turning point toward a human rights-friendly attitude. For the Protestant churches in Germany, the discussions about the public mission of the church gave important impulses. In the 1970s, the later President of the Council of Protestant Churches in Germany (EKD), President Wolfgang Huber, and Heinz Eduard Tödt unfolded the position "that in human rights something shines forth that is analogous to what faith is able to decipher as God's gift for all people, but which at the same time clearly reveals the difference of every historical human community – also of every legal community [...]"[29]. While there is a great deal of agreement between the basic values of human rights and Christian values, Christian ethics clearly goes beyond human rights ethics

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[25] H. Küng and K.-J. Kuschel, *A Global Ethic. The Declaration of the Parliament of the World's Religions* (New York: Continuum, 1993); see also https://www.global-ethic.org/global-ethic/ (accessed 29 November 2021).
[26] See https://www.rfp.org/ (accessed 29 November 2021).
[27] M. L. Pirner, *Human Rights, Religion, and Education*, 12.
[28] D. Bonhoeffer, *Widerstand und Ergebung* (Werke, Vol. 8, Gütersloh: Gütersloher Verlagshaus, 1998), 560.
[29] W. Huber and H. E. Tödt, *Menschenrechte. Perspektiven einer menschlichen Welt* (Stuttgart: Kreuz-Verlag, 1977), 162.

in its radicalism of loving one's neighbour to the point of loving one's enemy.

From the point of view of both denominations, the Christian faith can, above all, provide a justification for the basic human right´s value of human dignity. It is, in creation-theological terms, a dignity given by God, granted to humans – and precisely for this reason an "alien", undeserving and inalienable dignity: By creating humans in his "image" (Gen 1:27), God has assigned them a special position and responsibility in the whole of creation. In addition, in Christological terms, human dignity is also justified by the fact that God himself became human through Christ. On the basis of such a theological justification of human dignity and thus of human rights, both major churches as well as a multitude of Christian groups and initiatives actively advocate human rights at the local, regional, national and international levels; for many human rights activists today, their Christian faith represents an important motivational basis.

It should be clear that such a public theology perspective is highly compatible with the philosophical framework that has been outlined above. Together, these perspectives provide a fruitful foundation for defining the relation of human rights and religion in the context of public education. This contention will be unfolded in the following section.

## 5 Human Rights and Religion in Public Education

At present it is instructive to see that deficits in public education are widely deplored internationally and primarily attributed to the pragmatic, functional tendencies of education policy. In Germany, for instance, the Munich philosopher and former Federal Minister of Culture, Julian Nida-Rümelin, published a "Philosophy of a Humane Education" in 2013 in which he diagnosed the lack of a foundation in educational theory as a major cause of the current "educational malaise". In his view, the current reform efforts "do not reveal any idea of a humane personality development" and are instead determined by "economically motivated expectations".[30]

Three years before Nida-Rümelin's book, the well-known U.S. philosopher Martha Nussbaum diagnosed a "world crisis of education"[31] in her book, which, in her view, has arisen because for most countries national profit and the economic usefulness of education are in the foreground, while humane and democratic societies need a kind of education that is "not for profit" (the title of her book). For her, these are primarily the humanities and arts education.

Hanan Alexander, a Jewish rabbi and at the same time professor of philosophy of education at the University of Haifa, in his book "Reimagining Liberal Education" also laments that internationally the debate on educational issues has increasingly shied away from normative discourse in recent decades.

[30] J. Nida-Rümelin, *Philosophie einer humanen Bildung* (Hamburg: Edition Körber-Stiftung, 2013), 12 (my translation).
[31] M. Nussbaum, *Not for Profit. Why Democracy Needs the Humanities* (Princeton: Princeton University Press, 2016), 2.

> Witness the decline in the number of university teaching positions in the philosophy of education around the world today, the alarm aroused at any mention of a connection between religion and education, or the confusion in many multicultural societies concerning what values to transmit to children across the generations. In the effort to become more scientific […], to base findings on hard empirical data […], educational scholarship has too often become overly focused on more technical aspects of teaching and learning while losing sight of the purposes it should seek to attain.[32]

Alexander decidedly contradicts the notion of a "neutral" education or school and develops perspectives on how dense cultural and religious notions of the good life ("thick identity"[33]) can be conceived and brought together with liberal, pluralistic principles such as equality, justice and fairness in education.

While some of the educational philosophies presented can be accused of moving into idealistic abstractions, impulses from the human rights discourse have had very concrete, because also politically and legally enforceable consequences. They reveal a human rights-oriented theory of education, which can also be understood as a counter-position to the kind of public education which is predominantly oriented towards instrumental basic competencies, performance and selection. Three examples are given in the following.

*a)* In the legally binding "International Covenant on Economic, Social and Cultural Rights" (ICESCR) of 1966, the right to education is stated in Article 13 by a largely literal incorporation of the "Universal Declaration of Human Rights" of 1949:

> (1) The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.[34]

As one of the consequences of the demand to "strengthen respect for human rights" in public education, in 2018 the *Conference of Ministers of Education and Cultural Affairs* (Kultusministerkonferenz) in Germany adopted quite extensive (revised) guidelines on "Human Rights Education in Schools" as well as on "Democracy as a Goal, Object and Practice of Historical-Political Education and Upbringing in

[32] H. Alexander, *Reimagining Liberal Education. Affiliation and Inquiry in Democratic Schooling* (New York: Bloomsbury, 2015), 1.
[33] *Ibid*. at 162.
[34] https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx (accessed 29 November 2021).

Schools".[35]

*b)* As in other countries, the UN "Convention on the Rights of Persons with Disabilities" (CRPD) of 2006[36] has had a significant influence on German school policy, not only by emphasizing the right of disabled people to education in Article 24, but also by defining this in terms of a right to inclusive education, *i.e.* granting disabled people the fundamental right to attend general and vocational public schools. Despite all justified criticism of the concrete implementation of inclusive education in the German educational system, it can be stated that inclusion tends to contribute to the humanization of school education because it forces education policy and schools to focus, in the sense of a "pedagogy of diversity"[37], on the individual needs of children and young people – and not merely on the goal of an increase in performance measured by standards.

*c)* In the UN "Convention on the Rights of the Child" (CRC) of 1989, which is also legally binding, educational rights and objectives from the ICESCR have been adopted and further specified in Articles 28 and 29.[38] They clearly go beyond a pragmatic promotion of basic skills. On the one hand, they emphasize the comprehensive formation of the personality of children and adolescents and, on the other hand, they formulate basic ethical principles that have meanwhile made their way into the educational goals of constitutions, school legislation or educational guidelines of a number of countries.

In the academic discourse on public education in Germany, in particular Lothar Krappmann and Annedore Prengel have developed concepts of how schools and educational relationships can be based on the CRC. They have pleaded for the orientation of schools towards children's rights and thus towards a humane and child-friendly normative understanding of education.[39] On the occasion of the 30th anniversary of the CRC in 2019, I initiated and conducted, together with a number of colleagues and collaboration partners, an interdisciplinary conference in Nuremberg with the intention to further promote the integration of children's rights in German schools by conceptual papers and best practice examples.[40]

To sum up, the basic intention of a human rights-informed concept of education clearly is to promote a

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[35] Texts available at www.kmk.org (accessed 29 November 2021).
[36] https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html (accessed 29 November 2021).
[37] Following from the book title of A. Prengel, *Pädagogik der Vielfalt. Verschiedenheit und Gleichberechtigung in interkultureller, feministischer und integrativer Pädagogik* (4th ed., Wiesbaden: Springer VS, 2019).
[38] https://www.ohchr.org/en/professionalinterest/pages/crc.aspx (accessed 29 November 2021).
[39] See e.g. L. Krappmann and C. Petry (eds.), *Worauf Kinder und Jugendliche ein Recht haben* (Schwalbach/Ts.: Wochenschau-Verlag, 2016); A. Prengel and U. Winklhofer (eds.), *Kinderrechte in pädagogischen Beziehungen* (2 vol., Opladen: Budrich, 2014).
[40] The conference is documented in M. L. Pirner *et al.* (eds.), *Menschenrechte von Kindern und Jugendlichen im Kontext Schule* (Schwalbach/Ts.: Wochenschau-Verlag 2021).

"not-for-profit" kind of education that puts the flourishing of human beings and their peaceful, respectful coexistence first. This intention is shared by major statements of the Christian churches and from academic theology. One recent international and interdenominational example is a document jointly published in 2019 by the *World Council of Churches* (WCC) – which encompasses 349 churches from more than 110 countries – and the (Roman Catholic) *Pontifical Council for Interreligious Dialogue* titled "Education for Peace in a Multi-Religious World. A Christian Perspective". In several of its fundamental passages it refers to children's human rights and sounds almost like a UN document:

> A fundamental principle of peacebuilding is the right of all children, both boys and girls, to receive the kind of education that will equip them adequately to contribute as responsible adults in our contemporary world. […]
> Education needs to assist in developing the whole personality, and thus needs to include physical, intellectual, moral, social, spiritual dimensions […].
> Educational programmes must be directed to the integral development of the human person and to the strengthening of respect for human rights and fundamental freedoms, including the right to freedom of religion.[41]

As an example at the national and denominational level, a major official document issued by the *Protestant Church in Germany* (EKD) in 2003 advocates similar normative perspectives. Its title "On the Human Scale" is indicative of the thrust of the argument that the goals as well as the means of education should find their ultimate criteria in the promotion of the humanity of humans:

> Education affects the individual as a person, must support its development as a whole and its growth into social responsibility for the community. […]
> Education must ally the dimension of meaning and purpose to learning and knowledge.
> Education must encompass the historical, aesthetic, religious, ethical and philosophical dimension.
> Marginalising the unquantifiable aspects of human life would be an irresponsible abdication of a human ideal of education.[42]

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[41] Pontifical Council for Interreligious Dialogue and the World Council of Churches, *Education for Peace in a Multi-Religious World. A Christian Perspective* (Geneva, Switzerland: WCC Publications, 2019), 5. Online at: https://www.oikoumene.org/sites/default/files/File/EducationforPeace_booklet_nocropsFINAL-web.pdf (accessed 29 November 2021).

[42] The document is reprinted in English: "On the Human Scale. Protestant Perspectives on Education in a Knowledge- and Learning Society" in: Kirchenamt der EKD (ed.), *Education from a Protestant Perspective. A Collection of Documents from the Evangelical Church in Germany* (Gütersloh: Gütersloher Verlagshaus 2013) 124-135, at 128-129.

This convergence of human rights perspectives and Christian perspectives on public education should, in my view, be valued more explicitly. It should lead to more fruitful collaboration between human rights institutions as well as human rights educators on the one hand, and Christian institutions as well as religious educators on the other. On the basis of the Rawls-Habermas-framework outlined above, this recommends a stronger integration of a constructive view of religions and religious education in concepts of human rights education as well as a stronger integration of human rights and children's rights in concepts of the subject of Religious Education (RE). The latter aspect will be the topic of the following, last section of this chapter. It will be discussed along two major sub-aspects, namely a) the potential of RE to contribute to human rights education, and b) the children's (human) right to religious education.

## 5 Religious Education and Human Rights in Public Schools

### *5.1 Contributions of Religious Education to Human Rights Education*

The basic understanding of the relationship between human rights and religions as well as between secular and religious citizens that has roughly been sketched above can be transferred well to the school. Here, too, the orientation towards human rights and especially children's rights can and should be open to plurality: The inclusion of different cultural and religious or worldview perspectives in school culture and teaching should be encouraged, with the expectation that this will lead to a constructive confrontation with basic human rights values which will support a profound and sustainable education in human rights and children's rights and at the same time contribute to inter-religious and inter-worldview understanding. Such education also includes the goal of promoting the capability to deal with diversity and, for religious students, the willingness to approve of the limits of religious claims in the public space. As Bielefeldt and Wiener emphasize, in a human-rights-based democracy it must be expected of religious citizens to concede a "practical priority"[43] of political values over religious values. But this does not mean that it is a problem, if in their personal lives their religious faith is more important for them than human rights:

> To base a suspicion of anti-constitutionalism on such a high regard for religion alone would be categorically as wrong as if the then German Federal President Gustav Heinemann had been accused of an anti-state orientation for his well-known statement that he loved his wife and not the state.[44]

Such differentiations can best be taught and discussed in the special subject "Religious Education." This is exemplified with regard to young immigrants and refugees who shall be familiarized with the

[43] H. Bielefeldt and M. Wiener, *Religionsfreiheit auf dem Prüfstand* (Bielefeld: transcript, 2020) at 250 (my translation; there is also an English version of the book – *Religious Freedom Under Scutiny*; however, this version differs slightly from the German version that is quoted here).
[44] *Ibid*. (my translation).

fundamental rights and values that underpin our society at German or Austrian schools. It has been empirically proven in a number of studies that migrants tend to be more religious than the average of the German population.[45] Therefore, it is important and also promising if they learn, for instance in Christian or Islamic Religious Education at school, that not religious values, but religiously and ideologically neutral – and in this sense secular – human rights and basic values apply as the highest norms in our community, but also that they get to know approaches, justifications and supporting interpretations of these norms from their own religion. They are thus encouraged to discover that human rights and children's rights are fundamentally compatible with religious values, that they should – in addition to other reasons – therefore also be supported and promoted by religious motives, and that tensions between human rights and religious values require a self-critical rethinking of certain faith positions. While in the subject "Ethics" in schools such a challenge is conceptualized as a purely secular and philosophical effort, such children and young people would have to leave their religious convictions at the doorstep, so to speak, whereas they are taken seriously in RE and included in value-oriented or human rights education. RE thus contributes to the integration of adolescents *with* their religion, not without or against it, which is in line with an inclusive religious policy and corresponds to John Rawls' theoretical model of an overlapping consensus.

Unfortunately, for the German-speaking context, the empirical research situation on the question to which extent RE actually contributes to human rights and children's rights education is unsatisfactory. The report of the German government on the status of human rights education in schools in the context of an already older country survey of the United Nations[46] points to extensive contributions of Religious Education; on closer inspection, however, it turns out that almost all references to (general) ethical learning in the RE curriculum have been listed here, while the explicit references to human rights or children's rights are far less numerous. The new and very recommended PhD dissertation on human rights and Religious Education by Jasmine Suhner[47] systematically distinguishes between an implicit and an explicit treatment of human rights[48] and gives some examples, but does not include a comprehensive analysis of curricula and teaching material or empirical surveys; moreover, children's rights and the UN Convention on the Rights of the Child are unfortunately not specifically considered. In our own curriculum analysis, which is

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[45] See M. L. Pirner, "Religion als Ressource und Risiko. Die Religiosität von geflüchteten Jugendlichen in Deutschland – empirische Einblicke", *Theo-Web. Academic Journal of Religious Education*, 16/2 (2017), 153-180 (https://doi.org/10.23770/tw0033); M. L. Pirner and J. Bradtke, "Religion and Education as Resources for Young Refugees. Preliminary Results from an Empirical Mixed-Methods Study", in E. Aslan and M. Hermansen (eds.), *Religious Diversity at School. Educating for New Pluralistic Contexts* (Wiesbaden: Springer VS 2021), 41-61.

[46] Sekretariat der KMK, *Menschenrechtsbildung in der Bundesrepublik Deutschland. Länderumfrage des Sekretariats zur Erstellung eines nationalen Berichts im Rahmen des Aktionsplans der Vereinten Nationen für das Weltprogramm zur Menschenrechtsbildung* (Bonn: KMK, 2008), online at: https://www.kmk.org/fileadmin/Dateien/pdf/Bildung/AllgBildung/Menschenrechte_2008-Umfrage.pdf (accessed 29 November 2021).

[47] J. Suhner, *Menschenrechte – Bildung – Religion. Bezugsfelder, Potentiale, Perspektiven* (Paderborn: Brill/Schöningh, 2020).

[48] *Ibid*. at 457-59.

currently under way in connection with two PhD projects at the University of Erlangen-Nürnberg, we can see a trend that the term "human dignity" occurs very frequently, while "human rights" are mentioned not so often and "children's rights" are referred to even less frequently. There is also a tendency to treat human rights as an *ethical* topic and to focus less on their legal and political dimensions. In addition, human rights and children's rights seem to be mentioned more frequently in the curricula of Catholic RE than in those of Protestant RE. These findings point to tasks and challenges that should be addressed in order to more fully activate the potential that RE has for human rights education.

### *5.2 The Children's (Human) Right to Religious Education*[49]

The right of children to freedom of religion is laid down in Article 14 of the Convention on the Rights of the Child: "(1) States Parties shall respect the right of the child to freedom of thought, conscience and religion."[50] As is generally the case with the human right to freedom of religion, both positive and negative freedom of religion are meant in this context, *i.e.* both the freedom to profess one's own religion, to live according to its ideas and to practice it – also in public – as well as the freedom to live without religion and to be critical of or rejecting one's own religious origin.[51]

Article 27 of the CRC deals with the guarantee of an appropriate holistic development of the child: "(1) States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development." Although the term "spiritual" is quite ambiguous and in need of interpretation, according to a broad consensus it includes dimensions that show some closeness to the term "religious".[52] Consequently, in RE discourse in England, this provision from Article 27 has been discussed as an important children's rights basis for "Religious Education" in public schools.[53] The article quoted is not about education, but the spiritual dimension is clearly mentioned as part of the comprehensive development of children and adolescents which should be promoted in public education.[54]

The right to education, called for in Article 28 of the CRC, is complemented by the equally important

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[49] My argument here is based primarily on F. Schweitzer, "The Child's Right to Religion. Religious Education as a Human Right?", in M. L. Pirner et al., *Human Rights and Religion in Educational Contexts* (Cham, Switzerland: Springer, 2016), 161-170. See also F. Schweitzer, *Das Recht des Kindes auf Religion* (Gütersloh: Gütersloher Verlagshaus, 2013).
[50] https://www.ohchr.org/en/professionalinterest/pages/crc.aspx (accessed 29 November 2021).
[51] See the comprehensive international law commentary on religious freedom by H. Bielefeldt *et al., Freedom of Religion and Belief. An International Law Commentary* (Oxford: Oxford University Press, 2015) that includes a separate chapter on "children" with an emphasis on the CRC (415-438).
[52] See *e.g.* A. N. Kapuscinski and K. S. Masters, "The Current Status of Measures of Spirituality: A Critical Review of Scale Development", *Psychology of Religion and Spirituality*, 2(4) (2010) 191-205.
[53] J. M. Hull, "Religious Education and the Spiritual Rights of Children", in J. M. Hull (ed.), *Utopian Whispers: Moral, Religious and Spiritual Values in Schools* (Norwich: Religious and Moral Education Press, 1998) 59-62.
[54] Unfortunately, the international commentary on the CRC provides no hints as to how the authors of Article 27 understood the notion of "spiritual". On the contrary, the commentary notes that "indeed, there was no real discussion of what child development meant during the drafting of article 27" (A. Nolan, "Article 27. The Right to a Standard of Living Adequate for the Child's Development", in J. Tobin (ed.), *The UN Convention on the Rights of the Child. A Commentary* (Oxford: Oxford University Press, 2019) 1021-1055, at 1035).

Article 29, which sets out key educational goals:

> 1. 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.[55]

Religious references are both explicit and implicit in this article: Sentence a) clearly aims at the development of all personality dimensions and talents of the child, which in connection with Article 27 also includes the spiritual dimension, even if it is not explicitly mentioned here. In sentence c) the "cultural identity" as well as the "cultural values" are not conceivable without their religious aspects. Sentence d) explicitly addresses the goal of enabling the child to understand and live peacefully and tolerantly together with different "religious groups", thus naming a decidedly religious education task.

In the synopsis of articles 14, 27, 28 and 29 of the CRC, it is possible to speak, with good reason, of a child's right to religious education. For the competent exercise of their right to freedom of religion, children and adolescents need fundamental knowledge and aids for orientation. Especially in religiously pluralistic societies, this will help them to deal constructively with the spiritual dimensions of their humanity (especially in the sense of ultimate questions about the whence and whither of life, about being connected with other people and nature, or about the justifications and motivations of morality) as well as with the diversity of religions and worldviews in their life-world. As in other areas of education, the task of RE goes far beyond what most parents can achieve and is therefore an indispensable part of public education. Friedrich Schweitzer rightly points out that the CRC unfortunately does not explain this task and obligation with the same clarity as it was expressed in the UN "Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief" of 1981. There, Article 5, para. 2 states:

[55] https://www.ohchr.org/en/professionalinterest/pages/crc.aspx (accessed 29 November 2021).

> Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.[56]

For the European context, reference can also be made to the "Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools" of 2007. In these joint recommendations of the *Organization for Security and Co-operation in Europe* (OSCE) and its human rights organization, the *Office for Democratic Institutions and Human Rights* (ODIHR), religious education in schools is decidedly located in a "human rights framework" and aligned with it. As a major proposition it states: "Teaching about religions and beliefs is a major responsibility of schools"[57] and then goes on to unfold how this can be done in ways "that are fair, accurate and based on sound scholarship", in an "environment respectful of human rights, fundamental freedoms and civic values".[58] The Toledo Principles clearly favour a kind of religious education that is "objective", "balanced" and "impartial", but also accept that with confessional concepts of RE "recognizing opt-out rights may be a satisfactory solution for parents and pupils, provided that the opt-out arrangements are structured in a sensitive and non-discriminatory way".[59]

It is interesting that in the ecumenical church document on "Education for Peace" mentioned above, religious education in public schools as well as the influence of religions on public education is rather relativized than strongly advocated – probably because of bad experiences with too much religious dominance in some countries or faith-based schools.

> […] [E]ducation for children must include exploration of natural and social sciences, humanities, as well as practical engagement with modern technology. Religious education is important, but systems that focus only or mainly on religious learning and practice, to the exclusion or detriment of a wider curriculum, are an abuse of the rights of the child. Education in which the curriculum for boys or girls is religiously limited on the grounds of gender is an abuse as well. Conversely, however, there can be contexts in which little space is offered for moral and humane values in education, and in such situations the voice of religious communities becomes imperative.[60]

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[56] https://www.ohchr.org/en/professionalinterest/pages/religionorbelief.aspx (accessed 29 November 2021).
[57] OSCE and ODIHR, Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools (Warsaw, Poland, 2007), 16. Online at: https://www.osce.org/files/f/documents/c/e/29154.pdf (accessed 29 November 2021).
[58] *Ibid*.
[59] *Ibid*.
[60] PCID and the WCC, *Education for Peace in a Multi-Religious World,* 5.

## 6 Conclusion

The aim of this chapter was to show that Rawls' model and its further development by Habermas are well suited for determining the relationship between universal, human rights values on the one hand and religious values or values and perspectives of worldviews on the other – both in society and in the school context – in such a way that fruitful interactions become possible.

In a first step, it was made clear that the advantage of the model presented lies in the fact that it aims at balancing diverse normative reference values in the sense of a "reflective equilibrium" (Rawls): It builds on an already achieved social and international consensus – of basic human rights values and principles – and is at the same time open to the participation and inclusion of people and communities with different religious and worldview convictions. It implies trust in the public reason of all citizens and yet sees a clear added value in the normative orientations and perspectives of different religions and worldviews. It stimulates and regulates communication, cooperation and mutual appreciation between non-religious and religious citizens.

In a second step, the convergence of human rights and Christian values has been elaborated. In the sense of a public theology, Christians can contribute to the promotion of a culture of human rights and thus to the common good, but in doing so they are also self-critically challenged in their own Christian positions by the human rights discourse, and they are appreciative of the contributions that other religious and ideological communities make to human rights culture.

A first consequence for the school context is seen in the fact that a pluralistic understanding of human rights, which allows and promotes religious and ideological diversity, recommends itself as an ideal basis for a humane and child-friendly school culture. A school oriented toward human rights and especially children's rights is precisely not a "religion-free" school based solely on general secular rational values, but rather prepares students for the plurality of society and the world by living this plurality in the school. The basic values and principles of human rights are suitable, so to speak, as a framework within which a specific school ethos can be negotiated and school life, which is not always free of conflict, can be shaped. Religion in school culture and religious education (in RE as well as in other subjects) can make valuable contributions to this. Religious Education, it has been shown, can provide important foundations and elements of human rights and children's rights education and thus support democracy education and citizenship education. Moreover, religious education itself can be understood as a fundamental children´s right that is honoured through the subject of RE – which in turn means that it should be oriented towards children's rights in terms of concept, content and methodology.

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