

Human rights education in South Africa: Whose responsibility is it anyway?

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Summary

The enjoyment of human rights largely depends on the level of awareness of what these rights are and how to enforce them. Human rights education (HRE), therefore, is crucial in ensuring that people are empowered to access the rights to which they are entitled. There have been several programmes and plans of action aimed at HRE at international level, but 20 years after the advent of a new democratic and constitutional dispensation in South Africa, the level of public awareness in the country is still, unfortunately, inadequate. It is against this background that the roles and responsibilities of the main role players in HRE in South Africa are discussed and, where possible, assessed. This analysis is important, because without an understanding of all available infrastructure and the main actors involved in HRE, it is impossible to identify gaps or to make recommendations for future improvements. The role of government, human rights institutions, such as the South African Human Rights Commission, and non-state actors, such as non-governmental organisations and other civil society formations, are reviewed, after a presentation of background information on conceptual issues, the international dimension of HRE, and HRE in Africa. Recommendations for increased involvement in HRE – especially by government – are made. It is recommended that the state play a more dominant role in HRE, because it has the resources and the obligation and responsibility to do so.

Key words: *Human rights education; South African Human Rights Commission; state; non-state actors*

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1 Introduction

Over the last two decades, there has been a worldwide surge of interest in human rights education (HRE), and the concept has slowly but surely found its place into the language of relevant government departments, non-governmental organisations (NGOs), educational institutions, international human rights agencies, and other human rights groups. The need for HRE and its desirability have not only become increasingly urgent and pressing, but also abundantly clear. Accordingly, there is no lack of agreement and consensus among state and non-state actors on the rationale for HRE. This is because the effective enjoyment of human rights largely depends on the level of awareness of such rights – and how to enforce them. People cannot enforce rights that they are unaware of. HRE is, therefore, crucial in ensuring that people are empowered to access the rights they are entitled to. Accordingly, the primary objective of HRE is to build and strengthen a culture of human rights through the creation of public awareness of human rights. Such awareness leads to several individual and societal benefits. This is particularly pertinent and relevant to a country like South Africa in which – prior to 1994 – the large majority of people were marginalised, oppressed and denied not only basic services and resources, but also fundamental human rights.

In South Africa, HRE is, therefore, critical in societal transformation and redress and also in engendering social and political change. Moreover, it could be argued that HRE is important for fostering the basic tenets of democracy. This is because the three tenets usually ascribed to the meaning of democracy are that (i) it is a form of government in which all adult citizens have some share through their elected representatives; (ii) in a democratic society all citizens treat each other as equals without discrimination; and (iii) it is a form of government which encourages, allows, promotes and protects the rights of its citizens.¹ Creating public awareness helps to develop a better understanding of democratic values and encourages public participation in democratic processes.

The Universal Declaration of Human Rights (Universal Declaration) calls not only on states, but also on 'every individual and every organ of society ... [to] strive by teaching and education to promote respect for these rights and freedoms'.² The responsibility for HRE is therefore collective – because the responsibility for human rights protection is collective. HRE cannot and should not be the responsibility of just one role player. It is against this background that the article poses the question: Whose responsibility is HRE in South Africa anyway? This is explored in the context of the roles of government, constitutional bodies such as the South African Human Rights Commission (SAHRC),

1 JC Mubangizi *The protection of human rights in South Africa: A legal and practical guide* (2013) 8.

2 Preamble to the Universal Declaration of Human Rights (1948).

and civil society. With a better understanding, it is possible to identify gaps and deficiencies and to make recommendations for the future.

It is, however, initially important to have a conceptual understanding of HRE as well as its international dimension. These aspects are, accordingly, now discussed.

2 Conceptual issues

There is far from universal agreement on definitional issues – let alone on theories about the definition of a concept like HRE. Like many such concepts, HRE is often defined in different ways, depending on the context and purpose of the definition. In *A survey of human rights education*,³ Flowers gives an interesting analysis of the definitions of HRE, which she divides into three distinct groups. According to her analysis, definitions by governmental bodies⁴

emphasise the role of HRE to create peace, continuity, and social order ... [they] stress learning about international and regional instruments ... [and they] increasingly indicate that it is the responsibility of governments to see that HRE is accomplished properly.

On the other hand, definitions by NGOs⁵

emphasise violations, stressing the potential of HRE to enable vulnerable groups to protect themselves and challenge their oppressors ... focus on opposition to and protection from abuse ... [and] stress learning to analyse and eliminate the conditions that lead to negative forces, such as poverty, systemic inequalities of power and opportunities.

As for academics and educational thinkers, definitions 'tend to shift the emphasis from outcomes to the values that create and inform those outcomes'.⁶

It is in the context of the varying and sometimes disparate ways in which HRE is defined that the meaning of the concept has to be understood. Such definitions range from the basic version referring to HRE as 'all learning that develops the knowledge, skills and values of human rights',⁷ to a more detailed United Nations (UN) version which proclaims that HRE is 'training, dissemination, and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes'.⁸ Furthermore, HRE should be directed to⁹

3 N Flowers 'What is human rights education?' http://www.hrea.org/erc/Library/curriculum_methodology/flowers03.pdf (accessed 30 September 2013).

4 As above.

5 As above.

6 As above.

7 A Stone 'Human rights education and public policy in the United States: Mapping the road ahead' (2002) 24 *Human Rights Quarterly* 538.

8 Flowers (n 3 above) 2.

9 As above.

... strengthening of respect for human rights and fundamental freedoms ... the full development of the human personality and the sense of its dignity ... the promotion of understanding, tolerance, gender equality, and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups ... the enabling of all persons to participate effectively in a free society ... [and] the furtherance of the activities of the United Nations for the maintenance of peace.

The UN General Assembly has also defined HRE as 'a life-long process by which people at all levels of development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies'.¹⁰ It is in this context that Sergio Viera de Mello – a former UN High Commissioner for Human Rights – argued that HRE means 'not only teaching and learning *about* human rights, but also *for* human rights: Its fundamental role is to empower individuals to defend their own rights and those of others.'¹¹ It is thus clear that an exact definition of HRE is debatable.

Before discussing HRE in Africa, and especially in South Africa, an understanding of the international perspective to HRE is necessary. This international perspective is now discussed.

3 International dimension of human rights education

In order to understand HRE in the South African context, an understanding of HRE in the international (global and regional) context is required.

The genesis and development of HRE is concomitant with the modern history of contemporary human rights. The Universal Declaration already referred to – which was adopted in 1948 to give substance to human rights and fundamental freedoms in the 1945 Charter of the United Nations – was the first major international human rights instrument to give emphasis and momentum to HRE. The Preamble to the Universal Declaration urges 'every individual and every organ of society ... [to] strive by teaching and education to promote respect for these rights and freedoms'.¹² Article 26(2) states that HRE should include the 'development of the human personality and the strengthening of respect for human rights and fundamental freedoms'.

Although HRE is generally implied in several articles of the 1966 International Covenant on Civil and Political Rights (ICCPR), it is in the International Covenant on Economic, Social and Cultural Rights

10 UN Decade for Human Rights Education, General Assembly Resolution 49/184, 23 December 1994.

11 United Nations *ABC: Teaching human rights: Practical activities for primary and secondary schools* (2004) (Foreword) 5.

12 Universal Declaration (n 2 above).

(ICESCR) that it is given prominence. Article 13(1) of the ICESCR states:

The States Parties to the present Covenant ... agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

Several other UN human rights treaties also highlight HRE. The Convention on the Eradication of All Forms of Racial Discrimination (1965) is a good example of this. Article 7 obliges state parties to 'undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information with a view to combating prejudices which lead to racial discrimination'. Furthermore, under article 29(1)(b) of the Convention on the Rights of the Child (CRC), '[s]tates parties agree that the education of the child shall be directed to ... the development of respect for human rights and fundamental freedoms...'

Furthermore, under the Convention against Discrimination in Education – adopted by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) General Assembly in 1960 – state parties 'agree that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms'. UNESCO's interest in HRE is further reflected in the Dakar Framework for Action, which was developed and adopted at the World Education Forum in 2000.¹³ The Dakar Framework reaffirms the need for education programmes to 'promote the full development of the human personality and strengthen respect for human rights and fundamental freedoms'.¹⁴ This wording is adopted from the Universal Declaration. The same applies to the 1993 Vienna Declaration and Programme of Action, which dedicates five paragraphs of Part II to HRE. In particular, paragraph 79 provides that '[s]tates should strive to eradicate illiteracy and should direct education towards the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms'. This obligation is carried further by paragraph 82, which urges 'governments, with the assistance of intergovernmental organisations, national institutions and non-governmental organisations, [to] promote an increased awareness of human rights and mutual tolerance'.

In the introduction to this article, the notion that HRE is important for nurturing the basic tenets of democracy was introduced. Indeed,

13 See UNESCO 'The Dakar Framework for Action. Education for all: Meeting our collective commitment' <http://unesdoc.unesco.org/images/0012/001211/121147e.pdf> (accessed 3 October 2013).

14 As above.

there are strong links between HRE and democracy, and this warrants further mention in the international context. In this regard, the UN General Assembly, during its 67th session, passed a resolution on education for democracy.¹⁵ The resolution referred to the second phase (2010-2014) of the World Programme for Human Rights Education, and also strongly encouraged

member states to integrate education for democracy, along with civic education and human rights education, into national education standards and to develop and strengthen national and subnational programmes, curricula and curricular and extracurricular educational activities aimed at the promotion and consolidation of democratic values and democratic governance and human rights, taking into account innovative approaches and best practices in the field, in order to facilitate citizens' empowerment and participation in political life and policy making at all levels.

Most of the human rights instruments referred to above are drafted in such a way that states are obliged to 'agree' or 'undertake' to do certain things in terms of HRE. It is thus clear that – from an international human rights law perspective – the responsibility for HRE lies mainly with the state, and this is discussed later in the article.

At the regional level, and in the African context, the African Charter on Human and Peoples' Rights (African Charter) is perhaps the most succinct and straightforward human rights instrument, with reference to HRE. Article 25 states:

State parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

The African Charter was adopted on 27 June 1981 and was eventually ratified by all 53 Organisation of African Union (OAU) member states.¹⁶ However, a lack of knowledge and information of human rights is still preventing African people from claiming and exercising their human rights. For example, by 1987, the African Charter was largely unknown in Liberia, as was the case in Sierra Leone 15 years later in 2003, while research in Zimbabwe (1994) and Kenya (1997) came to similar conclusions.¹⁷ Africa may well have ratified numerous regional and international human rights treaties, but it also seems to have failed in teaching not only the weak and marginalised, but also society at large, about their human rights.¹⁸

15 See United Nations Resolution A/67/L.25, adopted on 21 November 2012, http://www.ccd21.org/activities/education/pdf/UNGA_Resolution_Adopted.pdf (accessed 29 June 2015).

16 See 'African Charter on Human and Peoples' Rights' <http://www.achpr.org/instruments/achpr/> (accessed 15 June 2015).

17 See N Horn 'Human rights education in Africa' in A Bösl & J Diescho (eds) *Human rights in Africa: Legal perspectives on their protection and promotion* (2009) 60.

18 Horn (n 17 above) 61.

The involvement of government in HRE in Africa is predominantly dealt with by the development of school curricula, while the training of officials has been left to NGOs, although there is certainly growing capacity among African universities.¹⁹ The role of universities is mentioned further below. Importantly, however, the HRE initiative in Africa has driven the formation of national human rights commissions, which have grown remarkably in number: from six in 1996 to 38 by 1999, for example.²⁰ These human rights commissions have become pivotal in HRE in Africa. One of the more important and successful of the commissions, the South African Human Rights Commission, is discussed in further detail below.

It should be emphasised that civil society has played a very important role in HRE in Africa. Nigeria's relatively successful implementation of African human rights instruments, for example, can probably be attributed to its strong and numerous civil society organisations.²¹ While civil society, often through NGOs, can conduct HRE programmes with important role players such as the police and military, they have unfortunately not been very successful in educating marginalised groups in African society.²² However, despite their shortcomings, these NGOs still remain the main role players in the African context. Two of many examples can be mentioned. In Namibia, Women's Action for Development has been involved in empowerment and educational programmes for rural women since 1994.²³ A second important example is the African Human Rights Education Project (AHRE), which has been active since 2005. It is a regional programme, developed by Amnesty International, to promote human rights – through education – in 10 African countries: Benin, Burkina Faso, Côte d'Ivoire, Ghana, Kenya, Mali, Senegal, Sierra Leone, Togo and Uganda.²⁴ Its primary goal is to empower marginalised communities by ensuring that people are aware of their human rights so that they can mobilise, form groups and identify local opportunities to promote or claim their rights, supported with the necessary skills, tools and resources.²⁵ In order to strengthen civil society's ability to implement HRE projects, Amnesty International has partnered with two local organisations in each of the countries. The local partners work with educators and activists, providing them with

19 JP Martin et al 'Promoting human rights education in a marginalised Africa' in GJ Andreopoulos & RP Claude (eds) *Human rights education for the twenty-first century* (1997) 444.

20 Horn (n 17 above) 65.

21 Horn 68.

22 As above.

23 Horn (n 17 above) 69.

24 See East and Horn of Africa Human Rights Defenders Project 'African human rights education project' <http://www.defenddefenders.org/african-human-rights-education-project/> (accessed 15 June 2015).

25 As above.

the necessary training and resources to establish and deliver HRE projects.²⁶

In Uganda, the programme is implemented in partnership with the East and Horn of Africa Human Rights Defenders Project (EHAHRDP) and the Agency for Co-operation and Research in Development (ACORD).²⁷ The programme is an innovative response to challenges in the protection and promotion of human rights in the daily lives of Ugandans who are faced with poverty and human rights violations. It addresses social issues by changing society through the creation of social change agents.²⁸

Given Africa's large size and its limited resources, the support for HRE by African governments is critical. Ideally, civil society should work with governments on targeted HRE strategies in order to achieve common goals.²⁹ Sadly, though, African governments have rarely seen the importance of HRE in terms of the political and economic development of their countries.

The African Commission on Human and Peoples' Rights (African Commission) (an oversight body for the African Charter) has been mooted as being a potentially pivotal role player in the future co-ordination of HRE in Africa, by building partnerships with and among NGOs and relevant governmental institutions.³⁰ The African Commission has passed resolutions on HRE highlighting the legal framework available for the creation of a comprehensive continental mechanism. However, it has undertaken limited HRE activities.³¹ The Commission could in the future establish a meaningful Africa-wide system for HRE through partnership and co-operation with governments and non-state actors, and also monitor the implementation by states of their obligation to educate in human rights, through the state reporting procedure and its special mandates.³²

4 Human rights education South Africa

The central question posed in this article relating to the responsibility for HRE is now addressed, referring first to the role and responsibility of the government, then to those of the SAHRC and, finally, the role of non-state actors.

26 As above.

27 As above.

28 As above.

29 Martin et al (n 19 above) 452.

30 SA Yeshanew 'Utilising the promotional mandate of the African Commission on Human and Peoples' Rights to promote human rights education in Africa' (2007) 7 *African Human Rights Law Journal* 205.

31 As above.

32 As above.

4.1 Role of government-supported formal education

Flowers's analysis of definitions of HRE by government bodies, mentioned earlier, is noteworthy.³³ In the analysis, the definitions by government bodies emphasise peace, continuity and governments' own responsibility to adequately accomplish HRE. It is in that context that the role of the South African government in HRE must be understood.

The main target audiences for HRE by the government appear to have been schools and educational institutions. With regard to schools and educational institutions, the most appropriate and effective approach is to incorporate human rights standards and issues into the curriculum. In fact, a Curriculum Review Committee, appointed in February 2000, recommended that HRE be infused into the curriculum, paying particular attention to anti-discriminatory, anti-racist, anti-sexist and special needs issues.³⁴ Furthermore, in 2005, the then Minister of Education committed the Ministry and Department of Education to the infusion of HRE across all levels of the education system.³⁵ As a result of the above initiatives, the General Education and Training (GET) Curriculum Statement (Grades R–9) has ensured that all Learning Area Statements contain principles and practices of human rights, as reflected in the Constitution. The same applies to the Further Education and Training (FET) Curriculum Statement (Grades 10–12). Both curriculum statements particularly capture issues of poverty, inequality, race, gender, disability and other human rights factors. As a consequence, these human rights issues are infused 'into the scopes, definitions, outcomes and assessment standards of all the learning and subject areas'.³⁶

In the specific context of higher education institutions, HRE takes place through various approaches adopted mainly by law schools. These include the integration of human rights into the curriculum, organising moot courts, providing clinical legal education and conducting research. Of particular importance are street law programmes (discussed further below). In addition, some universities have established centres for human rights that play an important role in HRE. Examples of such centres include the Centre for Human Rights at the University of Pretoria (discussed further below) and the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC) at the University of Johannesburg. It is submitted that by providing funding to public universities with law

33 Flowers (n 3 above) 3.

34 SA Department of Education 'A South African curriculum for the twenty-first century: Report of the review committee on curriculum 2005' <http://www.dhet.gov.za/portals/0/documents/Reports/SOUTH%20AFRICAN%20CURRICULUM%20for%20THE%20TWENTY%20FIRST%20CENTURY.pdf> (accessed 4 October 2013).

35 See A Keel & N Carrim 'Human rights education and curriculum reform in South Africa' (2006) 5 *Journal of Social Science Education* 102.

36 Keel & Carrim (n 35 above) 91.

schools that offer HRE, the South African government plays an indirect role in such education. In the general context of what government can and should do, however, such role is indeed minimal.

It is for this reason that the general assessment has to be that government has done little with regard to its HRE responsibility. Research surveys have consistently shown that levels of human rights public awareness remain low.³⁷ A recent survey conducted by the Foundation for Human Rights (FHR) sought to establish – inter alia – the status of human rights awareness among marginalised and vulnerable groups in the country.³⁸ The study concluded that the low levels of awareness of the Constitution, the Bill of Rights, human rights legislation, and chapter 9 institutions, was linked to low levels of education, low socio-economic status, and a lack of access to information.³⁹ Significantly, but alarmingly, the study established that ‘less than 10 per cent of South Africans have read the Bill of Rights or have had any part of the Bill of Rights read to them’.⁴⁰ It should also be pointed out that in an earlier survey, 58 per cent of the respondents indicated that the government had not done enough to make people aware of the Bill of Rights in the South African Constitution.⁴¹

4.2 Role of the South African Human Rights Commission

With respect to targeting the general public, as an audience for HRE, the SAHRC has been particularly relevant. Indeed, human rights commissions are often seen as excellent vehicles for HRE.⁴² However, it has been argued that because of the ‘risk’ that HRE carries, governments prefer to use human rights commissions to control, set the pace, and manage the HRE content.⁴³ This is because the more successful such education is, the more the public will challenge government action and demand redress and retribution for human rights violations. It is not clear whether this argument applies to the SAHRC. What is quite clear, however, is that the Commission has played, and continues to play, an important role in HRE in South Africa, as previously mentioned. A brief discussion of this role follows.

The SAHRC was established in 1995 after the enactment of the 1994 South African Human Rights Commission Act,⁴⁴ and was

37 One such survey was conducted by Community Agency for Social Enquiry (CASE) in 2000, another by the author in 2004 and, more recently, one was conducted by the Foundation for Human Rights in 2013.

38 These included farming communities, the urban and rural poor, LGBTI communities and migrants.

39 See Foundation for Human Rights ‘Baseline survey: Awareness of, and attitudes to human rights’ (April 2013) (unpublished).

40 TF Hodgson & M Finn ‘Cherish our Constitution’ *The Star* 10 December 2014.

41 JC Mubangizi ‘The protection of human rights in South Africa: Public awareness and perceptions’ (2004) 29 *Journal of Juridical Science* 62.

42 Horn (n 17 above) 65.

43 As above.

44 Act 54 of 1994.

constitutionalised through chapter 9 of the 1996 Constitution. The Commission has a wide constitutional and legal mandate, part of which is to conduct public education and promote public awareness of human rights.⁴⁵ The SAHRC has executed this particular mandate in various ways. First, it established a Human Rights Advocacy Unit, whose responsibility it is 'to promote awareness of human rights and to contribute to the development of a sustainable human rights culture in the Republic'.⁴⁶ Over the years, the Unit has done this through education and training, community outreach initiatives, public dialogue, conferences, workshops, seminars and presentations.⁴⁷ The SAHRC has also been involved in human rights curricular development. Initiatives in this regard include assisting and lobbying the national and provincial education departments, producing human rights educational documents and teaching materials, facilitating teacher training,⁴⁸ and sponsoring school activities on important occasions such as Human Rights Day.⁴⁹ In addition to curricular involvement, the SAHRC also provides professional training (including providing training programmes for target groups such as the police, health workers and teachers) and informal dissemination of human rights information, which includes taking out advertisements on radio and in newspapers.

One of the SAHRC's more formal efforts towards HRE was the establishment of the National Centre for Human Rights Education and Training (NACHRET) in 2000. This Centre has served to provide extensive human rights public education to both state and non-state actors, through workshops, courses and seminars. The creation of the Centre has been praised as a unique step by the SAHRC towards bridging formal and informal HRE efforts.⁵⁰ NACHRET has also been hailed as an impressive model that 'serves as an example of how educators from civil society and government can be brought together to co-ordinate focused human rights education'.⁵¹ This has to be seen in the context of the fact that there are several centres and institutes based at universities which provide HRE, but these institutions lack a co-ordinated, systematic and dedicated approach that brings together different role players from government, higher education and civil society. The only university centre that gets anywhere near this

45 See sec 184 (2)(d) of the Constitution and sec 7 of the Act.

46 See Human Rights Advocacy Unit, South African Human Rights Commission <http://www.sahrc.org.za/home/index.php?ipkContentID=36> (accessed 6 October 2013).

47 As above.

48 See S Cardenas 'Constructing rights? Human rights education and the state' (2005) 26 *International Political Science Review* 372.

49 As above.

50 Report of the *ad hoc* Committee on the Review of Chapter 9 and Associated Institutions http://www.parliament.gov.za/content/chapter_9_report.pdf (accessed 6 October 2013). The Committee was chaired by Kader Asmal and was established by parliament to review the so-called ch 9 institutions, including the SAHRC.

51 Horn (n 17 above) 66.

approach is the Centre for Human Rights at the University of Pretoria, but as will be seen later, its functions and approach differ from those of NACHRET.

The role of the SAHRC in HRE is not without challenges and criticism, and three main issues are now discussed. First, the Commission is largely funded by the state, and as the proverb goes, 'He who pays the piper calls the tune'. Although institutional independence is constitutionally assured, there is nothing to prevent the state from controlling the agenda of the Commission through budgetary mechanisms. Indeed, as a state-funded institution, the SAHRC has often been criticised for not being hard enough on government to urge it to fulfil its commitments in enforcing the Commission's recommendations. Second, the SAHRC has been criticised for not being sufficiently accessible to the rural population and marginalised communities. The Kader Asmal Report observed, for example, that '[t]he Commission's public awareness campaigns remain, in essence, urban-based'.⁵² Third, the SAHRC has a broad and extensive mandate. In view of the unique and problematic history of South Africa and the attendant historical human rights challenges, too much is perhaps expected from the SAHRC in terms of human rights promotion, protection, monitoring, investigating, and the redressing of violations. This requires enormous capacity and resources. When the aforementioned activities fall short, HRE is the aspect of the Commission's mandate that takes the brunt of criticism.

Despite the above challenges and criticism, the role and importance of the SAHRC in HRE in South Africa cannot be overemphasised. Moreover, that role should be seen in the context of the overall mandate of the Commission, which is to promote the observance of, respect for, and protection of human rights. This is aimed at promoting a culture of human rights. It could be argued that by achieving its overall mandate, the specific mandate of HRE is also achieved, since HRE 'is predicated on the central premise that a culture of human rights can be constructed'.⁵³ However, the current levels of human rights public awareness in South Africa do not support any assumption that a human rights culture has been sufficiently constructed. As previously mooted, the responsibility for HRE extends beyond the government and SAHRC – to include other role players such as non-state actors. These non-state actors are now considered and discussed.

4.3 Role of non-state actors

South Africa has a range of civil society organisations that play an important role in HRE. Collectively referred to as 'non-state actors', these organisations include civil society formations such as NGOs, community-based organisations (CBOs), and certain public interest

52 Report (n 50 above).

53 Cardenas (n 48 above) 374.

groups. These organisations not only play a very important watchdog role in the promotion and protection of human rights, but they also have an irreplaceable responsibility in the creation of a culture of human rights.

At one level, there are international human rights organisations which work systematically in raising human rights awareness worldwide. One such organisation is Amnesty International, which has already been discussed relative to other African countries. There are several HRE projects run by Amnesty International, some of which are relevant to South Africa. One such project is the Education for Human Dignity Project, which 'engages with young people to raise awareness, inform debate and stimulate action to tackle the human rights abuses that drive and deepen poverty'.⁵⁴ A second project is the Human Rights-Friendly Schools Project, through which Amnesty International 'supports schools and their wider communities ... to build a global culture of human rights [by integrating] ... human rights values and principles into all areas of school life'.⁵⁵ A third project is the Rights Education Action Project (REAP), which is a 10-year international HRE project led by Amnesty International (Norway), aimed at involving partner countries in addressing specific human rights issues (such as women's rights, socio-economic and cultural rights, children's rights, freedom of expression, discrimination and xenophobia) through HRE.⁵⁶ South Africa is a participating partner in this project.

At the local level, on the other hand, there are several NGOs involved in HRE. Their involvement ought to be seen in the context of Flowers's analysis of the definitions of HRE by NGOs, which emphasise human rights violations and the potential of HRE to enable vulnerable groups to protect themselves and challenge their oppressors.⁵⁷ Indeed, the Foundation for Human Rights (FHR), an important human rights NGO, sees education as 'key to ensuring that ordinary citizens and institutions are empowered to access rights set out in the Constitution'.⁵⁸ For this reason, the FHR runs a Human Rights Awareness Programme, the purpose of which it is 'to increase awareness and knowledge of human rights amongst South Africans and, in particular, vulnerable groups'.⁵⁹ To this end, the Foundation has, over the years, embarked on a range of projects involving research and advocacy, focusing on all human rights, especially socio-

54 See 'Education for Human Dignity Project' <http://www.amnesty.org/en/human-rights-education/projects-initiatives/e4hd> (accessed 7 October 2013).

55 See 'Human Rights-Friendly Schools Project' <http://www.amnesty.org/en/human-rights-education/projects-initiatives/rfsp> (accessed 7 October 2013).

56 See 'Rights Education Action Project (REAP)' <http://www.amnesty.org/en/human-rights-education/projects-initiatives/reap> (accessed 9 October 2013).

57 Flowers (n 3 above).

58 See Foundation for Human Rights 'Awareness and knowledge of constitutional rights' http://www.fhr.org.za/page.php?p_id=69 (accessed 8 October 2013).

59 See Foundation for Human Rights 'Human Rights Awareness Programme' http://www.fhr.org.za/page.php?p_id=19 (accessed 9 October 2013).

economic rights. In this regard, the FHR has conducted several major applied research projects, the latest of which dealt with the awareness of access and attitudes to human rights among marginalised and vulnerable groups.⁶⁰ In addition, the FHR partners with government in human rights campaigns such as the '16 Days of Activism for Non-Violence Against Women and Children'. It also funds education projects aimed at ending violence against vulnerable groups and at training people to deal with issues of inequality, racism, sexism and xenophobia.⁶¹ Moreover, the FHR also funds and supports the development of human rights training materials, documentaries, and a manual.

Mention was made earlier of the Centre for Human Rights at the University of Pretoria. Based in the Faculty of Law, the Centre functions as both an academic department and an NGO. It works⁶²

towards human rights education in Africa, a greater awareness of human rights, the wide dissemination of publications on human rights in Africa and the improvement of the rights of ... disadvantaged or marginalised persons or groups across the continent.

Of the several human rights centres at various universities in South Africa, the Centre for Human Rights at the University of Pretoria has been one of the most successful in the objective of achieving HRE. As a result, in 2006 it was awarded the UNESCO prize for Human Rights Education, and in 2012 it received the African Commission on Human and Peoples' Rights' NGO Prize for the Promotion and Protection of Human Rights.⁶³ The Centre is a good example of how HRE can be part of formal higher education. Moreover, the Centre also undertakes research and advocacy through several projects, such as the African Human Rights Moot Court Competition. This aspect foregrounds the Centre's role as an NGO.

Another NGO whose role and work are similar to those discussed above is the Human Rights Institute of South Africa (HURISA). Its vision is to create 'a society in which all people are aware of their human rights', and its mission is to 'offer professional service towards the promotion of a human rights culture ... disseminating human rights information ... and conducting research and advocacy'.⁶⁴ The training activities of HURISA focus mainly on children's rights, local government, socio-economic rights, rural women, refugees and the African system for the promotion and protection of human rights. As such, HURISA runs specific projects in these focus areas.

60 Foundation for Human Rights (n 59 above) 17.

61 Foundation for Human Rights 38.

62 See 'Centre for Human Rights, University of Pretoria' <http://www1.chr.up.ac.za> (accessed 11 October 2013).

63 As above.

64 See 'Human Rights Institute of South Africa (HURISA)' <http://www.hurisa.org.za/about-us> (accessed 11 October 2013).

The Black Sash, one of the longest-standing South African human rights NGOs, is another organisation that plays an important role in HRE in the country. With its main emphasis on women and children, the organisation's mission is 'making human rights real'.⁶⁵ As such, one of its main areas of operation is the provision of 'rights-based information, education and training'.⁶⁶ In its 2012 Annual Report, for example, the Black Sash details how it 'continued its work of rights education through the combination of materials development and dissemination and educational workshops and training'.⁶⁷ Its workshops, which were attended by more than 2 000 community leaders in 2012, included the Children's Rights and Responsibilities Presentation (Soweto); the Women and Disabilities Rights Education Awareness Workshop (Orange Farm); the Social Grants Workshop for Somali Women (Port Elizabeth); and the Consumer Rights Protection Workshops (KwaZulu-Natal). There were also local government workshops in the Western Cape, and social security workshops in three provinces: Gauteng, the Free State and Mpumalanga.⁶⁸

Mention ought also to be made of the Constitutional and Bill of Rights Educational Project (CBOR), another civil society organisation the focus of which is on HRE. The CBOR 'seeks to educate civil society, particularly rural communities throughout South Africa, about their rights and duties under the Constitution'.⁶⁹ It does this through its materials, training workshops and community education programmes. For example, every year the CBOR conducts a seven-day national training workshop for paralegal trainers who, in turn, conduct training in each of the nine provinces. In addition to this provincial training programme, there is a community programme aimed at focus groups, consisting of community members. On average, about 80 workshops are conducted annually in each province.⁷⁰

Finally, mention has to be made of the important contribution towards HRE and democracy education by street law programmes in South Africa; firstly by NGOs and secondly by university law school structures. A prime example of a street law NGO of this type is the not-for-profit company Street Law South Africa, which was established in 1986. It specialises in presenting participatory legal, human rights and democracy education. It also⁷¹

65 See 'Black Sash' <http://www.blacksash.org.za/index.php/about-the-black-sash/about-the-black-sash> (accessed 14 October 2013).

66 As above.

67 See 'Black Sash 2012 Annual Report' <http://www.blacksash.org.za/images/docs/BLACK%20SASH%20AN%20REP%202012.pdf> (accessed 15 October 2013).

68 As above.

69 See 'Constitutional and Bill of Rights Educational Project' <http://users.iafrica.com/k/ko/kogrady/html/home.htm> (accessed 15 October 2013).

70 See 'Constitutional and Bill of Rights Educational Project, Core Activities' <http://users.iafrica.com/k/ko/kogrady/html/activiti.htm> (accessed 17 October 2013).

71 See Street Law 'About us' <http://www.streetlaw.org.za/index.php/about-us/about-us> (accessed 29 June 2015)

provides opportunities for training in democracy, participatory development and policy development. The project provides preventative legal education to both formal and informal communities, promoting fundamental rights, freedoms, participation and democratic cultures.

Street Law South Africa has extensive experience with developing learner support material. Its workshops blend legal substance with innovative teaching strategies, aimed at increasing understanding and developing the values and attitudes needed by citizens in a democratic country.⁷² Street Law South Africa also focuses on creating a culture of HRE among the youth, and over 300 South African schools countrywide receive weekly lessons on democracy, human rights and legal education, reaching over 30 000 learners annually.⁷³ Professor David McQuoid-Mason of the University of KwaZulu-Natal is the Chairperson of the Street Law South Africa Board, and he has also been chief editor of two seminal works in the field – manuals on South African street law, both for educators and learners.⁷⁴ These are obviously a valuable resource in the field.

Street law programmes are also run by university law schools across South Africa (currently at 17 out of 21 universities). These had their genesis at Georgetown University in Washington DC in 1972 and were initially developed in South Africa during the mid-1980s, at the height of the apartheid era.⁷⁵ The first programme was established at the University of Natal in 1986 by Professor McQuoid-Mason.⁷⁶ University street law programmes have been aimed at training law students to teach school children, prisoners and other communities about their legal rights and where to obtain help.⁷⁷ The programmes empower young people and others by explaining what the law expects of them in certain situations, what kinds of legal problems they should watch out for, and how they can resolve such problems.⁷⁸

It is clear from the foregoing discussion that non-state actors – particularly NGOs – are key role players in the field of HRE. In South Africa, this role has to be seen in the context of the history of the country – a history that was characterised by gross human rights violations, institutionalised racism, and the denial of access to social and economic rights to the majority of the people. It is for this reason that most NGOs in South Africa perform their HRE functions with a

72 As above.

73 As above.

74 *Street Law: Practical law for South Africans: Educator's manual* (2015); *Street Law: Practical law for South Africans: Learner's manual* (2015).

75 See, eg, D McQuoid-Mason *Legal aid services and human rights in South Africa* <http://clarkcunningham.org/LegalEd/SouthAfrica-McQuoid-Mason-PILI.pdf> (accessed 29 June 2015); D McQuoid-Mason 'Street law as a clinical programme. The South African experience with particular reference to the University of KwaZulu-Natal' (2008) 17 *Griffith Law Review* 27-51.

76 As above.

77 As above.

78 As above.

transformative approach. That said, it must be noted that there is very little interaction between NGOs and the government in HRE programmes. This is hardly surprising, considering that government is often the culprit in human rights violations and, in addition to providing HRE, NGOs normally pressurise the government to respect its obligations in terms of promoting and protecting human rights.

5 Conclusion

The article began with a discussion of the importance and role of HRE. After mentioning definitional and conceptual issues, it reviewed international human rights instruments of relevance to HRE, presented an overview of HRE in Africa in general, before carefully analysing all the structures and bodies involved with HRE in South Africa: the South African government; the SAHRC; and a wide variety of non-state actors such as NGOs. This analysis of HRE in South Africa was considered to be strategically important. This is because a comprehensive understanding of HRE gives us an idea of the effectiveness of HRE in South Africa in general, an understanding of which HRE role players are functioning effectively in terms of their roles and responsibilities, and it also lays the foundation for making recommendations to improve the extent and impact of HRE in the country as a whole.

International law, through various human rights instruments, places much of the responsibility for HRE on the shoulders of the state, as states and not individuals are traditionally the subjects of international law. In South Africa, however, the government appears to be a relatively minor role player in HRE, with its direct role apparently restricted to infusing elements of HRE into the GET and FET school curricula at primary and secondary schools. How this has been implemented and how effective it has been in growing a human rights culture in South Africa is uncertain. However, what can be said very clearly is that the state can do a great deal more. In South Africa, the country's unique history – characterised by gross human rights violations under apartheid – is perhaps the strongest reason why the state should play a more dominant role in HRE. The South African government has the resources and the obligation and responsibility to do much more than it has done thus far. That levels of human rights awareness remain relatively low is a reflection of government's failure to take its HRE responsibility seriously, although, as mentioned previously, driving HRE programmes may be something of a poisoned chalice for government, as the more successful they become, the more the public will demand redress and retribution for human rights violations.

The SAHRC, as an independent chapter 9 constitutional body, has played a commendable role in HRE in South Africa. The SAHRC has executed its particular HRE mandate in various ways. It has established bodies like the Human Rights Advocacy Unit and the National Centre

for Human Rights Education and Training, which have been involved in a wide variety of formal and informal HRE initiatives. The SAHRC has also been involved in human rights curricular development, professional training, and the informal dissemination of human rights information. Despite critiques relating to its independence and performance, it has moved to accomplish its mandate as best it could, with limited resources, and across the very difficult terrain of the post-1994 political landscape.

South Africa also has a very richly-developed grouping of non-state actors involved with HRE, and it is clear that they have played and continue to play a very important role in HRE in the country. At one level, there are the various projects of international human rights organisations such as Amnesty International, while at the local level there are many and varied NGOs with an interest and focus on various aspects of HRE, including the Foundation for Human Rights; the Human Rights Institute of South Africa; the Black Sash and the Constitutional and Bill of Rights Educational Project.

Several factors have to be taken into account in determining the extent to which each role player (as discussed above) can exercise and execute its responsibility with regard to HRE. The state has all the resources, machinery, and the power to influence not only its own role, but also the roles of other players. On the other hand, the role of non-state actors may depend on the level of democracy and political will of government, while the role of individuals may depend on socio-economic factors and levels of education. The government should realise that in HRE, a partnership with civil society is ideally not an option but a necessity. Developing partnerships with NGOs and other representatives of civil society, such as academic institutions and citizens' groups, would go a long way in improving levels of human rights awareness through HRE in South Africa. However, the government would have to take the lead and this unfortunately has not been apparent.

In terms of the South African government improving its involvement in HRE, additional support for bodies such as the Centre for Human Rights at the University of Pretoria might be particularly relevant and instructive, as they are an intersection between civil society and a government-supported higher educational institution, are involved in education, research and advocacy, and will thus make a major impact. The African Commission was previously mooted as being a potentially pivotal role player in the future co-ordination of HRE in Africa, and the South African government should well consider this as part of any future HRE strategy. In terms of HRE in schooling, the government should consider approaches taken by other governments internationally and develop an HRE plan appropriate to the social and political context in the country. For example, the Australian Human Rights Commission has made detailed recommendations about including HRE in the Australian national school curriculum to ensure that young Australians develop an

understanding of and appreciation for human rights.⁷⁹ Further to this, a sizeable compendium of good practice on HRE at school level, published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) for Europe, Central Asia and North America, would be another valuable resource to refer to.⁸⁰

79 Australian Human Rights Commission *Human rights education in the national school curriculum: Position paper of the Australian Human Rights Commission* (2011) <https://www.humanrights.gov.au/our-work/education/publications/human-rights-education-national-school-curriculum-position-paper> (accessed 30 June 2015).

80 ODIHR *Human rights education in the school systems of Europe, Central Asia and North America: A compendium of good practice* (2009) <http://www.osce.org/odihr/39006?download=true> (accessed 30 June 2015).