

Editorial

Dear readers, this is the second issue of the Journal of Contemporary Educational Studies in 2013, bringing together seven thematic reflections on the topic of ethics and legislation in education.

The thematic section on ethics and legislation in developing the educational system is based on the idea that, following the implementation of the international documents concerning fundamental human and children's rights – especially the rights of frequently socially marginalized groups (e.g., disabled persons) – planning concrete legal and micropedagogic solutions can no longer avoid the fundamental values and political guidelines introduced internationally by these documents. The turn of the millennium also posed certain questions relevant to pedagogy and adult education: do the formal definitions of fundamental human and children's rights provide us with clear enough guidelines for solving social conflicts, particularly when the conflicts occur due to differing interpretations of the contents of human rights? Moreover, do these documents (despite being broadly ratified internationally) still have the necessary mobilization potential for the assertion of fundamental human values, which are a prerequisite for successful educational practice in preschools and schools?

The first question is associated with the intercultural conflicts arising from the Muslim headscarf ban in French public schools and the publication of satirical cartoons of Mohammed in Western European newspapers. The controversy surrounding these practices has revealed as symptomatic the fact that both their supporters and opponents refer to fundamental human rights (the protection of the right to expressing religious beliefs in public and the freedom of speech, the protection against hate speech, and the protection of gender equality), while interpreting the disagreements in diametrically opposed ways. Muslims consider wearing the hijab to be a representation of the right to express their religious beliefs in public, whereas secular French people see it as a symbol of the oppression of women in Islamic culture, which is unacceptable in Western Europe. As for the satirical cartoons of the prophet Mohammed in European newspapers, Muslims perceive them as a form of hate speech, while for secular Europeans they represent the right to freely express personal convictions. These examples illustrate that regardless of the interpretative stance we take, contemporary accounts of the value foundation of human rights differ culturally. As a consequence, the perception that human rights can protect the entire world's population from unacceptable hardships is unavoidably weakening.

This is the point at which the second question arises: do human rights still have the necessary mobilization potential for the assertion of fundamental human values? At this point, we must refer to the Global Ethic project, initiated by Hans Küng, which received the greatest possible international recognition through the adoption of the United Nations General Assembly resolution Global Agenda for Dialogue among Civilizations in September 2001. Speaking to the UN General Assembly, Küng emphasized that the agenda highlights the common core of

world ethical standards and values, without which neither dialogue among world religions nor survival in a just world are possible. Human rights can therefore only become fully established alongside a respect for fundamental civilizational values: nonviolence and respect for life, justice and solidarity, truthfulness and tolerance, partnership, and mutual respect and love (Küng 2003). So, did the (legal) language of human rights and duties lose its indispensable connection with the presupposed ethical values in the second half of the twentieth century? And if so, what is the significance of this for the education of humanity and the just organization of educational systems?

In addition to the dilemmas stated above, we are faced with another quandary: where should we look for the deepest underlying causes of the present world economic and financial crisis, and how should we educate present and future generations in the world and for a world that is seen as increasingly unjust, permeated with a lust for power and wealth behind the façade of human rights and humanist values (e.g., the right of everyone to education, the right to life-long education, etc.)? Is the current situation the consequence of an acute moral crisis and, therefore, of the infringement of human rights? Or does it stem from mistaken concepts developed after World War II concerning how to build a more just world on the principles of fundamental human rights? Does civic education, which is supposed to substantiate the positive significance of political values such as parliamentary democracy and the rule of law, or the right of the disabled to be guaranteed special needs education in accordance with formal decisions concerning the nature of their disability, remain a meaningful project in a social environment where the abuses of the democratic mechanisms are being revealed daily, and people's demands for the abolition of political elites and the replacement of the well-functioning, but unjust power mechanisms?

The issues raised are highly relevant to pedagogy and adult education. So, how do they appear in the educational policies and direct pedagogic practice in the Republic of Slovenia? Human rights, the rule of law, justice, and solidarity are the key notions on which the White Papers on Education in the Republic of Slovenia (published in 1995 and 2011) are based. Strategic educational documents thereby demonstrate the inevitability of following central starting points when planning the educational future of independent Slovenia. In short, "ethics and law" are assumed as both the commitment of schools' functioning, and the expected goals that schools must realize and attain. However, it has become clear that neither legislation without a strong ethical basis, nor public morality without a strong legal framework, can guarantee the necessary conditions for the optimal development of society as a whole and the educational system within it.

In principle, there has been no dilemma regarding the absolute validity of both crucial starting points (i.e., ethics and law) throughout the twenty-year development of education in the independent Slovenian state. Yet in practice, numerous teachers, head teachers, and theoreticians, as well as researchers coming from a wide range of fields, have demonstrated a great deal of pragmatic and conceptual questions concerning their implementation. Both starting points have undoubtedly helped schools create new cultures of cooperation and new relation-

ships among teachers, between teachers and students, and between parents and schools, and have “cleared away” many an old-fashioned notion of teaching and learning. Nevertheless, there have been warnings that different disciplines have not given an unambiguous answer as to how to break up the old school shell while preserving school as school, as a knowledge authority, a safe social space, and a strong support for the formation of moral judgment and the prosocial orientation of the individual’s experience.

Is the position of schools in society always and necessarily controversial because of the tension between educational ideals and reality? Do theory and practice present us with a dilemma of how schools can change society if society defines schools? This has caused sparks to fly among experts for quite some time now, but in the last twenty years it has been happening in the very connection with the relationship between law and morality in schools.

The thematic articles included in this issue of the journal will, of course, not be able to address all the questions raised above, but they will explore a number of issues relating to ethics and law in contemporary educational reality.

The thematic section begins with **Robi Kroflič**’s article *Strengthening the responsibility in the school community between the concepts of civic and moral education*. The author begins his contribution with M. Warnock’s provocative thesis that schools’ primary educational task should not be the development of civic education in the sense of instruction as to the significance of public morality and human rights. Rather, schools should focus on helping develop personal morality, which necessarily relates the development of virtues, values, a sense of duty, and ethical principles to the development of sympathetic competencies and imagination. Without a personal morality in the sense of a desire to act ethically, there can be no public morality oriented toward the common good or the rule of law based on human rights. In the central section of his article, the author argues that the development of the methodology of encouraging personal morality should be based on the findings of social domain theory. The theory requires educators to have insight into different epistemological approaches concerning the resolution of the conflicts whose apparent consequences are evil actions toward fellow human beings or groups, or the conflicts that originate in the conventional domain of agreements on action, which make it easier for the members of a community to reach common goals. In his conclusion, Kroflič relates the realization that children’s and adolescents’ rebellion is a necessary element of development in the direction of autonomous, critical, and responsible morality to H. Arendt’s political theory. Arendt’s theory maintains that real human freedom is seen in people’s ability to criticize the normative social regime and in the revolt against assimilationist educational pressures in public schools and other social institutions. Positive educational experience should thus be seen as the prototype of political action, either in defense of fundamental human rights or as a demand to abolish unjust social rules.

In What does the demand for the respect of the value framework of human rights bring to public educational institutions?, **Mojca Kovač Šebart** draws our attention to the fact that even if a particular value system prevails in a society, it

does not mean that all individuals share it. Therefore, we need a broader consensus as to what can be accepted as common from various particular value systems at a given time. In this way, a fundamental values system, on which education in democratic public educational institutions should be based, can be established. The author argues that for the states that have ratified the Universal Declaration of Human Rights (1948) and the Convention for the Protection of Human Rights and Fundamental Freedoms (1994), and where they are the highest constitutional legal acts – as is the case in Slovenia – the concept of human rights is the fundamental ethical and legal norm. Analyzing a selection of micropedagogic (a discussion of different family forms) and systemic (developing the elementary school educational concept) situations, M. Kovač Šebart demonstrates that defending the fundamental values and principles derived from constitutional provisions and human rights does not allow for negotiations between schools and parents over how to adapt the curriculum to the particular views and expectations of users (even if they are the majority in a certain environment), which would follow the spirit of the claim that democratic principles should not be used to exert pressure against the human rights of any minority of citizens.

Next is **Mitja Sardoč**'s article *Equal (educational) opportunities and social inequality*. In it, the author offers a comprehensive view of the theoretical standpoints to be used in defense of the Rawlsian principle of the equality of opportunity as a basis for social fairness. The author examines theoretical controversies related to the three notions crucial to understanding the concept of equal opportunities: why should we equalize the starting positions of the individuals entering education; what should be the measure of equality; and how should we carry out the process of equalization? Sardoč concludes by stating that equal opportunities in the area of education are the basic starting point for ensuring equality and preventing discrimination against individuals or social groups on the basis of gender or sexual orientation, race, religion, ethnicity, etc. The key issue of educational policy is, therefore, how to ensure that “the competition” for selective social situations is just and the inequality resulting from competition is legitimate, since the equal opportunities ideal and social inequality are not mutually exclusive. Ensuring social equity in the spirit of the liberal concept of fairness and in terms of equality of opportunities can be understood as an ideal, followed by the logic of asserting fundamental human rights. The author convincingly demonstrates that looking for concrete political solutions is a very complex issue both theoretically and practically.

The thematic section of the journal continues with the articles *The legal obligations of the Republic of Slovenia arising from integrating children with special needs, especially children with mental development disorders, into regular schools* by **Alenka Šelih** and *The idea of inclusion – between various concepts of justice and ethical theories* by **Irena Lesar**. Although the two authors start from different theoretical perspectives – A. Šelih analyzes international legal documents concerning the protection of the rights of the disabled (or invalids, as the author describes them), while Lesar analyzes the concept of inclusive education and describes numerous examples of non-inclusive practices of placing students with special needs in Slovenian schools – the conclusion common to both is that doing

away with discriminatory practices requires ethically aware action on the part of “non-discriminated” segments of a population in order to create the atmosphere and conditions that make inclusion possible. Šelih observes that the idea of inclusion has found its way into international legal documents (conventions, resolutions, declarations, statements, and recommendations), but that these documents, especially the “non-binding legal norms” of statements and recommendations, rarely become social reality. Using the example of asserting the rights of students with mental development disorders, the author proves that some of the solutions introduced by the Placement of Children with Special Needs Act (2000) have still not been implemented in practice. As the highest standard of just practices, she establishes the principles of taking into account each individual child’s abilities and the child’s best interests; in the case of inclusive education, this means the best interests of disabled children as well as children with typical development.

According to I. Lesar, the implementation of inclusive educational policy requires a complex understanding of justice. In addition to distributive justice, upon which Slovenian school policies are based, such an understanding takes into account the concepts of positive recognition and representation. These principles necessitate the assertion of the key values that have been established by different ethical traditions. In view of these criteria, the author analyzes the adequacy of the legal conception of placing disabled students and the characteristic problems related to their placement, as well as the provision of expert help, in the Slovenian school system. Since Slovenian expert literature offers no available evaluation studies in this field, the author analyzes personal first-hand accounts of the relevant procedures, and records numerous professionally contentious phenomena. She concludes her article by maintaining that only a clear emphasis on the fundamental values of education and ethical attitudes of educators can guarantee that there will be no such professionally and ethically questionable practices as those discussed in her text.

This issue of the Journal of Contemporary Educational Studies closes with **Vesna Bilić**’s article *Moral and ethical sensitivity and peer violence: the role of empathy and caring*. The author presents the findings of an empirical research study including elementary school students from the Republic of Croatia, which examines the relationship between different forms of children’s violent behavior, certain components of their ethical sensitivity, empathy, and their parents’ caring support. The results of correlation and multiple regression analyses show that all forms of peer violence occur less frequently among students with greater empathy, and specifically those that have received more parental care in a family environment. The author thus logically concludes her article with the recommendation that schools should provide educational activities to develop empathic competencies, that teachers should play the role of supporting adults, and that school prevention activities would be best conceived according to the principles of the ethics of caring.

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Editor of the thematic section*

Reference

Küng, H. (2003). A Global Ethic: Development and Goals. *Interreligious Insights*, 1, issue 1. Retrieved from <http://www.interreligiousinsight.org/January2003/January03.html> (Accessed on 10. 5. 2013).