**The human rights of teachers in the digital education**

[1] New Humanity appreciates the Office of the High Commissioner’s call for input to contribute to the next thematic report which will focus on challenges to the human rights of teachers (and education personnel) and their contribution to the realization of the right to education. In this contribution, we will focus on the human rights of teacher in virtual environments.

[2] It’s clear that the human rights of teachers are for all teachers (also as a basic human right). ‘In practice’, there is a great variation depending on the region where the teachers live. For instance, there are regions in the world where teachers and schools remain, despite international law, strategic targets in armed conflicts[[1]](#footnote-1). Therefore, the conditions of teachers and education in fail states have to be a main concern for the international community.

[3] One previous condition to promote the human rights of teachers is to recognize his own condition as a teacher, professor, etc. and his specific action: to teach, to educate in a free and safe environment. For that, it’s also necessary to recognize that teaching is a “relational action” which implies a relational based approach to human rights. In practice, you aren’t a teacher without students and without something to teach. At the same time, we also need to recognize and understand a ‘minimum core’ on both the special nature of teaching and its relationship to the notion of education.

[4] The Vienna Declaration and Programme of Action (1993) reminded us that“all human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis” (par. 5).An interconnected world also requires the development of diverse approaches capable of capturing the complexity of human interactions. The human being is inherently social, and relationships express it. Relationality, or being in relationship, is a particular human characteristic also reflected in the institutions created and inhabited by individuals. Therefore, a relational approach to human rights helps us understand that human rights and fundamental freedoms and duties are “interrelated, interdependent, indivisible and universal.” A relational-based approach to human rights education concerns the human capacity to interact with other human beings reciprocally, respecting each other's rights.

[5] This approach recognizes and supports personal autonomy and, at the same time, protects ‘relational goods’ and human relationships, because human rights are fully realized when we protect, promote, and nurture connections between individuals. A relational-based approach is also connected to the cultural dimension of the right to education given that: “A universal right that is not informed by proper appreciation of cultural diversity cannot be truly universal; instead, it lays the groundwork for the domination of one country by another, for instance, or for the assimilation of one group in a country by another. Recognizing the cultural dimension of the right to education, however, does not translate into encouragement to appreciate nothing but the diversity of cultural identities; it is also about cultivating what underpins our common identities, our common humanity. Put simply, it is impossible to have one without the other” (A/HRC/47/32, par. 8)[[2]](#footnote-2).

## [6] Above all, in an educational environment the best interest of students will be a primary consideration. For that reason, the next report should clarify the correct balance between different groups of educational agent rights’ that converge in the educational sector: children, families, teachers’ human rights, and even the rights of the particular educational institutions. Specifically, in order to realize the best interests of the students, it’s important to consider ‘child autonomy’ (in both a psychological and pedagogical way) as a progressive and relational way which depends on the evolution of their faculties in a cultural, social, political and religious particular context. For that, ‘the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth’, as Declaration (1959) and Convention (1989) on the Rights of the Child proclaims.

[7] The most important activity for the teachers is teaching. But teaching is not an independent activity to learn or to educate. Is there any different between teaching and educating? What is the different between them? In educational practice it is impossible to transmit convictions and values without teaching something, and teaching something without transmiting convictions and values. These ideas are important, especially in a context where dominance of virtual education seems to make education a more objective or ‘neutral’ process and for that, someone could think that teachers are not actually necessary because they are more ‘subjective’.

[8] Because education is not neutral, freedom in education is vital. In Spanish educational law, there was an attempt, without success, to establish a difference between both. Teaching was defined as the ‘transmission of scientific knowledge’ (so neutral) while education was a ‘communication of moral, philosophical and religious convictions in accordance with a given ideology’[[3]](#footnote-3) (not neutral). In education and teaching, there is a communication of convictions, and both must prevail over the transmission of scientific knowledge. Otherwise, education and teaching will become indoctrinated. It’s important not to try to introduce artificial differences to achieve a ‘neutral’ education without convictions or values free but better to respect the children or parent’s conviction for education. Online or virtual education, just to be ‘educative’, is also a way and context to communicate values and convictions. Teachers are the first to recognize the complexity of the educational process and for that they need support and a strong social recognition for its work.

[9] The Covid-19 pandemic has also been the largest global experiment on virtual education and it was successful. The entire educational community experimented with the use of devices and platforms to teach & learn online. This was particularly important for parents but also for teachers. As the EU Charter of human rights affirms: ‘the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected’ (art. 14). For our thoughts about virtual education is very important this quote to ‘pedagogical convictions’ and that educational authorities respects these rights above all in virtual environments.

[10] In this context it is also important to ask for teachers’ human rights in virtual education. What future is waiting for teachers? What will they do? For the next report on the right to education, we suggest clarifying the different areas of teacher’s (but also for the rest of educational community) human rights in virtual education and the impact of Artificial Intelligence on those areas of education (AIED). While current legal mechanisms to some extent protect individual rights, the risks associated with AI have not yet been sufficiently addressed. Consequently, this will require not only legal and regulatory efforts, but also public oversight into the design, development, and the use of AI systems[[4]](#footnote-4). In this quoted document from COE, the authors focus on specific human rights to consider the reciprocal implications between these rights and AI and education[[5]](#footnote-5). For that, Member States should ensure that, where tasks would risk violating human dignity if carried out by machines rather than human beings, these tasks are reserved for humans … The right to refuse interaction with an AI system whenever this could adversely impact human dignity (p. 18). It should recognize both the right of citizens and consumers to refuse (easily) the interaction with an AI education system in favor of the human agent. In general, the same rights that the document recognizes for students should also be afforded to teachers: the right to education, specifically for teachers: academic freedom and the ‘right to pedagogical autonomy’, the right to choose the grade of technological immersion, the right to be heard (the right to participate in the decision making process on the use of technologies for learning); the right to not suffer from discrimination (fairness and bias and not to be categorized or marked by algorithms, big data collection for learning analytics), the right to privacy and to data protection. Classroom surveillance systems should be used just to guarantee a safe environment and not to collect data from teachers or students. Even if it’s for educational purposes, the privacy should be a primary consideration.

[11] The entire educational community should have the right to know when the teaching process is driven by AI and to be aware of its scope and implication. This is not only for personal privacy about the data used for educational platforms but also for the idea of informed consent. It’s important that the entire educational community has the necessary access to information and understanding of the role of devices, programs, and platforms (especially if they use AI) involved in teaching in order to express its ideas, expectation and fears from real and practical information[[6]](#footnote-6) (the right to participate in the educational process). For example, when is used the argument on ‘personalization’ to introduce AI in education the entire educational community has the right to know and understand what it is meaning and implication about.

[12] What does academic freedom mean for virtual education? Academic freedom was, at the beginning, the way to prevent interferences from political authorities into what teachers were researching and teaching. Now academic freedom should be the way to prevent interferences from the power of the technological sector in the educational process. For that, teachers should have the possibility to choose (or the rights to be heard to select) the platform on which to teach and the final say on the best forms of teaching.

[13] In virtual education the academic authorities should ensure the integrity of the educational process and the integrity of teaching. In virtual education above all, and thanks to technical application and devices, it’s very easy to fragment and slice the educational process by assigning human or non-human agents (AIED) as the academic authorities decide. These decisions, in any case, should reduce the presence of human agents, the teachers. However, education is an integral and coherent process which needs the human agent to drive it. Human agents, teachers, should supervise each and every decision made by artificial intelligence in the educational sector in order to ensure that the results respect and do not violate the rights of the agents involved in the educational process. The mechanics of decision making for non-human agents (as recommendations, for example) should be supervised by a human professor in order to guarantee the quality of the education process.

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1. In 2020 and 2021, GCPEA identified over 630 reported incidents of attacks on school students, teachers, and personnel across the 28 profiled countries. In these attacks, over 2,400 students, teachers or education person- nel were reportedly injured, killed, abducted, or threatened, and around 2,300 were reportedly arrested or de- tained. These attacks were distinct from students or teachers injured or killed in attacks on schools and universities. In several countries, girls and women were specifically targeted due to their gender (p. 12, executive summary, Education under attack 2022, available at: https://protectingeducation.org/wp-content/uploads/eua\_2022.pdf) [↑](#footnote-ref-1)
2. Contribution of New Humanity of the Focolare Movement NGO to Office of the High Commissioner’s call for input to the upcoming fifth phase of the World Programme for Human Rights Education (May 31st, 2023). [↑](#footnote-ref-2)
3. Tribunal Constitucional de España. Sentencia 5/1981 de 13 de febrero de 1981, voto particular del Magistrado Tomás y Valiente (párr. 5). [↑](#footnote-ref-3)
4. Leslie D. et al. (2021) Artificial intelligence, human rights, democracy, and the rule of law: a primer, Council of Europe (available: www.ssrn.com/abstract=3817999). [↑](#footnote-ref-4)
5. Vid. P. 51 [↑](#footnote-ref-5)
6. Vid. European Commission Directorate-General for Education, Youth, Sport and Culture (2022). Ethical guidelines on the use of artificial intelligence (AI) and data in teaching and learning for educators ([https://data.europa.eu/doi/10.2766/153756](https://data.europa.eu/doi/10.2766/153756" \t "_blank)) [↑](#footnote-ref-6)