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ABSTRACT

Standards for teaching, learning, and assessing civics or democratic citizenship should emphasize two centrally important concepts: (1) constitutionalism; and (2) human rights. If students in schools and citizens in the polity fail to know, value, and act in terms of these concepts, then their prospects for building and maintaining liberal democracy are poor. An important gauge of curricular frameworks, content standards, instructional materials, and pedagogical practices considers whether these concepts are amply and effectively addressed in the curriculum and classroom. Effectiveness in teaching these core concepts is enhanced by collaboration and partnerships between liberal democracies and by international partnerships in civic education such as those initiated by CIVITAS (an international civic education exchange program). (MM)

TWO CONCEPTS AT THE CORE OF EDUCATION FOR DEMOCRATIC CITIZENSHIP: CONSTITUTIONALISM AND HUMAN RIGHTS

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July 5, 1999

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Since 1989, the Hungarian people have been part of an extraordinary global movement toward democracy and freedom. More than 115 countries in various parts of the world today meet the minimal standard for democracy, which requires, at least, that representatives of the people in government are selected through free, fair, contested, and periodic elections in which virtually all the adult population has the right to vote. Before the 1970s, less than 40 countries met this minimal standard of democracy, and before 1945, the number was less than twenty. So it seems that we are living now in an unprecedented, worldwide era of electoral democracy, defined by the democratic process of electing public officials. [1]

The global trend toward electoral democracy has not immediately brought about an equivalent surge toward personal rights to freedom or civil liberties. According to the most recent "Freedom House Survey," less than half of the world's 191 countries (46 percent) were rated "free," which means "that they maintain a high degree of political and economic freedom

and respect for basic civil liberties."[2] Another 53 countries received a rating of "partly free." This is 28 percent of the world's countries. And 50 countries (26 percent of the world's countries) had a rating of "not free" because they deny to their people basic rights for freedom and civil liberties.[3]

The Republic of Hungary and the United States of America are two of the world's fully free countries in the "Freedom House Survey." Both countries have merited this rating by securing for their citizens fundamental political rights, economic rights, and civil liberties or personal rights to freedom.[4] Both the Republic of Hungary and the United States of America also meet the standards for an electoral democracy. Thus, both countries are recognized as liberal democracies in contrast to those countries that are neither democratic nor free and those that are democratic in the electoral sense but illiberal in their denial of basic personal or private rights to their citizens.

A liberal democracy, like the U.S.A. and Hungary, is government of, by, and for the people, which government is both empowered and limited by the supreme law of the people's Constitution for the ultimate purpose of protecting equally the rights of everyone in the polity. In a liberal democracy, there paradoxically is majority rule with minority rights. Thus, there are constitutional limits on democratic rule by the majority. And there are constitutional limits on the liberal exercise of rights by individuals or groups. Both kinds of constitutional limits–those that restrain democracy and those that restrain liberty are intended to achieve one overriding purpose of a liberal and democratic political order, which is to secure on equal terms the rights of all persons in the polity.

An unrestrained democracy will become a tyranny of the majority in which the rights of unpopular individuals or minorities are insecure. And unrestrained liberty will lead to licentious

disorder in which the rights of individuals and groups are always at risk from uncontrolled predators. So security for human rights depends upon political order anchored in a Constitution of the people, which simultaneously empowers and limits the government.

If there would be liberal democracy–government of, by, and for the people that secures equally the rights of citizens–then there must be education of the people about two concepts at the core of liberal democracy: constitutionalism and human rights. What do these concepts mean? How are they connected to the theory and practice of liberal democracy? And how should they be included in education for democratic citizenship in Hungary, the United States, or any other country concerned about the maintenance and improvement of its liberal democracy?

Constitutionalism in Education for Democratic Citizenship

The concept of constitutionalism is rooted in the use of a Constitution, usually a written document that legitimates, limits, and empowers the government, which, if democratic, is based on periodic and competitive election of representatives by virtually all the adult population. A constitution articulates the structure of government, procedures for selection and replacement of government officials, and distribution and limitations of the powers of government.

Not every government with a written constitution exemplifies democratic constitutionalism. Many constitutions have presented merely the appearance of democratic government with little or no correspondence to reality. Soviet-style constitutions of the recent past, for example, grandly proclaimed all kinds of rights while guaranteeing none of them. Only governments that usually, if not perfectly, function in terms of a constitution to which the people have consented may be considered examples of democratic constitutionalism.

Constitutionalism means limited government and the rule of law to prevent the arbitrary, abusive use of power, to protect human rights, to support democratic procedures in elections and public policy making, and to achieve a community's shared purposes. Constitutionalism in a democracy, therefore, both limits and empowers government of, by, and for the people. Through the Constitution, the people grant power to the government to act effectively for the public good. The people also set constitutional limits on the power of the democratic government in order to prevent tyranny and to protect human rights. [5] The rights of individuals to life, liberty, and property are at risk if the government is either too strong or too weak. Both tyranny and anarchy pose critical dangers to security for individual rights. An effective democratic constitutional government is sufficiently empowered by people to secure their rights against foreign invaders or domestic predators. Its power is also sufficiently limited by people to secure their rights against the possibility of oppressive government officials. A continuing challenge of democratic constitutionalism is determining how to simultaneously empower and limit the government in order to secure the rights of all persons in the polity.

A democratic government will not endure without public understanding and support for the ideas that undergird it. And prominent among the principles of modern democracy is constitutionalism. A primary objective of education for democratic citizenship, therefore, is teaching students to use their concept of constitutionalism as a criterion, a standard, by which to analyze and appraise the authenticity of claims about democratic governance. Students should be able to determine by use of their concept of constitutionalism whether or not a country's claims to be a liberal democracy are bogus or authentic.

Students should be taught to identify and explain why particular political systems are

constitutional democracies or why they are not. Through this kind of concept-learning activity, they will better understand what democratic constitutionalism is and what it is not. Students should also be challenged to apply their concept of constitutionalism to analyze and evaluate examples about the procedures and policies of their government. Thus, they might evaluate the extent to which their government exemplifies the concept of constitutionalism.

Analysis of United States Supreme Court cases is an especially effective method of teaching about democratic constitutionalism. Through its power of judicial review, the Supreme Court can invalidate acts of government that violate the United States Constitution. Teachers can use Supreme Court cases to stimulate critical thinking and inquiry among learners about constitutional issues of the past and present.[6]

Another effective method of teaching about democratic constitutions and constitutionalism is international comparison.[7] Learners in Hungary and the United States of America, for example, should be challenged to compare their constitution and practices of democratic constitutionalism with those of other constitutional democracies of the contemporary world.

Teachers can use common attributes to help learners systematically compare the written constitutions and constitutionalism in different countries. Six common attributes, for example, are (1) structure of government, (2) distribution of powers among executive, legislative, and judicial branches of government, (3) limitations on powers of the branches of government, (4) guarantees of human rights, (5) procedures for electing, appointing, and replacing government officials, and (6) methods of constitutional amendment or change.

These attributes, applicable to all democratic constitutions, are foundations for comparative analysis. Through this kind of international comparison, students can learn that

common characteristics of modern constitutional democracies are practiced in similar and different ways throughout the world. An outcome of teaching and learning comparatively about democratic constitutionalism is broader and deeper knowledge of the concept. Students are likely to enhance comprehension of their own government while globally expanding their understanding of democratic principles, including constitutionalism. Further, ethnocentric tendencies are likely to diminish as students learn the variety of ways that common facets of democratic constitutionalism are practiced. [8]

Human Rights in Education for Democratic Citizenship

Through education for democratic citizenship, students should learn the close connection between constitutionalism and human rights. Constitutional limitations on the democratic government's power are absolutely necessary to guarantee free, fair, open, and periodic competitive elections by the people and their representatives in government. The traditional constitutional rights of free speech, free press, free assembly, and free association must be guaranteed if elections are to fit the minimal definition of democratic government. Further, the rights of free expression and protection from abuses by the government in legal proceedings against the criminally accused are necessary to maintain loyal but authentically critical opposition to the party in power. There must be little or no possibility for rulers to punish, incarcerate, or destroy their political opponents.

Students should learn that constitutionalism, properly understood, is not antidemocratic in its limitations on majority rule and the popular will. Rather, it indicates an unshakable commitment to limited government and the rule of law for the two purposes of protecting human

rights and enabling authentic democratic government to operate for the public good.

Students should be taught the origins, development, and current understandings of the concept of human rights. For example, human rights are commonly understood to be "justifiable claims to have or obtain something, to act in a certain way, or to be treated in a certain way."[9] In the seventeenth and eighteenth centuries, when this idea became prominent in Western Europe and North America, it carried the label "natural rights" to denote derivation of these rights from the nature of every human being. Each person, according to the natural rights concept, possesses equally certain immutable rights by virtue of her or his membership in the human species; it is the duty of a just government to protect these rights.

During the nineteenth and twentieth centuries, the concept of natural rights was transformed into the idea of human rights. This change reflected an expansion of the scope or range of rights to include two types of claims. The first and older type is negative; it would limit the power of a government to protect peoples' rights against its power. The second and newer type of claim is positive; it would enhance the power of the government to do something for the person to enable her or him in some way. Thus, the late twentieth century idea of human rights, which incorporates both the positive and negative types, means that "certain things ought not to be done to any human being and certain other things ought to be done for every human being." [10]

The older negative claims on rights are exemplified by Articles 1-21 of the United Nations Universal Declaration of Human Rights. These Articles imply that no government or society should act against individuals in certain ways that would deprive them of inherent political or personal rights, such as freedom of speech, press, assembly, and religion. The newer positive claims on rights are exemplified by Articles 22-28 of the Universal Declaration of Human Rights.

They imply that every government and society should act for individual members to enable them to enjoy certain social and economic rights or benefits pertaining to social security, employment, housing, education, health care, and general standard of living.

There is general or global agreement among advocates of human rights that both types of rights, the negative and positive, must be included in a worthy constitutional government. However, there is worldwide conflict or disagreement about which type of rights is primary and more important in a constitutional democracy. Education for democratic citizenship should include analysis and debates about current controversies on the meaning and use of human rights in liberal constitutional democracies.

Advocates for the primacy and predominance of positive rights claim that "bread is more important than freedom of speech." They argue that the duties of government to provide social and economic welfare benefits for all the people require enhancement of public power and authority to enter all areas of economic and social life to promote the common good. [11]

By contrast, proponents of the negative rights tradition worry about the enormous increase of centralized government power required to provide positive rights through large-scale public programs. This could lead to a government so powerful and insufficiently limited that it could arbitrarily deprive particular persons (those out of favor with authorities) of their traditional personal and political rights. Thus, they maintain that human rights generally depend upon the primacy of guaranteed negative rights. They assert: a liberal constitutional democracy that would only recognize negative rights is incomplete; one that would only or primarily recognize positive rights is impossible. [12]

During the second half of the twentieth century, support of human rights has become

prominent throughout the world, and the flagrant abuse of those rights anywhere is likely to become a global concern. Most governments in the nation-states of today's world recognize the legitimacy of international interest in the inherent rights of every person, even if some do it grudgingly or superficially. Given the global primacy of human rights, there should be pervasive and systematic human rights education in schools throughout the world.

There is a strong international movement for human rights education. According to leading educators, teaching and learning about human rights in age-appropriate ways is feasible and desirable from kindergarten through grade twelve and beyond. Schools in most parts of the world have incorporated human rights education into the curriculum. [13]

Conclusion

Standards for teaching, learning, and assessing civics or democratic citizenship should emphasize two centrally important concepts: constitutionalism and human rights. These two key ideas are not sufficient to the knowledge base of education for democratic citizenship, but they are necessary components of it. If students in schools and citizens in the polity fail to know these concepts, to value them, and to act in terms of them, then their prospects for building and maintaining liberal democracy are poor. And conversely, if the people of a polity demonstrate comprehension of constitutionalism and human rights and commitment to these core concepts, their aspirations for liberal democracy may be fulfilled.

So one important gauge of curricular frameworks, content standards, instructional materials, and pedagogical practices involves constitutionalism and human rights. Are these core concepts addressed amply and effectively in the curriculum and the classroom? Are students challenged to use them to comparatively analyze and critically appraise governments of the world,

especially their own government? Are students confronted with political problems or public issues about human rights protections and violations or about the unending tensions between majority rule and minority rights? If not, then education for democratic citizenship is flawed.

Effectiveness in teaching core concepts in education for democratic citizenship, such as constitutionalism and human rights, is enhanced by collaboration and partnerships between liberal democracies, such as this partnership between the U.S.A. and Hungary. This point is stressed in a recent report about the Freedom House Annual Survey of democracy and liberty around the world. The author concludes that "nothing in the findings should suggest that the expansion of democracy and freedom is inevitable. Indeed, much of the progress the *Survey* has recorded is the byproduct of a growing and systematic collaboration between established and new democracies, between democracies and countries in transition, and between established civic groups operating in the context of freedom." [14]

The continued global advance of democracy and liberty through consolidation of liberal, constitutional, and democratic governments depends in part on the continued success of international partnerships, such as those in Civitas: An International Civic Education Exchange Program. [15] The Civitas Exchange Program, of course, includes the Civitas Association of Hungary and the Florida Law-Related Education Association, the sponsor of this summer institute, and many other international partnerships for democracy and liberty through civic education, including several central and eastern European countries and the United States of America. For example, Latvia and Lithuania are Civitas partners of Indiana University's Social Studies Development Center, which I direct. Let us resolve to strengthen and improve these international partnerships as a shining symbol and practical instrument of global progress for

liberal democracy, the only kind of democracy worthy of our commitment and faith.

Notes

1. Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991), 7.

2. Adrian Karatnycky, "The 1998 Freedom House Survey: The Decline of Illiberal Democracy," *Journal of Democracy* 10 (January 1999): 112.

3. *Ibid.*

4. *Ibid.*

5. Stephen Holmes, "Constitutionalism." In Seymour Martin Lupset, ed., *The Encyclopedia of Democracy*, Volume 1 (Washington, DC: Congressional Quarterly, Inc., 1995), 299-306.

6. John J. Patrick, "Constitutionalism in Education for Democracy." In Andrew Oldenquist, ed., *Can Democracy Be Taught*? (Bloomington, IN: Phi Kappa Educational Foundation, 1996), 91-108.

7. Kermit L. Hall, "The Power of Comparison in Teaching about Democracy." In Andrew Oldenquist, ed., *Can Democracy Be Taught?* (Bloomington, IN: Phi Delta Kappa Educational Foundation, 1996), 109-128.

8. An excellent resource for comparative analysis of democratic constitutions and constitutionalism is *Constitutions of the World* by Robert L. Maddex. This book was published in 1995 by Congressional Quarterly, Inc., 1414 22nd Street, N.W., Washington, D.C. 20037. The author of this volume uses several common categories systematically to present essential similarities and differences in constitutions of 80 countries. An abundance of useful data on

constitutionalism can be obtained through the Internet. The World Wide Web rapidly is becoming a valuable source of information for civic educators and their students. For example, copies of the constitutions of many countries can be found at this URL site: http://www.uniwuerzburg.de/law/index.html.

9. Charles F. Bahmueller, "A Framework for Teaching Democratic Citizenship: Summary and Commentary." In Charles F. Bahmueller and John J. Patrick, eds., *Principles and Practices of Education for Democratic Citizenship: International Perspectives and Projects* (Bloomington, IN: ERIC Clearinghouse for Social Studies/Social Science Education, 1999).

10. Michael J. Perry, *The Idea of Human Rights: Four Inquiries* (New York: Oxford University Press, 1998), 13.

11. John J. Patrick, "Individual Rights." In Charles N. Quigley and Charles F. Bahmueller, eds., *Civitas: A Framework for Civic Education* (Calabasas, CA: Center for Civic Education, 1991), 622.

12. *Ibid.*, 623.

13. Two important sources of information for human rights education are (1) Human Rights Watch; 485 Fifth Avenue, New York, NY 10017-6104; T: (212) 972-8400; F: (212) 972-0905; E: <hrwnyc@hrw.org> and (2) Freedom House; 120 Wall Street, New York, NY 10005; T: (212) 514-8040; F: (212) 514-8045. Both organizations produce annual reports on the status of freedom and human rights throughout the world. Two university-based centers that produce first-rate educational materials on human rights are (1) Center for Teaching International Relations of the Graduate School of International Studies at the University of Denver; Denver, CO 80208; T: (303) 871-3106; F: (303) 871-2456; E: <mmontgom@du.edu>; and (2) Center for

the Study of Human Rights at Columbia University; 1108 International Affairs Building, MC: 3365, New York, NY 10027; T: (212) 854-2479; F: (212) 316-4578; E: <eshr@columbia.edu>. The United Nations, of course, is a key source of information and curricular materials on human rights. The United Nations World Wide Web site features "CyberSchoolBus," a collection of K-12 curricular materials and other resources for teaching and learning about human rights and related topics, at <http://www.un.org/Pubs/CyberSchoolBus/>. For other United Nations educational resources, contact the United Nations Office of Communications and Public Information, New York, NY 10017; and contact UNESCO's Education Information Service, 7 Place de Fontenoy, 75700 Paris, France; <http://www.education.unesco.org/>.

14. Adrian Karatnycky, "The 1998 Freedom House Survey," 123.

15. For information and a descriptive brochure on Civitas: An International Civic Education Exchange Program, contact Jack N. Hoar, Director of International Programs, Center for Civic Education; 5146 Douglas Fir Road; Calabasas, California 91302; Telephone: (818) 591-9321; Fax: (818) 591-0527; or contact Jack Hoar at his e-mail address: <international@civiced.org>.

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