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BY- BROUDY, HARRY S.

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THIS ARTICLE DISCUSSES HUMAN RIGHTS AND THE SCHOOLS' EFFORTS TO TEACH STUDENTS ABOUT THEM. "RIGHTS" ARE WHAT RATIONAL BEINGS PERCEIVE AS PART OF THEIR HUMAN NATURE AND ARE A CONCOMITANT OF THE ABILITY TO THIMK AND IMAGINE. TO BE COMPLETELY HUMAN, MAN MUST STIVE TO ACHIEVE OR MAINTAIN THESE RIGHTS. HOWEVER, SCHOOLS ARE SOMEWHAT HINDERED IN THEIR EFFORTS TO TEACH RIGHTS BY THEIR FEAR OF PHILOSOPHICAL ABSOLUTES AND BY SOCIETY'S OBVIOUS FLOUTING OF THESE RIGHTS. NEVERTHELESS, IN TEACHING ABOUT THEM SCHOOLS MIGHT CAPITALIZE ON THE RESPECT WHICH MANY PEOPLE HOLD FOR HUMAN RIGHTS AND ON A CONSENSUS AMONG SCHOLARS ON THE MEANING OF HUMANITY. THIS ARTICLE WAS PUBLISHED IN THE "PHI DELTA KAPPAN," VOLUME 47, NUMBER 9, MAY 1966. (NH)

What Can the School Say About Human Rights?

By HARRY S. BROUDY

HOW does one bring himself to writing still another piece on human rights? Has anything on this theme been left unsaid by the lawyers, statesmen, clergymen, and philosophers? Probably not, and it probably has all been said and about as well as it can be said. Saying it again cannot be justified by the hope of enlarging man's wisdom; it can be justified only by the perpetual need to remind ourselves of what remains to be done. In other words, it may be tiresome to talk about human rights, but it is dangerous not to.

Among those who are supposed to say and do something about human rights are school people, and it is to their version of the task that I shall address myself.

By human rights I mean such freedoms from interference with freedom as are enumerated in our own Bill of Rights, but more generally those rights mentioned in our Declaration of Independence, the Charter of the United Nations, and similar documents. It is the sort of right one has in mind when one says, "I have the right to be an atheist without being harassed" or "I have the right to seek happiness" or "I have the right to speak my mind on public affairs."

I do not mean rights that grow out of laws (e.g., the right to operate a motor vehicle) or out of custom (e.g., the right to be respected by my juniors) or out of compacts (e.g., the right to share in the profits of a partnership) or out of some voluntary act by a person granting a privilege (e.g., the right to manage my aunt's property conferred upon me by her) or the rights accompanying the duties that living in a society generate (e.g., the right to be consulted in determining the public good). In short, I am talking about what are sometimes referred to as "natural rights," i.e., claims that flow from and are certified by membership in the human race.[1]

Talking about human rights in school and persuading pupils to take an appropriate attitude toward them is almost sure to be embarrassing for thoughtful teachers. Consider, by way of example, what is involved in teaching the preamble of our Declaration of Independence. Said Jefferson: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness."

Right off, the thoughtful teacher is in difficulty, because although many men do hold these truths to be self-evident, it is hard to find a respectable intellectual nowadays who will say so. The current fashions in philosophy do not favor self-evident truths; for if the truth is not empirical, i.e., if it does not refer to space-time entities, it is condemned as being either a trivial tautology or a mistaken use of the word "truth." However, those who talk seriously about human rights mean to talk about something real and important. They must either prove their assertions about

MR. BROUDY *is professor of philosophy of education, University of Illinois. A frequent contributor to professional journals and a sought-after speaker in his field, he is also editor of the* Educational Forum, *journal of Kappa Delta Pi, the education honorary.*

[1] For a careful discussion of this topic, See A.I.A. Hart, "Are There Any Natural Rights?," *Philosophical Review*, November, 1955, reprinted in Frederick A. Olafson (ed.), *Society, Law, and Morality*. Englewood Cliffs, N.J.: Prentice-Hall, 1961, pp. 178-86.

them with evidence that is not self-evident, i.e., by pointing to facts or states of affairs that persuade us to assent to the existence of human rights, or they have to admit that they are uttering tautologies, i.e., unpacking in the predicate what is logically implicit in the subject; that they are talking about words only. It is as if one were to say that stealing is a crime; whoever understands the word "steal" doesn't have to be told that it is a crime—if he knows the meaning of "crime."

So what is to be said to pupils? That Thomas Jefferson was wrong? That these are not truths? That these are truths but not self-evident? Do we have any right to expect teachers in public school classrooms to raise questions of this sort? To raise them at all, let alone with pupils, involves the sort of study that the craft-apprenticeship types of pre-service teacher education being urged upon us would seem to preclude.

Suppose the teacher takes the first alternative. Jefferson was wrong, she explains, but, given his times and circumstances, one cannot blame him for talking or writing as he did. One can excuse Jefferson on the ground that he did not know any better, but that he meant well, and in any event, things turned out splendidly, as even our British cousins will admit. Or one might say: Jefferson did know better, but wanted to persuade his audience to rebel against Britain, and these sentiments couched in these words would appeal to the emotions of those who did not know any better. For a proposition that is self-evident only a fool would question, and people who are not philosophically sophisticated could be taken in by such talk, since nobody wants to be thought a fool.

I leave to the historians the decision as to which of these alternatives is more plausible, but the thoughtful teacher would be hard put to make out a cause for teaching Jefferson's pronouncements on human rights.

Translating the Declaration

Now we turn to the phrase, "endowed by their Creator." Surely in any up-and-coming classroom from K through 12 there will be at least one creative pupil who will rejoin: "There isn't any Creator, and if there is you are saying that He gave me the right to say there isn't one, so there!" To the bold, creative, and imaginative teacher this is an opportunity, not a *contretemps,* for surely the door is now opened for a discussion of creators and science and religion and many other good things. But what about Jefferson and human rights? If there is no Creator, then no endowment by a Creator; if we are not endowed with them by the Creator, how do we get these rights? If given by men to each other, they can be withheld or withdrawn by men from each other; so what were the inmates of Dachau griping about, and why are the Negroes agitating? For civil rights? For rights conferred by law? But there were *laws depriving* Negroes and Jews of certain "rights," and what would prevent us, if enough of us felt so inclined, from repealing the Bill of Rights? So if human rights come from men, they are not what many people think they are and what Jefferson called *unalienable;* rights that men cannot take from each other.

Can't be taken away! Obviously there is something very wrong here. Life, liberty, and the pursuit of happiness are being taken away from somebody every day. What child with an I.Q. over 70 doesn't know this? "Yes," replies the teacher, "but not the right to these goods, and above all not the right to scream when they are taken away —improperly, that is." Apparently there is a right and wrong way to alienate a man from these human rights. A war and an execution by an officer of the law is the right way; the way the "bad" guys in the movies do it is the wrong way. Well, which is it to be? Human rights can be taken away; human rights cannot be taken away; very puzzling indeed.

Perhaps the point has been made. Literally taken, the Declaration of Independence preamble and similar utterances are mistakes. They make sense only if translated philosophically or poetically. "Yes, Virginia," one might parody the editor of the *Sun* and say, "there *are* human rights," but then one would have to go on as did the editor in his letter to Virginia, and although I do not know how Virginia took his famous explanation, I suspect that if she understood it she knew that there was no Santa Claus in the only sense a little girl would want there to be one.

Teaching about human rights, if it is to make sense, is a task of explicating the meaning of the concept "human," i.e., explicating what is contained in the idea of a human being rather than in some other kind of being. This task is hopeless if human nature is not taken in terms of its strivings as well as of what it happens to be or do at any one moment. Strivings refer to what does not yet exist, so that we are in effect saying that part of what a man is is a relation to what is not.

To be a man, just as to be an automobile, is to fulfill the demands of a meaning that points to an end or a distinctive function. Whatever it takes to fulfill his distinctive function man has a right to want; indeed, he has no choice but to want it and to try to achieve it. Human rights are what men

as men cannot help striving for. So everything depends on what makes men distinctively human, and to determine that has been the goal of those inquiries properly called the humanities for at least two millenia. There are differences among the results of these inquiries, but on some things there exists a consensus of the learned and the wise.

'Rights' What We Discern in Our Nature

This consensus states that by his powers of mind man's nature becomes distinguished from all other modes of being. Imagination projects him into a future that empirically is nothing, as nonexistent as the future itself. Yet the future's symbolic surrogate existing in a mind now is an operational entity, for man is driven by what he wants for tomorrow as much as what he desires for today. By imagination man lives in the dimension of possibility—his fourth or perhaps fifth dimension. By reason man creates the cleavage between the true and false, the real and apparent, the important and trivial; between causes and reason; between acts and ideals; between deeds and dreams. And so "rights" are no more than what rational beings discern as part of their own nature, their inevitable and unalienable tendencies to be what mind dictates they really are, rational beings.

I believe that people who take human rights seriously share this consensus and hold it as a premise to which they retreat if pushed very hard, but only if pushed. People who do not hold these premises do not exist as human beings, for to belong to the human race one must want to be reasonable and to have all the rights that flow from rationality: to imagine, think. speak, and strive. A person must insist that he is reasonable even when he is arguing for abandoning reason as a governing principle. As Protagoras put it (in Plato's dialogue of that name), in a somewhat analogous case, we can forgive a man for admitting a lack of this and that skill, but to admit to a lack of a sense of justice cannot be forgiven—we merely refuse him membership in the human race.

So to assert human rights is in a way tautologous. To say we have them is to say, in other words, that we are human. But we also want to say that being human is something real; not a delusion or a figment of imagination; that it is a way of being, not merely of dreaming.

In the light of this tradition—and it was out of this learned consensus that Jefferson was writing—it makes sense to say: We hold these truths to be self-evident. For "we" are the club of human beings, and if we know what being human means, we know without further evidence certain truths about human beings; about what it takes to join the club.

One is that all men *as* men are created equal. That is, they are not *born* equal as individuals, and they certainly do not stay equal as individuals. So it is only with respect to their common human nature, as a species, that one can speak as Jefferson did. And this common human nature, since it is not a particular entity like John Jones or Mary Smith, is nothing that comes to be, as the bodies of John Jones and Mary Smith come to be out of other bodies. So humanity as a species, as a form that makes John Jones *human* but not John Jones, is or is not, with no in-between. One way of describing such a situation is to say that human nature was created by God; another way, if one wishes to seem to avoid theology, is to say that it is a Platonic form. Without granting to men this basic equality, human rights have no foundation; but to make sense, equality cannot be taken as referring to an empirical entity.

Furthermore, to say that men are endowed with these rights by their Creator is, as has been noted, a way of saying that these rights are not given by men to each other. They are not given because men already have them. This kind of talk is, of course, sheer metaphysics. If a teacher cannot bring himself to say this much about metaphysics, he had better stay away from discourse about human rights. For example, the nature of the Creator is a troublesome matter on its own account, especially in the public schools. Even to explicate the sense in which Jefferson used "Creator" is to invite trouble, for this might shock people who thought Jefferson was more orthodox in theology than he probably was.

The term "unalienable" has already been touched upon. It is sheer nonsense as a "matter of fact," so it has to be thrown out of the account or interpreted. Unalienable, I have suggested, is whatever one cannot lose and still be human. A being that did not claim the right to think and to be guided by reason and conscience would be no more than a thing; a human being who really did not want to be one would not be. Thus one can have the right to speak and think and love even though one is gagged and jailed and rejected, but not if he does not by nature want to; cows, for example, do not.

The rights to life, liberty, and the pursuit of happiness common to all men are not themselves liberty, life, and happiness—these are actual states of affairs—matters of empirical fact. We live as individuals in actual circumstances, and

since not all states of affairs are equally compossible, my happiness may mean your woe; your life may mean my death; your health may mean loss of my freedom. We cannot exercise our human rights at all times even though we have them at all times.

In the classroom it is difficult to keep this distinction in mind. Some educational writers do not want to make the distinction in the first place, or they belittle a "right" if it is not embodied in fact. So they want to *do* something about human rights, not merely talk about them. They want to produce the actual states of affairs to which men have a right. A pupil might easily be led to believe that the inmates of Dachau had no human rights. Moreover, to a child—however advanced the age—a right and a wish are easily confused; just as power to do is confused with right to do.

OBSTACLE: A FEAR OF ABSOLUTES

SO what is to be done? Shall we condition the child to feel strongly about human rights, to claim them in the face of contrary fact and theory? But how is one to justify such an imposition? Does it not violate the rights of the pupil? Or shall we teach him the consensus of the learned that grounds these rights in human nature? But what will our social scientists and positivistic philosophers say to that? What, indeed, will our own friends in educational research say to it?

The single greatest obstacle to doing much with human rights in the public schools is the fear of absolutes and ultimates. Human rights, if they are to be unalienable, cannot be contingent upon place, time, culture, or circumstance. They are not even contingent upon democracy; democracy is itself justified as the most plausible way of protecting and respecting human rights. Conversely, without a respect for human rights that is final and ultimate, I find it difficult to justify such demands of democracy as the right to participate in decisions affecting one's welfare. That democracy is by itself an insufficient protector of human rights is indicated by the dispatch with which the Bill of Rights was added to our Constitution; the will of the majority, as the Founding Fathers knew, could on occasion be destructive of human rights as the will of individual despots.

The notion, therefore, that a faith in democracy and scientific method combined in social science projects will give the schools a firm basis for preaching the importance of human rights is a case of misplaced confidence. If one must take something as absolute, it might just as well be the human rights themselves, or, more precisely, the notion of human nature itself.

The second obstacle to doing justice to human rights in the school is the flouting of them in the community and sometimes in the school itself. Inevitably the pupil will distinguish the fine words from the paltry deeds; the blatant discrepancy between the words of Jefferson and the brutality of the Klan and other hoodlums and the suave exploitation of the common man by what Pareto called the Foxes, the élites who get their way by fraud rather than by force. The pupil may be forgiven for leaving school convinced that human rights are only words. Even youthful idealism can stand only so much cynicism, and the reaction often is an even more violent cynicism of its own; a revenge upon its traducers.

Two forces, then, militate against the schools' efforts to teach about human rights; one is the commitment to moral relativity, the intellectual petard by which academic activists in behalf of human rights are hoisted; flouting them is the other.

But, although not so vivid as the negative factors, the positive ones are not insignificant. I shall mention two and only briefly. First is the fact that human rights are sometimes recognized, respected, and do make a difference in social life. Our laws do on occasion catch up with our doctrine and our conscience. The Bill of Rights is not a dead letter; on the contrary, it is the most thumbed-over page in our Constitution, as the decisions of the Supreme Court and defense lawyers can attest.

We do not suffer the violation of human rights impassively. Some seethe inwardly; others protest; still others fight. The taking of one miserable, good-for-nothing, but innocent life in order to bring about a great public good against its possessor's will gives us conscience sickness; the same life offered freely for our good by the possessor inspires our gratitude and reverence. The difference between the hero and the victim is clear to us all because, and only because, we are human and thereby know the meaning of human rights. Even more eloquent, if we but listen, are the muted claims of humanity in the everyday relations of ordinary men. Laws and policemen would not control us for an hour were not the respect for human rights operating in most people most of the time. To these actualities the school *can* point, and if it cannot point to itself as an exemplar, it has only itself to blame.

One must say this because education is itself the supreme acknowledgement of human rights, but not when a school justifies itself solely on the

promises it makes to prepare the pupil for service to state and factory. Education respects human rights when it makes the realization of human powers, of selfhood, its primary justification. Schools unfortunately speak loudly and clearly about the economics of education; they tend to mumble about self-development.

The second great ally or resource of the school is what was referred to earlier as the consensus of the learned on the meaning of humanity. We are witnessing something of a revival in the study of the humanities in the high school, a trend acknowledged and hopefully to be accelerated by recognition in Washington. Perhaps, as Werner Jaeger has observed, in times of trouble and anxiety, when men fear for their identity and seek it in bestial and bizarre ways, we return to the classic ideal of humanity.[2] Refined and reflected upon, argued and documented in history and philosophy, depicted in literature and other fine arts, this model of man has taken on successively the varied hues of religion and science, yet has remained curiously constant. Whatever truth or value may be, philosophically construed, for an actual school system the truth is whatever scholarship at any given epoch says it is; the good and beautiful are what moral and artistic genius say they are. Disagreement among the learned and wise does not legitimize the opinions of the ignorant. Only in the name of the learned consensus may the school presume to teach children and to criticize their parents; only by its authority can it transcend the claims of custom, class, and caste.

Each epoch has decked out the classic model of humanity in the accoutrements of its own predicaments and resources, but the model itself has changed remarkably little, perhaps because as a "norm-fact" it selects those qualities of mind and character for survival that conform to its demands. What forms it can or will take in our own time is an intriguing question. A technological society permits certain forms of implementing human rights and interdicts others. Does it give more or less scope to life, liberty, and the pursuit of happiness? What are their appropriate behavioral expressions? What are the appropriate behavioral equivalents in our time for honesty, courage, temperance, and nobility? Such exploration in value is the task of every generation, and perhaps the school's largest contribution to the problem of human rights is the knowledge and norms wherewith to carry it on.

[2] *The Greeks and the Education of Man.* Bard College Papers, Anandale-on-Hudson, N.Y., 1953.

► The Reverend Theodore M. Hesburgh, president of the University of Notre Dame and a member of the U.S. Commission on Civil Rights, defines civil rights as the right of *all* Americans to:

1. Equal opportunity to be educated to the full extent of their human talents.
2. Equal opportunity to work to the fullness of their potential contribution to our society.
3. Equal opportunity at least to live in decent housing and in wholesome neighborhoods consonant with their basic human dignity as befits their means and social development.
4. Equal opportunity to participate in the body politic through free and universal exercise of the voting franchise.

► A group of University of Mississippi professors announced in mid-March that they would make a federal court attack on a twelve-year-old segregation strategy law requiring all state teachers to list their organizational memberships and contributions each year. Soon after the law was enacted in 1954 it was used in the dismissal of several teachers connected with the National Association for the Advancement of Colored People.

Russell Barrett of the Oxford, Mississippi, chapter of the American Association of University Professors said the chapters had resolved to bring action as soon as possible "in the name of all interested AAUP members and other faculty in Mississippi who wish to subscribe to such action."

► Columbia University and Teachers College have announced plans for a national program to improve the teaching of civil rights in schools, colleges, and community groups.

"Today, too much teaching about American liberties in the schools is formalistic, dull, and without personal meaning for the students," said Alan F. Westin, who will direct the new program.

"We'll look at all the general areas of American civil liberties and rights. We may come up with a very different description of what liberty means today. Many people think of liberty in terms of government. But for most Americans the liberty that matters is that which they get in large corporations or newspapers. The kind of treatment they get there is likely to affect them more than government treatment."

Westin said that for the first two or three years of the program a group of scholars would compare current American standards of civil liberty with those of the past and with standards in other nations, both democratic and totalitarian. The scholars will also discuss the standards in terms of technological, political, and cultural developments expected in the next decade.

"One of the things that is going to be altering our civil liberties is the computer," he said. "There will be a lot more circulation of private information. One of the great protections of the past, the inefficiency of government, will be gone."