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Human Rights Education in Scotland: Challenges and opportunities

Stephen Daniels

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Human Rights Education in Scotland: Challenges and opportunities.

Stephen Daniels

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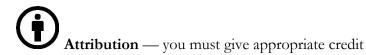
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Abstract   The right to education has become an increasingly visible feature of international educational policy debates and a foundation for state education policy itself over the last three decades. The emergence of Human Rights Education (HRE) as both a concept and an educational programme in its own right has been seen as a central condition for the realisation of the right to education. Successive Scottish Governments have expressed a commitment to the promotion of a society that is inclusive and respects, and realises, the rights of all people. The publication in December 2018 of the recommendations of the First Minister's Advisory Group on Human Rights Leadership outlines an ambitious programme for the further incorporation and realisation of human rights in Scotland including economic, social, and cultural rights such as the right to education. One feature of such a commitment, we might reasonably posit, ought to be the realisation and implementation of HRE within Scottish educational policy.   However, serious questions have been raised in the literature about how successful current attempts to incorporate HRE within the Scottish education system have been.

The paper analyses the current status of HRE in Scotland in order to highlight a number of concerns with how well HRE is realised is within Scottish education policy and practice before identifying potential ways forward. In doing so, it will highlight three areas of deficiency in the current strategy for implementing Human Rights Education in Scotland. These are: 1) the incorporation of HRE within the Scottish curriculum; 2) levels of confidence and preparedness of teachers in implementing HRE; 3) a lack of clarity surrounding HRE both as a concept and programme of education. Further, it argues that the current political climate in Scotland offer significant opportunities for addressing these issues relating to the political ambition for Scotland to show leadership in the realisation of human rights. Finally, a number of steps that can be taken in order to improve the realisation of HRE within Scottish education and the necessity of doing so if the Scottish government is serious about both strengthening the realisation of human rights in Scotland as well as being a human rights leader are presented.

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1. Introduction

The right to education has become an increasingly visible feature of international educational policy debates and a foundation for state education policy itself over the last three decades (Tibbitts, 2002; Coysh, 2014; Bajaj, 2011). The emergence of Human Rights Education (HRE) as both a concept and an educational programme in its own right has been seen as a central condition for the realisation of the right to education. Successive Scottish Governments have expressed a commitment to the promotion of a society that is inclusive and respects, and realises, the rights of all people. The publication in December 2018 of the recommendations of the First Minister's Advisory Group on Human Rights Leadership outlines an ambitious programme for the further incorporation and realisation of human rights in Scotland including economic, social, and cultural rights such as the right to education. One feature of such a commitment, we might reasonably posit, ought to be the realisation and implementation of HRE within Scottish educational policy. However, serious questions have been raised in the literature about how successful current attempts to incorporate HRE within the Scottish education system have been (BEMIS, 2013; Struthers, 2015a; Daniels, 2018).

With this in mind, it seems timely to reflect on the current status of HRE in Scotland in order to highlight any issues as things stand as well as to identify a way forward in Scottish education policy and practice[1]. To this end, I will outline the current strategy for the realisation and implementation of HRE within Scottish education, highlighting deficiencies identified in the literature in: 1) the incorporation of HRE within the Scottish curriculum; 2) levels of confidence and preparedness of teachers in implementing HRE; and, 3) a lack of

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[1] The initial motivation for this article can be traced back to my own dissatisfaction with the lack of clarity surrounding guidance for teaching human rights education during my time as a teacher in Scotland. In reflecting on my own practice and my struggle to find clear direction in Scottish education policy on the matter, I began to consider the wider questions of what human rights education as an initiative was and aimed to achieve and how this might be translated successfully into the classroom. This promoted further reflection on the question of what, as a teacher, I needed to know in order to achieve this, why HRE as an initiative was important and worthy receiving this attention, and who, if anyone, might be responsible for ensuring that HRE was successfully implemented. I have previously published on this topic in Daniels (2018) Global Citizenship Education and Human Rights in Scottish education: An analysis of education policy. *Citizenship, Social and Economics Education*, *17*(2), 85-99.

clarity surrounding HRE both as a concept and programme of education. Having highlighted these challenges, I will discuss a number of steps that can be taken in order to improve the realisation of HRE within Scottish education and discuss the necessity of doing so if the Scottish government is serious about both strengthening the realisation of human rights in Scotland and becoming a human rights leader.

2. Human Rights, Education, and Scotland

Successive Scottish Governments have cited a commitment to the promotion of a society that is inclusive and respects, and realises, the rights of all people (BEMIS, 2011). In its 2017–2018 Programme for Government, the SNP Government made clear its commitment to children's rights, in particular, saying that:

> …2018 is Scotland's Year of Young People, which presents an opportune moment to realise more fully the rights of children and young people and further embed a rights-based approach in all that we do.…[we will undertake] a comprehensive audit on the most effective and practical way to further embed the principles of the UN Convention on the Rights of the Child into policy and legislation ….(Scottish Government, 2018a)

This commitment continues a trend over the past few years where the Government has repeatedly used the strapline "making rights real" as part of its key policy commitments in a range of areas (Gadda et al, 2019, p.2). In relation to children's rights in particular, and especially in conjunction with the CRC, this highlights a very clear commitment to strengthening provision and realisation within Scottish policy. This clear commitment represents a level of prominence, as Gadda et al (2019) suggest, that we have never seen before in Scottish national policy. Indeed, we can see at least as far back as 2013 (and certainly further even) clear signs of the move in Scotland in this direction. The 2013 launch of Scotland's National Action Plan for Human Rights (SNAP), was to act as a roadmap of sorts in 'realising the full potential of human rights' within Scotland (SHRC, 2013, p.17). As Ferrie et al (2018) outline, there have been a number of questions and challenges raised surrounding the realisation of international rights in practice that have become increasingly significant as the international human rights movement has changed and developed over time, moving from law-making to implementation and enforcement at the national level. Many of

these issues have been demonstrated in the Scottish experience surrounding the development of SNAP itself. Ferrie et al (2018, p.2) draw our attention to Scotland's emergence as a strong pro-rights voice within the UK. Given the ongoing economic austerity that has characterised two successive UK governments, as well as the shifting and uncertain place of the UK within the EU, Scotland (or at least the Scottish government's) commitments to the maintenance and enhancement of the legal status of regional and international human rights interests, stands 'in sharp contrast' to the ongoing UK government position.

From a legal perspective Scotland, as a devolved nation of the UK, has certain obligations in relation to human rights treaties that the UK has ratified (for current purposes the CRC is the most important of these in relation to HRE). As Gadda et al (2019, p.2) highlight, while the UK is bound by international law, ratification of the *United Nations Convention on the Rights of the Child* (UNCRC) in 1991 does not permit rights in the UNCRC *itself* to be 'justiciable nationally'[2]. A consequence of this fact and an ongoing reluctance on the part of the UK Government over the intervening period is there are important and significant gaps in relation to the implementation of the UNCRC in domestic law[3].   Necessarily, therefore, there are several pressing questions about how well the rights outlined in the UNCRC are realised in the UK. While Scotland has its own legal system, it is limited in what it can do in this regard[4]. Currently, there are a number of options available for the immediate protection of economic, social, and cultural rights in Scotland and importantly, there is already precedent for Scotland going further than the Westminster Parliament in subscribing to international commitments (Boyle & Hughes, 2018). The Scottish Government has made moves in this direction such as the introduction of the Children and Young People (Scotland) Act 2014, which places duties on the Scottish Government and public bodies in relation to the CRC. While the case may be strengthened in future, and I will return to this point shortly, it is currently the case that Scottish Ministers are under a duty outlined in the above Act (Section 1(1)):

> a) to keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements, and

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[2] Instead, rights must be written into domestic legislation while reference can also be made to the European Courts of Human Rights or Justice.

[3] Matters vary in Scotland (as noted) and in Wales where moves have been taken towards a closer relationship with the CRC perhaps even including incorporation into domestic legislation. I will return to this matter later.

[4] For a good discussion of the Scotland's legal position in relation to international human rights law and considerations of the devolved and reserved powers in the UK see: Boyle and Hughes (2018) and Gadda et al (2019).

b) if they consider it appropriate to do so, take any of the steps identified by that consideration.

Further:

(3) … Scottish Ministers must promote public awareness and understanding (including appropriate awareness and understanding among children) of the rights of children.

These duties are, of course, highly significant in the discussion of HRE I will pursue here. But it is important at the offset to be clear about how far these commitments go legally. While these duties are to be welcomed, and particularly the direct reference in Scottish domestic legislation to the UNCRC[5], these duties are 'vague and weak legally' and would require further forms of 'accountability and persuasion' to ensure the realisation of children's human rights (Gadda et al, 2018, p.3). All of these incremental moves towards greater realisation of rights in Scotland have culminated (or at least converged) in the publication on the 10th of December 2018 of the recommendations of the First Minister's Advisory Group on Human Rights Leadership. The group set up by Scotland's First Minister to make recommendations on how Scotland can 'lead by example in the field of human rights'[6]. More significantly for this article is the commitment that this would include economic, social, cultural, and environmental rights. The group sought to produce recommendations that served both to mitigate the risks created by Brexit and UK Government proposals to repeal the Human Rights Act, but also to further extend the range of rights covered in domestic legislation in Scotland. In her recent discussion of the future of Economic, Social and Cultural Rights in Scotland and the prospects for meaningful enforcement, Boyle (2019, p.113) reminds us, even if the political impetus exists to establish Scotland as a human rights leader, this will require a 'reformed legal system' as well as a culture that is better equipped to protect these rights. This, latter point I will argue in what follows makes up, if not the primary, then certainly a central function of a programme of HRE. I will argue that the development of a culture of the sort required to ensure that rights are respected and protected necessarily requires the greater realisation of the right to education more broadly, and human rights education specifically. As we are reminded by the UN (CESCR, 1999), education is both a human right itself and a crucial means of the realisation of all other human rights.

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[5] For example section 3 above roughly mirrors CRC Article 42: "*States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.*"
[6] https://humanrightsleadership.scot/

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Consequently, there seem two general points that can be made here that I will expand on in the following sections. Firstly, that if HRE is an important or necessary feature of the implementation and realisation of the right to education, then in order to realise this right HRE must be adequately realised within Scotland. Secondly, if Scotland aims to be, and be seen to be a 'leader' in human rights, it absolutely must get this right. With all of this in mind, I will turn my focus to consideration of how successful attempts to incorporate HRE have been within Scottish education.

3. Challenges for Human Rights Education in Scotland

It is worth making a few clarificatory remarks regarding Human Rights Education before outlining the challenges surrounding the successful realisation of HRE within Scotland. The UN (2011) declaration on Human Rights education and training (UNDHRET) offers us the most recent elaboration on what HRE entails. While non-binding, the UNDHRET can be seen as giving further detail to a number of important legally binding instruments. Amongst them, we can include, Article 10 of *the Convention on the Elimination of All Forms of Discrimination Against Women*, Article 7 of the *International Convention on the Elimination of All Forms of Racial Discrimination*, and crucially Article 13 of the *Convention on Economic, Social, and Cultural Rights* and Articles 28 and 29 of the UNCRC (BEMIS, 2013). UNDHRET *Article 2(2)* defines Human rights education and training as encompassing education:

> (a) *About* human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;
>
> (b) *Through* human rights, which includes learning and teaching in a way that respects the rights of both educators and learners;
>
> (c) *For* human rights, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of others.

In essence, HRE as an initiative is about the provision for, and development of, awareness and protection of human rights (Struthers, 2015a; Lapayse, 2005; Bajaj, 2011; Tibbitts, 2002, Flowers and Shiman, 1997). In practice this means that HRE must include both 'content and process' relating to human rights (Bajaj, 2011, p.482); that is, it is not enough that children

learn *about* their rights, but that education itself must be participatory and rights-respecting (Bajaj, 2011). While there is much more that can, and I will later argue needs to be said, about what sort of educational programme HRE is and how we may justify this, for current purposes let us proceed with this general outline of HRE in mind. In addition to this sketch of what we might consider guiding principles for the curriculum and pedagogy components of any policy surrounding HRE, we can consider the UN World Programme of Human Rights Education (UNWPHRE) third phase (2015-2019) Plan of Action (OHCHR, 2014). The Plan of Action identifies the five key components for the successful realisation of HRE and is crucial in understanding the wider policy commitments required by States seeking to develop and successfully realise HRE. These requirements are:

1. Clear and comprehensive educational policies
2. Effective implementation of those policies
3. The fostering of rights-respecting learning environments
4. Ensuring teaching practices that reflect human rights values and
5. Effective teacher training in HRE.   (OHCHR, 2014)

On this basis, let us assert that the following (non-exhaustive) criteria as constituting compliance with the relevant considerations identified above: HRE1) Clear and comprehensive incorporation of HRE into educational curricula (OHCHR, 2014; UNDHRET, 2011; BEMIS, 2011); HRE2) Teachers must be aware of relevant rights legislation (UNCRC, 1989; UNDHRET, 2011 BEMIS, 2013); HRE3) States must promote adequate training in human rights for teachers (OHCHR, 2014; UNDHRET, 2011; BEMIS, 2013). While this is by no means an exhaustive list, it is reasonable to conclude that these three criteria together represent a good baseline for assessing how well a state has realised policies surrounding HRE in education. With this in mind, let us turn to recent research on HRE in Scotland. Questions have been raised in the literature about how successful current attempts to incorporate HRE within the Scottish education system have been (BEMIS, 2011,2013; Cassidy et al, 2014; Daniels, 2018, Struthers, 2015a, 2015b). With the above requirements in mind, and drawing on the existing body of research I will argue in what follows that: 1) HRE has no clearly defined place in the Scottish Curriculum; 2) teachers in Scotland lack adequate training and confidence in teaching HRE and implementing programmes of HRE within schools; and, 3) (As a consequence of 1&2) Scottish education policy fails to meet UN requirements for HRE (i.e. **HRE 1-3**).

3.1. Human Rights Education has no clearly defined place in the Scottish Curriculum

With the necessity of clear and comprehensive educational policies seen as fundamental to the development of HRE (OHCHR, 2014), a natural starting point for discussion is, of course, the formal curriculum in Scotland. While it is reasonable to suggest that the nature of a curriculum is to be a means to enable the fulfilment of educational goals, rather than the means to fulfil them itself, it seems logical to consider the curriculum (and related educational policies) as the only universal means of influence on practice that can be exercised by the Scottish Government in aiming to promote HRE. It seems sensible, and justified, therefore to examine the Scottish curriculum for evidence that it is: i) adequate to the task of supporting education *about, for, and through* human rights; and ii) explicit in its commitment to human rights values. In what follows I will highlight that while it is possible that the Scottish curriculum can meet the first of these conditions in a limited capacity, HRE's lack of visibility within the curriculum means it cannot currently fulfil the second nor the *about* and *for* elements of the first. Indeed, as the BEMIS (2013, p.12) report concludes, HRE as a discrete concept is simply "not visible enough" within the Scottish curriculum. The conclusions drawn indicated that Scotland currently fails to live up to its obligations in relation to the provision and implementation of HRE within formal education. As BEMIS (2011) note, proposals in the UNESCO Plan of Action (2006) are clear that national curricula should be designed for HRE with HRE being defined within the curriculum and included in all curriculum subjects. This, it is suggested, is currently not happening in Scotland (Struthers, 2015a; BEMIS, 2013). With Struthers (2015a, p.69) suggesting that the lack of HRE in Scotland is "largely attributable" to the lack of clear guidance within the curriculum.

The Scottish curriculum, *Curriculum for Excellence* (*CfE*) was developed as a flexible curriculum focusing on outcomes and experiences rather than tightly centrally mandated content. The intention was to enable a wide range of teaching and learning strategies to be employed as well as strengthen teacher autonomy (Scottish Executive, 2004). In relation to HRE and human rights more generally, the Scottish Government considers 'human rights' and 'a rights-based approach to education' to be concepts relevant to the provision of education under *CfE*. Indeed, this connection is made clearer in that Getting it Right for

Every Child (GIRFEC)[7] is explicitly recognized as being founded on the principles of UNCRC (Scottish Government, 2013). Turning to the contents of *CfE* (and related supporting materials), research has shown that aspects of HRE are found, to some extent, across the three teaching areas of: (i) interdisciplinary learning; (ii) freestanding subjects; and (iii) themes across learning (Struthers, 2015a; Daniels, 2018). Although one finds few explicit requirements in *CfE* to educate about human rights themselves, a number of experiences and outcomes reflect ideas relevant to the fulfilment of the UNDHRET (2011) Article 2(2). However, the major issue identified in research by BEMIS (2013), Struthers (2015a), and Daniels (2018) on HRE in Scotland is that nowhere in *CfE* is there a requirement that learners develop a basic understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection as per UNDHRET; that is, there is very little engagement with what rights are, how they are protected and promoted, nor what sort of values are associated with the human rights culture that is intended to be developed as a result of HRE.

This point can be further elaborated on by noting that (Religious and Moral Education) RME's express reference to 'human rights' – the only one within any freestanding curriculum subject – in an experience and outcome requiring learners to *develop views* about values such as fairness, equality and human rights (Struthers, 2015a, p.62). As the sole explicit reference to human rights, this is, of course, rather weak support for any notion that HRE as an educational programme is strongly supported or enabled by *CfE*. The declared position of the Scottish Government in relation to the incorporation of HRE within *CfE* is that 'human rights are embedded within the curriculum' as a cross-curricular theme (BEMIS, 2011, p.15; Scottish Government, 2010). This more interdisciplinary approach towards the fulfilment of HRE through cross-curricula engagement is demonstrated in the promotion of Global Citizenship within *CfE*. Global Citizenship as a focus of the curriculum and a responsibility for all teachers provides the strongest evidence of engagement with HRE within the curriculum as a whole but is not unproblematic itself. Analysis of this policy and the general strategy of aiming to realise HRE within Scotland through means of global citizenship education has highlighted important deficiencies with both (Daniels, 2018). In addition to raising concerns about the ability of *CfE*, as it stands, to meet relevant HRE requirements (as

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[7] GIRFEC is the national approach in Scotland to improving outcomes and supporting the wellbeing of our children and young people by offering the right help at the right time from the right people. It supports them and their parent(s) to work in partnership with the services that can help them (https://www.gov.scot/policies/girfec/)

outlined above), Daniels (2018) highlights broader concerns with the conflation of HRE with global citizenship education in the Scottish context (though this point can and has been made about citizenship education more broadly in the UK).

Importantly, Daniels (2018) argues that the clearest deficit in current policy in Scotland is the lack of explicit content *About* human rights within *CfE*. This argument is borne out by detailed analysis of Scottish educational policy highlighting an overall trend towards the promotion of generic values rather than specific and explicit reference to human rights as being the closest to direct engagement with education *about* rights within *CfE*. In terms of expected outcomes relating to knowledge *About* human rights, there are a number of statements, largely restricted to Religious and Moral Education and the Social subjects, that reference rights (or human rights) but lack further in-depth expectations for coverage. In particular, as BEMIS (2013) and Struthers (2015a) have previously concluded, and Daniels (2018) also notes, there is limited coverage of content relating to human rights throughout *CfE* generally, and the analysis of the role global citizenship education plays in *CfE* the same was found. In general, the majority of the evidence for support for HRE requirements *About* Human Rights found in curriculum guidance on developing global citizenship education[8] refers to democratic values or even more generic "values" as important aspects of the taught curriculum. While these are likely consistent with HRE, they are not explicitly so, and consequently cannot be judged as providing good evidence of support for the HRE requirements. Further concerns are identified by Daniels (2018) highlight a tendency to run rights and responsibilities together, a feature of policy and practice that has been strongly criticised by advocates of HRE and from a more general philosophical perspective of failing to accurately reflect the nature of human rights (Howe & Covell, 2010, 2005; Cassidy et al, 2014; Bromley, 2011; Covell & Howe, 2011; Kiwan, 2005).

While there is much that was identified as good in relation to pedagogy and taught content delivered *through* the lens of human rights in Scottish educational policy, the lack of explicit focus on teaching *about* rights is a concern, and evidence that Scotland currently fails to meet the requirement for clear and comprehensive incorporation of HRE within the curriculum (HRE1)[9]. Crucially, I argue the foregoing offers sufficient evidence to conclude that HRE

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[8] Learning and Teaching Scotland (2011) *Developing Global Citizens within Curriculum for Excellence*. Available at: https://issuu.com/ltscotland/docs/dgc_resource
[9] See Daniels (2018) for a detailed analysis and exploration of Scottish Educational policy surrounding Global Citizenship education as a means to realise HRE.

has no clearly defined place in the Scottish Curriculum and thus Scotland currently cannot demonstrate its ability to fulfil **HRE1**.

3.2. Teacher training and confidence in Human Rights Education

With clear and explicit direction from the curriculum seemingly ruled out, the development and promotion of HRE may alternatively come through engagement with training, either pre-service in initial teacher education (ITE) or as part of continuing professional development (CPD). As identified previously, UNDHRET (2011) Article 7(1) states that:

> States, and where applicable relevant governmental authorities, have the primary responsibility to promote and ensure human rights education and training…

Moreover, as Cassidy, Brunner, and Webster (2014,p.23) suggest:

> Given that HRE relies on individual teachers acknowledging its import and being confident in delivering [it], it would seem appropriate that ITE students receive some input in this area on their course, experience teaching HRE and observe teachers on placement teaching human rights.

The obvious questions in this connection are, therefore: 1) to what extent is training (of any sort) given for teachers in Scotland in relation to HRE and, 2) is this training adequate to enable teachers to be confident in incorporating HRE in their own practice? There are important questions to be asked about what is required in terms of knowledge to accurately and adequately teach *about* and *for* human rights. Human rights education both as an initiative and relation to its development in national contexts has struggled in this regard. Perhaps driven by the difficulties of translation of a concept devised and principally shaped by lawyers and legal academics into an educational one (BEMIS, 2013), but also, as I will argue in section 4 in lacking clarity in relation to philosophical issues of importance in education. What seems uncontroversial in relation to training for HRE is that whatever this input amounts to, the result ought to be that teachers have a clearly developed sense of HRE as a broad educational initiative, the character of any specific national programme of HRE to be implemented, and the goals of both as well as the kind of pedagogy consistent with these ends **(HRE2).** Before outlining the findings of the empirical research addressing these two questions, it is again worth clarifying what is required, in the broadest sense, for human rights education and training. Jennings (2006, p.289) posits that human rights education is the deliberate practice of preparing individuals, groups and communities with 'the content,

attitudes and skills that contribute towards the recognition, promotion and protection of human rights'. This holds for both HRE as it might be delivered in schools themselves but also what would plausibly be required in order to enable such a practice; i.e. HRE *for* teachers mirrors the practice teachers themselves would adopt. As Jennings (2006) continues, HRE requires that teachers understand human rights issues, serve as models of human rights advocacy, and contribute to the development of a human rights culture both within the classroom environment and outwith. Adequate training in HRE we might conclude would result in human rights becoming a fundamental organising principle for professional practice with all (prospective) teachers coming to see themselves as human rights educators (Flowers & Shiman, 1997). There are a number of issues with this characterisation I will return to in section 4 in discussing what teaching HRE actually amounts to, particularly in relation to considerations of the relationship between HRE and international law, as well as what a programme of HRE ought to look like in practice. However, it offers a reasonable working understanding of what HRE requires that can guide our assessment of HRE training in Scotland.

The most detailed research on the current state of HRE in Scottish education was conducted by BEMIS Scotland[10] in 2013. This mapping exercise aimed to map both the extent of teachers' knowledge of HRE as well as their experiences in incorporating this into classroom teaching (BEMIS, 2013). The goals of this exercise were, *inter alia*, to identify current practice in schools, gaps and barriers to the realisation of HRE, as well as professional development needs for teachers and other educators in Scotland (BEMIS, 2013). As part of this exercise, a survey of teachers from different sectors regarding HRE was conducted. Whilst acknowledging that this research cannot be taken as fully representative of HRE practice within formal education in Scotland owing to the practical limitations of the project, a return of 351 questionnaires from across Scotland allowed BEMIS to offer 'a suitably representative sample' (BEMIS, 2013, p31).

Beginning with the extent of training in HRE (including training relating to the UNCRC) reported, of the 346 respondents to the relevant question only 22% reported that they had ever attended CPD on HRE, with the remaining 78% reporting they had received no training in this area (BEMIS, 2013, p.35). Those greatest number of those reporting they had received

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[10] BEMIS is the national umbrella body supporting the development of the Ethnic Minorities Voluntary Sector in Scotland. BEMIS was established in 2001 to promote the interest of minority ethnic voluntary organisations, develop capacity and support inclusion and integration of ethnic minorities communities (https://bemis.org.uk/about-us/)

training referenced HRE training within ITE within Higher Education at the Universities of Strathclyde, Glasgow, Edinburgh and Aberdeen, (BEMIS, 2013, p.36)[11]. However, most reported that this training was simply one lecture or tutorial on the topic and often fell under the headings of Global Citizenship or Health and Wellbeing (BEMIS, 2013, p.36). As I have already argued, there are reasons to think this is insufficient to actually count as training in HRE specifically as understood in line with UNDHRET particularly in relation to Global Citizenship (Daniels, 2018). The authors conclude that with such a small percentage of teachers having received training in HRE, it is likely that the remaining majority of respondents, if they have any knowledge of HRE at all, have gained this through self-study or other informal sources leading to considerable variation in interpretations (BEMIS, 2013, p.35)[12]. All of which points again to the key issues identified in this article. With a lack of explicit guidance in the curriculum, teachers may thus be likely to interpret HRE as 'a matter of perspective rather than of specific teaching content', a problem only further compounded by the low levels of training offered to clarify what HRE is and to exemplify good practice (Hornburg, 2002, p.193). Further we may point to the fact that even the most diligent self-study would be met with the considerable lack of clarity and agreement amongst advocates of HRE as to what is required beyond a broad consensus around some organising principles; that is, the literature is not entirely illuminating on HRE as a concept nor how it may be translated into everyday practice. Interestingly, most of the teachers surveyed, while not familiar with HRE as a concept, believed they were incorporating some aspects in their daily classroom practice (BEMIS, 2013). When asked to outline how this was manifested, the greatest number of responses (11%) focused on classroom rules or charters and other matters relating primarily to behaviour management (BEMIS, 2013, p.41).

A reasonable conclusion was drawn on this basis that HRE has become associated by many teachers with promoting a respectful classroom environment and with behaviour management (BEMIS, 2013, p.39). The latter is somewhat troubling, and I argue indicative of both the concerns raised about the lack of clear guidance in the curriculum regarding HRE, and the reported poor levels of training in this area. While HRE has elements relating to the promotion of a respectful environment, it certainly should not be seen as synonymous with policies regarding behaviour management. Finally, and somewhat puzzlingly in light of the

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[11] Further references were made to: local authorities; Education Scotland; Scotland's Commissioner for Children and Young People (on the UNCRC); and by the British Council.

[12] This will, of course, be further compounded by the lack of clarity over what HRE is and how one may go about introducing it into the curriculum (see §x).

Scottish Government's focus on using Global Citizenship as a means to drive HRE, only 3% of teachers deemed this to incorporate human rights (BEMIS, 2013, p.74).

Additionally, as part of the BEMIS (2013) survey teachers were asked to rate their confidence in teaching HRE. The findings were somewhat surprising given the lack of training reported, with 50.1% of respondents "Fairly Confident" while 46.2% rated themselves as "Not Confident" (BEMIS, 2013 p.33). The authors suggest such findings may be anomalous, with the very low percentage of teachers reporting themselves as "Very Confident" (3.7%) seeming more congruent with the levels of training received (BEMIS, 2013, p.36). One general explanation for the lack of confidence expressed by many is proposed by Howe and Covell (2010) who found that teachers are not confident in the teaching of human rights if they are poorly prepared for this in ITE. Moreover, the kind of participatory pedagogy required by HRE is considerably undermined when it receives little to no attention in training (Howe and Covell, 2010, p.97). What was more interesting, and characteristic of the issues raised in this here was the additional feedback provided by the teachers who self-report as "Not Confident".

Taking two particularly telling contributions highlighted in the BEMIS report, a lack of confidence was combined with suggestions that HRE was not 'a topic for my curriculum area', and fear there would be repercussions for teaching about human rights (BEMIS, 2013, p.39). Recent work on the attitudes of student teachers towards human rights has the latter as a common theme (Horton, 2011; Cassidy et al, 2014). This fear has been further manifested through active encouragement to avoid human rights issues because they are seen as too political or fear of parental complaint (BEMIS, 2013; Cassidy et al, 2014). With all of this in mind, what is striking about the research literature is that there appears to be a broad consensus amongst teachers in Scotland about the importance of teaching children about human rights.

Indeed, the BEMIS (2013, p.39) study, for example, highlights that 59.4% of the teachers surveyed reported that they strongly agreed with the statement: 'Curriculum for Excellence should enable understanding of and respect for human rights'[13]. While one must be careful

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[13] 205 of the 345 respondents who answered the question Strongly Agreed with the above statement regarding HRE in the curriculum. No teachers reported that they strongly disagreed with this statement (BEMIS, 2013,p.40)

not to overgeneralise such a finding, it does not seem unreasonable to suppose this is a plausible representation of teachers working in Scotland more widely.

Finally, it is important to consider what, if any, barriers or gaps to HRE were identified. Encouragingly only 12.9% of the 334 respondents who answered this question identified experiencing explicit barriers to HRE[14]. Nonetheless, it is important to consider the issues highlighted by those articulating difficulties. The most prevalent issue highlighted was the lack of knowledge and training in ITE and CPD (62%) leading to a lack of confidence in classroom teaching. This is consistent with the findings reported above and seems the crux of the shortcoming in Scottish education elaborated on here. Importantly, 89.3% of respondents indicated that they would find CPD on HRE helpful (BEMIS, 2013). Other responses of note relate to common barriers to teaching such as overburdened curricula, lack of time, and lack of appropriate resources (BEMIS, 2013). Worryingly, as BEMIS (2013, p.45) report, some teachers (16%) indicated that they felt they had been dissuaded from teaching about human rights either by "ITE lecturers, school management leaders or because of religious reasons". Much can be said in this connection, and it is again indicative of a common perception identified in the literature cited previously that human rights are seen as controversial in some sense or liable to cause complaint when discussed in formal education. This, if true, is, of course, a significant worry and considerable barrier to the implementation of HRE and perhaps speaks to a more widespread perception of a conflicted view of human rights within the context of the UK as a whole[15]. As noted, however, the majority of teachers responding to this BEMIS (2013) survey and 42% of Scottish populace as a whole (SHRC, 2018) are supportive of human rights[16]. Certainly, in connection to teacher attitudes at the very least, any common conception of hostility towards human rights seems overstated (BEMIS, 2013).

In summary, research seems to indicate therefore that the lack of clear guidance in the curriculum, and the lack of training on HRE, has led to many teachers lacking confidence in

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[14] One may of course point here to the fact that the low levels of training in HRE would sufficiently hamper recognition of barriers of certain sorts.

[15] Recurrent discussions of Conservative politicians about scrapping the HRA and tabloid reporting around human rights issues are indicative of, or perhaps drive, this perception (See UN discussion of British tabloid coverage of human rights https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15885).

[16] By contrast, only 13% were found to be opposed to human rights with that meaning they agree with negative statements and disagree with positive statements about human rights. The remaining groups fall somewhere in between or are 'disengaged' from the issue and lack firm views (SHRC, 2018). In the context of the UK as a whole Bell & Cemlyn (2014, p.830) report on the Equally Ours UK attitude survey highlighting that only 22% were supportive and 26% opposed.

the teaching of HRE and potentially developing misapprehensions about what HRE is and what it entails (BEMIS, 2013; Struthers, 2015a). Taken together these issues provide strong evidence to support the claim that Scottish Government is currently unable to demonstrate that it clearly and comprehensively incorporates HRE within the curriculum (**HRE1**), that teachers are sufficiently aware of the relevant rights legislation (**HRE2**), nor that adequate training in human rights for teachers is provided (**HRE3**).

4.   Human Rights Education and a lack of clarity

Having established reasons to consider the lack of clear direction in the curriculum and the low levels of training important barriers to the realisation of HRE in Scotland, I want to turn now to broader issues relating to HRE as a concept and educational initiative itself. While there has been recognition both nationally and internationally that HRE remains a fairly poorly defined concept, I argue here that this, in fact, undersells the difficulties that HRE as an initiative, and any prospective programmes of HRE in schools will face (Struthers, 2015a)[17]. These difficulties are twofold: firstly, prospective models of HRE reflect different understandings of the appropriate relationship between HRE and international human rights law. This again requires further engagement at some level with debates within the HRE literature in order to enable the creation of clear and comprehensive policies surrounding HRE as a component of Scottish education. Secondly, that HRE as a concept and educational initiative needs much greater clarity in order to be effectively translated into policy and practice at a national level.

Of a range of issues in this area I will outline two relating to the development of HRE in the curriculum and the attendant question of values education. There is a significant discussion to be had around these questions but for the purposes of this article, I will only offer a flavour in order to highlight the need for *some* engagement with it in order to drive HRE realisation in Scotland. The most obvious reason for this is that the difficulties outlined in section 3 cannot be addressed unless we are clearer about what HRE is and what it requires. One cannot hope to offer adequate training for HRE, for example, if it is unclear what HRE as an initiative actually is and what it aims to achieve in education. The crucial point and the rationale for the inclusion of these more general questions is that if Scotland is to genuinely be a "leader"

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[17] I will identify two issues here but they are not the only ones worthy of consideration. Phillips and Gready (2013) offer an overview of the current issues surrounding HRE in a special issue dealing with the same topic.

in relation to human rights (and by extension HRE), this is exactly where attention should be directed. There is no international best practice to be adopted as things stand, but there are a series of questions that can help to shape the direction that national policy might take.

4.1. Human Rights Education and its relation to international law

As Phillips and Gready (2013, p.216) remind us the proliferation of HRE initiatives in recent decades has been characterised by the variety of positions thinkers, activists, and educators have taken on questions about the "right relationship" between HRE and the international human rights legal framework. A key question here is whether international human rights law is the 'indisputable basis' for the global rights project and, thus, a foundation on which educational interventions should be grounded if they are to have 'coherence, rigour and legitimacy' (Phillips & Gready, 2013, p.216). Or, as is often suggested in discussion of HRE, should HRE's relationship to international law be more 'fluid, creative, or even somewhat detached'? (Phillips & Gready, 2013, p.216). This more detached relationship accompanies a criticism of the relationship between HRE and international law, specifically in the direction of human rights and HRE being "too legalistic". Characteristic of the sometimes critical tone expressed in discussion of HRE and international law is the insistence that HRE needs to set itself up as in contrast to or even in opposition to international human rights law. A closer relationship and the programmes of HRE that might reflect such are derided as reflecting 'mere human rights legalism' (Phillips & Gready, 2013, p.217). It follows that it can on occasion seem as though human rights and HRE inhabit two, parallel worlds. This is highly significant in determining the appropriateness and applicability of models of HRE for incorporation within liberal democratic societies and especially within liberal state education generally and in Scotland specifically.

Discussions of the correct relationship between the law and programmes of HRE has been coloured in the literature by an often unhelpful division in between 'all law' and 'no law' views of HRE (Phillips and Gready, 2013, p.219). Neither of these positions appears particularly promising as they stand. In the former, there are reasonable criticisms that this could lead to the delivery of HRE that is too formulaic and inadequate for the proposed goals of HRE. On the latter, far too much work is thought to be done by 'rather vague talk' about human rights values and the creation of a human rights culture. Concepts like 'equality, dignity, and non-discrimination' are often invoked 'endlessly' to the point of imprecision (Phillips & Gready, 2013, p.217). It will be helpful here to reflect on a series of questions

posed by Phillips and Gready (2013) generally and consider how they relate to Scotland in particular in light of what was outlined in §2. The tension between these, the all and no law poles of the debate, may prompt us to consider whether the framing of HRE in terms of values and culture is more accessible for the general public than the strict formalism often associated with discussions of international human rights law. That is to say, does focus on values and principles such as non-discrimination that have more widespread support enable an entry point for HRE in contexts in which there is more hostility or confusion about human rights themselves? The likely answer is yes.

In contrast to the potentially unclear or conflicted view the public as a whole has about human rights, the values of non-discrimination, equality, and dignity, for example, are well established both in policy talk but also the language of the education system itself. One might indeed wonder given the reported fears of teachers of parental objection and reprimand from management when dealing with human rights issues whether this makes the strength of this point even more apparent (BEMIS, 2013; Cassidy et al, 2014, Horton, 2011). Is this an acceptable starting point even if it is, ultimately, to be replaced if HRE succeeds in its aim to create a human rights culture in Scotland?

The issue is whether this represents a dilution of what is important about HRE, relegating it to a placeholder for the kind of generic "inclusive" but relatively apolitical and unempowering enterprise that is easily shuffled to the bottom of the pile of priorities in an already overburdened school experience. Even if one is not pessimistic about the prospects of any educational initiative aimed, to a greater or lesser extent, towards social change, a vital question to grapple with in seeking to develop any plan for the implementation of HRE is whether or not HRE can coherently exist apart from the legal framework and have any real substance? A relatively 'watered down' version of HRE one might propose centred just around the broad inclusive values that run though HRE and human rights advocacy, but that avoids establishing a close relationship with the international human rights law framework may at first glance look appealing. One can envisage such a programme as relying strongly on the shared democratic and inclusive values that are common currency in political debates but that can and do exist without explicit reference to the international human rights legal framework. Whether or not this has enough "bite" to provide the support that direct reference to human rights, by way of human rights instruments have in the law, is particularly unclear.

This lack of clarity is especially important when considering how far such a version of HRE would contribute to building a human rights culture and strengthening the ability of citizens to recognise and claim the rights they have. This question matters a great deal in determining what kind of "model" of HRE one thinks is appropriate for Scotland and I will discuss this further in 4.2. where we can more clearly see the consequences of different answers to this question. As a general question, however, a large part of how an answer might be reached generally is decided by what one understands HRE as aiming for and how this can be achieved. As mentioned, this is the very area in which matters are significantly complicated by the lack of clarity in debates surrounding HRE beyond a common consensus on key principles.

An additional technical question of this sort is: how far would it be possible to attempt to adopt a "looser" relationship between HRE and international human rights law if the latter is substantially translated into or incorporated in Scots law? On the face of it at least it would seem rather odd to both recognise the importance of the international human rights framework (and thus seek incorporation or close) but also reject it as the basis for human rights education. It is important to note that the 'other end of the spectrum' so to speak that focuses primarily on the 'formulaic delivery of international human rights standards' also seems inadequate (Phillips & Gready, 2013, p.217). As such, to move too far in either direction is also unlikely to produce a viable programme of HRE for Scottish education (unless one is convinced that is *all* that is required is knowledge of the letter of the law).I agree with Phillips and Gready (2017) that the idea that if people know the law then the work of HRE is done is surely inadequate as an educational goal and would considerably undersell the potential of HRE to contribute to the building of a rights-respecting society. All of which highlights the considerable lack of clarity about what HRE is for, and how best we should conceive of its relationship to international human rights law. There are no easy answers here, with the foregoing demonstrating some of the considerations that will necessarily frame the debate if HRE is to find a more fully developed role in Scottish education and policy.

4.2. Models of Human Rights Education

Disagreement about the right relationship between HRE and international human rights law is often reflected through the existence of different "models" of HRE. It is unsurprising that HRE, like almost any other educational initiative, admits of a variety of models for

implementation. Less surprising still is the fact that HRE scholarship reflects a variety of philosophical, legal and, sociological positions that significantly colour both the proposals made in relation to HRE and how HRE as an initiative is situated in wider debates within and outwith education scholarship. With the aforementioned lack of clarity around HRE as a concept and initiative itself, this is a natural consequence. Felisa Tibbitts, director of the Human Rights Education Associates (HREA) stated over a decade ago in 2002 that if HRE is to become a genuine field:

> … then we are challenged to become more coherent (even among our diversity of models), to be unique (offering value and outcomes that other educational programs cannot), and to be able to replicate ourselves. (Tibbitts, 2002, p.168)

More recently, Russell and Suarez (2017, p.39) describe guidance around a HRE curriculum as 'at best opaque and at worst so underdeveloped as to include only "mentions" of something called "human rights"'. This is indicative of the wider problems in the field of HRE itself. This fits with the challenges faced by the Scottish curriculum identified previously. One explanation for this is the reluctance of the UN and the World Programme for Human Rights Education (2005- onwards) to offer a curriculum or even concrete general guidance. While calls were made to develop a curriculum of knowledge, skills, values, and action, no such curriculum has been developed. This, itself, is not a surprise. Parker (2018, p.5) notes that stopping short of curriculum development may be a wise strategy, with HRE curricula needing to be developed locally where they 'make sense, enjoy legitimacy, and get enacted'. This is sensible, but the result is that at the international level there does not exist anything approaching an HRE curriculum. What guidance there is, is 'scattered, ill-defined, and too variable to be robust' (Parker, 2018, p.5). In the absence of any international template for HRE in the curriculum, one can turn to attempts to categorise and offer models or typographies of the varieties of HRE. Although models are not national curricula they do offer a helpful sense of how one might construct one and what considerations are relevant in doing so.

A number of attempts have been made to categorise the varieties of HRE proposed in the literature, with Tibbitts's (2002; 2017) and Bajaj's (2011) categorisations or typologies being the most widely referenced. The two offer slightly different, but in many ways overlapping, accounts of how HRE has developed. Starting with Bajaj's (2011) account, she identifies three different outcomes based on models of HRE that differ in approach, content, and

directedness towards action. Importantly, Bajaj (2011) draws our attention to the fact that while almost all models of HRE offer a generally universal vision for HRE, some scholars have strongly emphasised the importance of context and the makeup of the society in which any proposed programme of HRE is to be introduced as strongly determining the characteristics and focus of HRE. Bajaj's (2011, p.489) survey identifies three forms of HRE that are not 'mutually exclusive with the others' but offer different ways to conceptualise the primary rationale for HRE. Her contention is that while programmes of HRE can embody aspects of any of the three approaches the 'ideological orientations of most HRE initiatives are generally rooted' in one of the three categories she outlines. These are: (1) HRE for Global Citizenship; (2) HRE for Coexistence; or (3) HRE for Transformative action (Bajaj, 2011, p. 489). Taking each in turn, HRE for Global Citizenship is said to emphasise individual rights as part of an international community. This may or may not be seen as a direct challenge to the state itself.   HRE for Coexistence is typically found in post-conflict settings and reflects this in its emphasis on minority rights and pluralism. Finally, HRE for Transformative Action is primarily concerned with 'understanding how power relationships are structured' and the possibility for collaboration across grounds in order to enable greater respect for human rights (Bajaj, 2011, p.494)[18].

Turning next to Tibbitts's (2002; 2017) models of HRE, we might consider how HRE proposed in line with the "values and awareness" and "activism-transformation" models might fit into this picture[19]. Roughly speaking, these two would overlap to a considerable extent with Bajaj's (2011) HRE for Global Citizenship for the former and HRE for Transformative action for the latter respectively. To briefly outline the difference, the values and awareness model aims towards the 'socialisation and legitimisation of human rights discourse' (Tibbitts, 2017, p.15).   Typical features include, amongst other things, education about the content and history of human rights, the international legal system, global rights issues (Tibbitts, 2002). In this model, the main focus of HRE is the transmission of basic knowledge of human rights and human rights issues and to 'foster its integration into public values' (Tibbitts, 2002, p.163). It is common that school curricula that include human rights link this closely with fundamental democratic values and practice (Tibbitts, 1994). Human rights education so conceived is to 'pave the way for a world that respects human rights

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[18] For further detail see Bajaj (2011).

[16] A further of Tibbitts models the "Accountability-professional development" model is worthy of consideration within the context of Scottish teacher education (specifically in relation to reforming elements of ITE) but I will not discuss it here for reasons of time.

through an awareness of and commitment to the normative goals laid out in the Universal Declaration and other key documents' (UNCRC). This strikes me as both consistent with the detail and spirit of UNDHRET (2011) and importantly what the Scottish Government has said about human rights more broadly. The values and awareness model is seen as the "dominant" model of HRE as things stand though it is not without its critics.

These criticisms relate to the claim that the former model reflects an "overly legalistic" understanding of human rights. Moreover, it is argued, it fails to disrupt the status quo or be sufficiently individually empowering. As Tibbitts (2002, p.1634) suggests, the concern many in favour of HRE would have with this model is that it 'does not directly relate to empowerment'. The criticism often levelled at the values and awareness model is that 'the agency of the learner is not encouraged nor empower[ed] to take action to reduce human rights violations' (Tibbitts, 2017, p.8). An alternative, the activism-transformation model[20] is thought to address the most serious difficulties of the values and awareness model. In the original Transformation Model described by Tibbitts (2002), a theory of change was seen to be very prominent with a close association with methodologies of transformative and emancipatory learning (Tibbitts, 2017; Bajaj, 2011; Keet, 2010). Such methodologies incorporate critical pedagogy and involve a 'critical reflection on society and the conditions that result in injustice' (Tibbitts, 2017, p.9).

I think there are reasons to be cautious about the appropriateness and practicability of the latter of these models in the context of formal state education however this is not the focus of the current work. The main issue to draw attention to is that in endorsing either of these models as the appropriate way to incorporate HRE within Scottish education requires careful consideration on the part of policymakers. The question to consider then is which, if any, of these models of HRE best fits with what we want to do in Scotland? In either case, how can we make a decision and what impact will this have on how we might pursue the realisation of HRE within Scottish education? There is no *a priori* answer to be offered here, and part of the recommendations I will later offer will be to begin to seriously consider this in the context of Scottish education. While proposals of various sorts could be made, until it is clearer what role HRE ought to play in the Scottish curriculum these questions cannot be settled. This role must be much more explicit and include a much greater focus on education *About* rights (see

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[20] It is important to note that this model is *primarily* employed in informal education. However, suggestions have been made by Tibbitts (2002; 2017) and others that it could or indeed should be applied to formal education. Tibbitts for example argues that "it is possible to attempt a transformational model of HRE if links are made between the school and family life" (2002, p.167).

§3.1), but this still leaves open the question of best fit with proposed models of HRE. It seems clear to me that the closest fit to what is *currently* happening is what Tibbitts (2002; 2017) calls the 'values and awareness' model and Bajaj (2011) the Global Citizenship model.

However, none of the above settles things in relation to how best to proceed in translating HRE into national policies and practice. What it does highlight is the necessity for engagement with this issue in order to improve the implementation of HRE within Scotland. Why this matters is that deciding on what sort of model of HRE one wants to pursue determines to a large extent what sort of curricula content this requires as well as how and where HRE fits into the educational landscape. Moreover, the pedagogical demands of the models briefly discussed here are very different, requiring different inputs in teacher training or CPD. The central point here is then that decisions need to be made about which of these models (or any proposed alternatives) should be the basis for the development of HRE within Scottish education. Until this is decided progress will continue to be curtailed by issues surrounding clarity and a lack of consistent approach to the translation of principles of HRE into policy.

To conclude this section, I will reiterate the broad underlying questions that motivate it. To develop and successfully implement a programme of HRE in Scotland we must ask: what exactly is needed to translate the knowledge, skills, and values 'nurtured in an educational setting' into everyday life for the wider population and professionals themselves? (Phillips & Gready, 2013, p.218). Do considerations of national or local context matter, and what, if anything, does this mean for the design and delivery of HRE? (Phillips & Gready, 2013, p.218). How do we develop a programme of HRE that is both relevant to the needs of Scotland – both in terms of contextual factors relating to the law as well as specific needs of citizens - and what relationship does this have to international human rights law? My argument here is that given the absence of consensus in the field and thus no easily imported solutions, as well as the importance that however HRE is to be developed in the curriculum it must involve engagement at the national level to 'make sense, enjoy legitimacy, and get enacted' there seems a strong rationale to advocate greater engagement with these wider issues surrounding HRE in order that policymaking in Scotland can be better informed (Parker, 2018, p.5). I will make further comment on this in the course of my recommendations in the next section.

5. Opportunities for Human Right Education in Scotland

Having outlined a range of challenges facing Scotland in realising HRE, I turn now to the opportunities the current political climate provides in addressing this task. While the preceding sections could make the task of realising and promoting HRE within Scottish education look an impossible task, I will contend here that while certainly difficult there are a number of immediate steps that can be taken that can substantially improve matters while the more complex questions I have outlined in this article are grappled with. As suggested in §1, there are a number of reasons for optimism about both the realisation of human rights more broadly in Scotland, but also of the important role that HRE might play in this task. The creation of a new national taskforce[21] to take forward the recommendations made by the First Minister's Advisory Group on Human Rights Leadership in addition to the parallel initiative to consult on proposals for the incorporation of the UNCRC into domestic law highlights the particularly fertile environment in which proposals about the implementation of HRE within Scottish education can be made. This new taskforce will focus on the development of new legislation which would 'enhance the protection of the human rights of every member of Scottish society' and in keeping with this aim must surely come steps to improve the realisation of HRE within Scotland (Scottish Government, 2019). Alongside these welcome developments, we can consider the draft strategic goals of the Scottish Human Rights Commission for the period 2020-2024 to gain an insight into how the SHRC as a national human rights institution is seeking to assist in the realisation of rights in Scotland. The SHRC (2019) states that to advance towards the goals of 'our vision and mission', the SHRC draft strategic priorities for 2020 – 2024 are:[22]

- **Strategic Priority 1:** Progressing understanding and strengthening legal protection of economic, social and cultural rights.
- **Strategic Priority 2**: Strengthening accountability for meeting human rights obligations.
- **Strategic Priority 3**: Building wider ownership of human rights.
- **Strategic Priority 4**: Showing global leadership in human rights.

One can draw a number of immediate conclusions from these priorities about the role HRE may be able to play in all four of these strategic priorities and I will highlight a few here. I want to emphasise here that education about human rights can and perhaps necessarily must

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[21] A new National Taskforce to lead on human rights in Scotland was announced on the 12th of June 2019 (https://www.gov.scot/news/new-national-taskforce-to-lead-on-human-rights-in-scotland/).
[22] At the time of writing these priorities have been sent out for consultation.

play a role in progressing understanding of economic, social, and cultural rights both in the course of education in the formal sense of schooling and also by more widely enabling the citizens of Scotland to engage fully with the human rights culture to be developed. Of particular importance here we might again suggest, as the UN has reiterated, that the right to education (and by extension HRE) is central to the realisation of other rights and that knowing about one's rights is the key to claiming them. Education crucially functions as a 'multiplier' enhancing all other human rights when it is guaranteed, and conversely, foreclosing the realisation of most others when denied (Tomasevski, 2003, p.1).

Focusing on Priority 3, it seems natural to suggest that part of building wider ownership of human rights requires adequate levels of knowledge and understanding of those same rights, the mechanisms for their protection, and the norms and values that underpin the human rights movement itself. As Boyle and Hughes (2018, p.44) discuss, the experience in Scotland surrounding the creation of SNAP involved building up capacity for rights holders, civil society, and the government to be involved in developing national action plans creating 'a sense of ownership and awareness' over the standards required to meet international obligations as well as being 'undoubtedly' an example of best practice. It is here, I contend, that a fully developed and realised programme of HRE within Scottish education might offer perhaps its greatest merits in extending this process beyond the development of national action plans to the education system itself. If nothing else, the clear focus in compulsory education on learning about and for one's rights, the mechanisms for their protection, and the overall importance of "human rights values" seems an essential component of this capacity building. Importantly in this connection, we might reference the work of Elaine Webster and Deirdre Flanigan (2018) on localising human rights law in Scotland. One of the concerns I raised earlier was about how best to understand the relationship between HRE and international human rights law. As way of a partial response, we might consider the exact process discussed by Webster and Flanigan (2018) where 'local ownership of international rights language' as both a key element of 'making rights real', but also as something of a middle ground between the "no law" and "all law" poles which HRE Phillips and Gready (2013) identify. It is important to remember that the legal formulation of rights can be 'just one aspect of a broader conceptualisation of human rights as a transnational discursive practice' (Webster & Flanigan, 2018, p.24). It is prudent, therefore, not to overlook the role that legal standards can play in offering 'official stamps of validity, accountability and remedies' (Webster & Flanigan, 2018, p.24). This strikes me as something to keep in mind

when deciding the kind of relationship we might prefer for HRE and international human rights law in Scotland.

Webster and Flanigan (2018, p.24) further suggest it is important to the idea of rights-holders feeling able to and being supported in "appropriating" rights language evident in both 'public outreach programmes and rights education campaigns'. This idea has the flavour of what one might contend programmes of HRE ought to seek to do (to a greater or lesser extent in relation to the audience) in education. Both as part of the goal of developing a rights culture, but also in this capacity building and empowering role enabling citizens to more widely engage with their rights and remembering that '[h]uman rights can only be achieved through an informed and continued demand by people for their protection' (OHCHR, 2011). An interesting issue raised Webster and Flanigan (2018) in discussion of research conducted in Bolivia by Goodale[23] is the usage of human rights language by individuals in the context of discussion of their own rights may be used in connotative or denotative ways. Gesturing towards broad human rights ideas (the underlying values perhaps) or specific invocations of standards (human rights legislation, mechanisms for reporting and enforcement for example) represent these two different usages both of which seem vital in the development of a human rights culture and, importantly, both of which comprise a form of public practice that could be the subject of HRE. It is my contention that HRE can play a vital role in enabling this translation or "appropriation" process and empowering the citizens of Scotland to claim their rights and to use human rights as a powerful tool in public debate. It is worth reiterating that while the current article is focusing on HRE as it is to be developed for formal education, the world programme for HRE in its different phases makes clear that HRE is much more expansive than this including politicians, members of the emergency services, journalists and many more[24]. Finally, to offer a brief comment on priority 4, I believe the challenges outlined in this article build a strong case to suggest that Scotland does not currently show global leadership with relation to human rights education, nor therefore with how successfully the right to education is realised. To begin to address this deficit, there are a number of potential directions I will highlight below. These range from steps that can be taken relatively straightforwardly and immediately, as well as those that require more time and reflection in order to formulate a coherent and practical response to some of the more complex difficulties I have outlined in this article.

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[23] Mark Goodale, 'The Power of Right(s): Tracking Empires of Law and New Modes of Social Resistance in Bolivia (and Elsewhere)', in Practice of Human Rights, 146–7.
[24] https://www.ohchr.org/EN/Issues/Education/Training/WPHRE/ThirdPhase/Pages/ThirdPhaseIndex.aspx

5.1.   Future directions

Although there are no simple answers to the issues raised here nor, as suggested, any existing exemplar[25] from which Scotland can take direction wholesale, I want to offer a number of suggestions here for future directions for HRE within Scotland. The first and most obvious issue that can be relatively straightforwardly addressed is clearer direction for teachers in relation to HRE, starting with a clear and unambiguous commitment to address the issues relating to the lack of clear and comprehensive inclusion of human rights within the curriculum. The brief comments in a 2010 response to the UN regarding the Scottish Government's efforts in relation to human rights and education is the only statement made relating even tangentially to human rights education. This can and should be rectified even simply for purposes of clarity in relation to the Scottish Government's position on HRE[26]. Recognition that there is *something* to be said here will be an important first step in improving HRE within Scottish education. A clear statement of intent that the Scottish Government is committed to realising human rights education would send an important signal to teachers in support of their own efforts. Being supportive of and recognising the achievements of schools in relation to the UNICEF Rights Respecting Schools Award does not quite fulfil that role though one may mistakenly conflate the two. Whatever the merits of this award, the Scottish Government itself has no responsibility for it, nor does it form part of any official reporting on the Scottish Government's efforts to realise HRE. Above all else, my aim in this paper is to put the issue of human rights education firmly onto the agenda in Scotland and in particular its place in wider efforts to improve the realisation of human rights for all those living in Scotland. The first step in this journey is for the right to education and human rights education specifically to take its place amongst the vibrant and constructive work being done on housing, health, poverty, and many other areas through a lens of human rights. Education has been, and should continue to be, situated amongst these crucial discussions as both a driver for change, but also as an invaluable means to protect and empower citizens to recognise and claim their rights.

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[25] Ireland can stand as a very good guide for Scotland in how to approach this issue given some important similarities between the two nations with the caveat that Scotland currently remains a member of the United Kingdom and so does not have the full range of powers nor direct legal obligations discussed in the context of Ireland. However, there are a number of examples of good work on HRE in Portugal, India, and Canada to name a few that may offer guidance
https://www.ihrec.ie/download/pdf/human_rights_education_in_ireland_an_overview.pdf
[26] While the position expressed in 2010 about HRE and Global Citizenship education specifically has been discussed here and in BEMIS (2013) and Struthers (2015a), this is based on the fact this guidance has never been superseded. Whether the position has changed or is considered at all is entirely outwith publicly available discussion on the part of the Scottish Government or Education Scotland.

Before offering a final conclusion, I will offer a few suggestions for future directions for HRE in Scotland. The growing body of literature on HRE in Scotland strongly supports the need to ensure clear and comprehensive incorporation of HRE into the curriculum. As suggested this the most obvious current failing that does not require substantial efforts to address. It is important to recall here the obligation for states to ensure clear and comprehensive incorporation of HRE into the curriculum (**HRE1**). The 4A framework for the realisation of the right to education devised by former Special Rapporteur on the Right to Education Katerina Tomasevski (2001a), highlights a series of explicit guarantees secured by international human rights treaties, national constitutions, and domestic laws (Tomasevski, 2001a). The third of these A's, *acceptability*, relates primarily to the curriculum in reference to Article 26 of the UDHR (McCowan, 2013). The key point is that access to *any* kind of education is not good enough with the right to education only 'fulfilled if certain conditions are in place' (McCowan, 2013, p.39).

In this article, I have argued that one of these conditions in relation to Human Rights Education, the clear incorporation of human rights into the curriculum, has not been met in Scotland. This then is where we should turn our immediate attention if the ambition of the rhetoric of human rights leadership is to be translated into equally ambitious policy. Further, it does not seem unreasonable to consider how the successful ongoing work in relation to Scotland's national action plan for human rights may have a further role to play in driving HRE and making clearer accountability and good practice in meeting this obligation. *Equality and Human Rights Impact Assessments for Education and Training* as an element of SNAP strike me as a plausible avenue for embedding further considerations in relation to HRE. In particular, to consider how such assessments may be revised or made more robust in line with the criteria for HRE realisation outlined here (**HRE1-3**).

As the initial period of 2013-2017 for SNAP has concluded and work is currently underway to prepare a draft ready for consultation in the summer of 2019, this seems an opportune moment to consider how HRE may factor into the next iteration of SNAP and the value I identified above in this regard in relation to the strategic priorities of the SHRC. Assessment of provision in education and training in relation to human rights should surely consider human rights education (i.e. education about, for, and through rights) as part of assessments of human rights *impact*. Further, specific focus should be placed on 'Child Rights Impact

Assessments' (CYPCS)[27]. There are sufficient grounds to argue that in direct relation to UNCRC Articles 28,29, and 42, that assessment of Child Rights impacts in education should have a focus on human rights education. This, of course, becomes even more important should incorporation of the UNCRC into Scots law take place.

In this connection, we are prompted to look in two additional places for specific areas that may be crucial for realising HRE in Scotland. Both the current consultation on the incorporation of the UNCRC into Scots Law (May 2019-) and guidance and strategic priorities outlined in Scottish Government's "Progressing the Human Rights of Children in Scotland: 2018-2021 Action plan" have identifiable elements of direct significant to the promotion and development of HRE[28]. Indeed, there are a number of specific areas that already appear to reflect a commitment to something approximating human rights education and training.

With this in mind, what is already being done and how far is it away from what I am suggesting? The answer is unclear to the former question at least without further clarification, and for the latter not, as far as I can see, particularly far in certain regards if the link to HRE is made explicit. However, as with all policy, and rhetoric about policy, the detail and how broad claims are understood is key. In such cases, my suggestion is that any connection between existing policy and HRE is made explicit and this connection is made with reference to the UNCRC itself or UNDHRET for purposes of clarification. Amongst other things, one example of drawing such a connection might be the children's rights action plan which outlines the following as a strategic priority:

> [to] develop through co-production, an ambitious programme to raise
> awareness and understanding of children's rights across all sectors
> (Scottish Government, 2018b).

This, I think, straightforwardly covers both HRE for children, but also human rights education and training for those working with, or with organisational responsibility for children across all sectors. It does not strike me as much to conclude that the kind of suggestions I have made here and specifically the type of thing HRE is envisaged as being would be a crucial factor in fulfilling this aim. Indeed, this is to strike a similar chord to strategic priority one of the SHRC plan outlined above. This connection shows a strong sense

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[27] https://www.cypcs.org.uk/policy/cria

[28] Work undertaken in the devolved Assembly of Wales in this area has been of considerable interest for the Scottish Government.

of common purpose is driving specific human rights related goals linking both the state and national human rights institutions. This common purpose can surely be equally successfully applied in the case of HRE, should a similar clarity of purpose be achieved. Similar reflections could be offered for a range of statements outlined in the action plan, but I will highlight only one more for illustrative purposes:

> …working alongside Education Scotland to strengthen awareness and
> understanding of children's rights through a range of activities which
> supports the development of a right based culture and ethos in schools
> and early learning and childcare centres (Scottish Government, 2017).

Even with this and the considerable potential overlap one can discern with the aims of HRE, it is striking that the 2018 *National Improvement Framework and Improvement Plan for Scottish Education: Achieving Excellence and Equity* contains four explicit references to "rights". Three relating to parental rights, one to Headteacher's rights, and no mention whatsoever of children's rights nor Human Rights Education. Given the proximity of such policies and priorities to those of HRE as I have discussed it here, there seems a strange disconnect. This is further magnified in light of the Scottish Government intention to strengthen awareness and understanding of rights and develop a rights-based culture and ethos in schools *in lieu* of any specific proposals to do so. How this is to be achieved remains unclear, a point I emphasise again as needing to be addressed as soon as practically possible.

However, these suggestions relate to the most easily soluble of the issues I have outlined in this paper. The complexity of some of the issues raised here highlights the need for much wider consultation on how to develop national guidance for the implementation of HRE in schools as part of wider SNAP efforts and identifying clear links with ongoing initiatives in Scotland to further realise economic, social, and cultural rights. In doing so, it seems important to highlight the role that HRE plays both in assisting this general initiative, but also as an element covered by it as an economic, social, and cultural right. With this in mind, it strikes me that the SHRC may look to the work of the Irish Human Rights Council (IHRC) as a model[29].

The work undertaken by the IHRC on HRE in Ireland (2011) represents a substantial survey of both the legal obligations surrounding HRE in Ireland as well as specific educational provision and policy in primary and secondary schools. This is a very substantial body of

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[29] At the time of writing the SHRC does not appear to be engaged in such a process, nor proposing such an endeavour (nor any other NGO or public body with a relevant remit).

work and something Scotland should aim to replicate both for its robust nature and also its comprehensiveness. While not necessarily resolving the type of questions I raise here as an issue, there is considerable engagement with different models of HRE and discussion of them in the report[30]. Ultimately, this work by the IHRC resulted in a series of recommendations covering human rights education and training throughout Ireland as well as discussion of a national action plan for HRE. I believe it is absolutely central to efforts to improve HRE in Scotland that a similar project is undertaken building on, and considerably expanding, the work undertaken in conjunction with BEMIS (2013) report on HRE[31]. The BEMIS report, as well as Struthers' (2015b) work on ITE, represent two important building blocks for a wide-ranging analysis of HRE in Scotland. An analysis that is both crucial to addressing the concerns raised here, but also vital to the process of ensuring Scotland meets its human rights obligations. As things stand, it is wise that Scotland settles for following a good example of human rights leadership before it can show some of its own.

Further, taking into consideration the wide-ranging and complex questions identified here, the establishment of a working group including teachers, lawyers, academics, and activists (at the very least) seems vital in beginning to shape what role HRE should play in Scottish education, and what this will look like in the future. Scotland has had success with similar initiatives; recently one can point to the work of the LGBTI Inclusive Education Working Group which has had its 33 recommendations accepted in full by the Scottish Government with work underway to embed LGBTI education throughout the curriculum. This is, of course, a very positive sign and indicative of the receptiveness of the Scottish Government to taking these issues seriously. The process surrounding this initiative, and the warm reception with which recommendations were received appears to me a good model for how wide-ranging discussions surrounding HRE (such as those I have highlighted here as challenges) may be conducted involving a range of stakeholders and experts. This, while amounting to a considerable project, equally represents an opportunity to show the kind of leadership that the Scottish Government claims is its aim in relation to human rights. Finally, for initial teacher education Struthers (2015b) offers a thorough and thoughtful analysis of the current state of ITE in Scotland and how things may be improved in relation to human rights education and training.

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[30] See IHRC (2011) pps. 57-69
[31] This was a recommendation of the BEMIS (2013) report itself.

In the current work, I will have nothing further to add to her specific institutional recommendations but will reiterate two broader conclusions drawn. The first of these is that HRE has a central role to play in building a universal culture of human rights and in empowering learners to stand up for their own rights and the rights of others (Struthers, 2015b). The second is that the provision of HRE within Initial Teacher Education is a key requirement of the international HRE framework.

Taken together, all of the above suggestions for future directions for HRE in Scotland represent opportunities for the Scottish Government and NGO's in Scotland to help drive forward HRE. Further, they will assist the Scottish Government in meeting its reporting obligations to the UN in relation to the World Programme for Human Rights Education. To fail to take action in relation to human rights education strikes me as highly suspect if one is to take seriously claims of human rights leadership in Scotland. There now exists a growing body of literature highlighting problems with the current provision of HRE within Scotland. To be a leader one must, of course, lead in areas that are currently underdeveloped in order to, amongst other things, show leadership. With education both an arena in which the state has considerable influence and surely central to the project of developing a human rights culture in Scotland, to overlook it in consideration of national action plans for the promotion and protection of human rights strikes me as lacking any credibility or sense. As such, there seems a clear need to consult widely on how best to develop national guidance for the implementation of HRE in schools both for its own sake, but also in the context of any revisions to SNAP as we move towards the creation of the next action plan. It cannot be for lack of ambition that education about human rights is so often overlooked in these discussions. Whether the potential for human rights education is obscured because of the conceptual difficulties it still faces is one possible explanation for this fact. Less charitably one may consider it "too hot" to touch in the context of education policy. This, even if it were the case, can no longer be a credible response given the very clear commitment to human rights in all else that the Scottish Government says it intends to do.

6. Conclusion.

While there are considerable challenges in relation to the realisation of HRE within Scottish education, these are not insurmountable. Many of these are within the competence of the Scottish Government (and more broadly Scottish civic society) to deliver. The current

political climate in Scotland offers significant opportunities for strengthening the realisation of the right to education (and HRE) within Scotland. Moreover, as Miller et al (2018, p.3) suggest "there is a sense of ambition and Scotland is ready to take those [human rights] leadership steps". As the right to education (and HRE) is seen as a central for the realisation and protection of rights more broadly, this perhaps ought to be a central feature of policymaking if Scotland wants to be and be seen to be a human rights leader. As efforts to develop the second national action plan for human rights are currently under way, the creation of a new national taskforce on human rights beginning its work in October 2019seeking to develop a new statutory framework to improve human rights protection for everyone in Scotland and increase public participation in the process, the time could hardly be better for serious consideration of the role of human rights education in these strategic aims[32]. As Shirley-Anne Somerville MSP, Government Co-Chair of new taskforce outlines, '[r]especting, protecting and fulfilling human rights is an international obligation at the heart of everything we do[33]. Finally, to quote from the foreword of the consultation on the incorporation of the UNCRC into Scots Law:

> Arguably it has never been more important for human rights, not least the rights of our young people, to be defended and promoted and this is a chance for the Scottish Parliament to show leadership (Scottish Government, 2019, p.1).

This is a sentiment I agree with entirely and have sought to show here the challenges and opportunities for Scotland in realising one critical aspect of this task. To be 'The Best Place to Grow Up and Learn' the Scottish Government, Parliament, and the Scottish education system surely must aim to get Human Rights Education right (Scottish Government, 2018a, p.83).

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[32] https://www.gov.scot/news/new-national-taskforce-starts-work-on-human-rights/
[33] https://www.gov.scot/news/new-national-taskforce-starts-work-on-human-rights/

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