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CHRISTIAN NOREFALK

WHAT THE RIGHT TO EDUCATION IS, AND WHAT IT OUGHT TO BE

Towards a Social Ontology of Education as a Human Right

MALMÖ UNIVERSITY

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Malmö University, 2022
Faculty of Education and Society

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To Svensson and Svensson

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One extreme view is that nothing justifies our use of a particular classification scheme; the best we can do is explain why we use this or that classification scheme by doing sociology, or Foucauldian genealogy, perhaps. An opposing extreme view is that the world itself–its inherent structure–justifies us: because our ideas are caused by the inherent structure of the world, they're justified. But the more philosophically interesting options concern what norms–contextual, constitutive, or some combination of both–are the basis for justification. But this last set of option aren't seriously considered in the discussion. (Sally Haslanger, 2012)

It is the job of philosophy to scratch beneath the surface of 'agreed meanings' – the 'self-evidently true' pronouncements – and to show that life is much more complicated than is assumed. And so one task of philosophy is to make people, especially those who think they have the right answer, uncomfortable. […] There is an interconnection of 'meanings', a mosaic of concepts through which we understand the social world and act intelligently within it. One task of the philosopher, and of the philosopher of education in particular, is to examine critically the understandings embodied in the language of the social world which affect the policy and practice of education. (Richard Pring, 2010)

Those who want to study and understand education do indeed need to consider the nature of truth and knowledge, what it is to be a human, what constitutes reality, what is natural in all of that word's various senses, and what aspects of nature we should be concerned about. (Robin Barrow, 2010)

INTRODUCTION

i. Education as a Human Right

During the second half of the 20th century, education has been recognized as a human right in several international conventions. In addition, the UN holds that "Education shall be free" and that "Elementary education shall be compulsory" (UN, 1948, Article 26). The education-as-a-human right-project could be viewed as a good intention of global inclusion in recognizing that all individuals have a right to education in virtue of being humans and that states are the primary duty-bearers. The idea of education as a human right thus has a tremendous impact on global politics. However, if we look at this more critically, the education-as-a-human right-project may not only be grounded in altruistic good intentions for the disadvantaged. As pointed out by Tristan McCowan (2013), education is also recognized as a means for (economic) development, and initiatives such as Education for All (EFA) and The Fast Track Initiative (now The Global Partnership for Education) could be viewed as an attempt to secure global capitalism. Even if we do not take an extreme position and recognize this as a conspiracy of the Western capitalist world, we may have concerns about the top-down nature of the initiative, and we may be apprehensive of the risk, in this political intention of inclusion, that the focus easily shifts from the content of education and education as a human right to the implementation and enforcement of a specific kind of education.

Whatever the "good" intentions are, treating education as a means for something else will most certainly result in contestable views concerning the value of education and the justification for education as a human right. There is thus something unclear about the contemporary view of education as a universal human right. Education is an activity that can be found in every human culture throughout history. It seems then that education is universally recognized as something that is valuable and important. I think it is fair to say that there is a general consensus that education ought to be given due weight in our societies. However, different societies and cultures

have different ideas concerning *why* education is valuable.[1] We should therefore ask the question if the most proper understanding of education as a human right is to be found in the extrinsic value of education. It seems to me that to ground the value of education in ideologically based extrinsic aims creates more problems than it solves when we want to understand education as a *universal human right*. It is, so to speak, to put the cart before the horse. Our common notion of education as a human right, if possible, should therefore be grounded in our recognition of the intrinsic value of education as a universal human practice. However, it is equally unsatisfactory, from a philosophical and normative point of view, to give a genealogical answer to the question *why*. As stated by Sally Haslanger (2012), we should not settle with the idea that "the best we can do is explain why we use this or that classification scheme by doing sociology, or Foucauldian genealogy (p. 121)".

The term "elementary education", or sometimes "primary education", which is used in several human rights-documents suggests that it refers to some sort of formalized education. We therefore need to make a distinction between formal and informal education, as well as between teaching, learning, education and schooling, in the discussion of the right to education. There is obviously a difference between the right to teach, the right to study and learn, the right to education and the right to schooling. And how are these rights related to compulsory schooling, compulsory education, and the supposed duty to offer education, the duty to teach and the duty to learn?

Tara Westovers's memoir *Educated* (2018*)*[2] starts with a quote from John Dewey's "My Pedagogic Creed" first published in *School Journal* vol. 54 1897:

> I believe finally, that education must be conceived as a continuing reconstruction of experience; that the process and the goal of education are one and the same thing.

And Westover's book ends with the following lines:

> It had played out when, for reasons I don't understand, I was unable to climb through the mirror and send out my sixteen-year-old self in my place.

[1] The answer to the question *why* can be a causal answer as well as a telic answer.

[2] I owe thanks to Hanna Sjögren for introducing me to Tara Westover's memoir.

> Until that moment she had always been there. No matter how much I appeared to have changed–I was still *her*. At best I was two people, a fractured mind. *She* was inside, and emerged whenever I crossed the threshold of my father's house.
>
> That night I called on her and she didn't answer. She left me. She stayed in the mirror. The decisions I made after that moment were not the ones she would have made. They were the choices of a changed person, a new self.
>
> You could call this selfhood many things. Transformation. Metamorphosis. Falsity. Betrayal.
>
> I call it education (Westover, 2018 p. 329).

Tara Westover describes education as a metamorphosis, a change of selfhood and even a possible betrayal of her former self, and it echoes the idea from Dewey quoted above, as well as a famous metaphor by R. S. Peters (2007 [1965]):

> To be educated is not to have arrived at a destination; it is to travel with a different view. What is required is not feverish preparation for something that lies ahead, but to work with precision, passion, and taste at worth-while things that lie to hand (Peters, R. S. (2007 [1965] p. 67)

If I should try to summarize what I believe to be the core elements in these three quotes it is that education is 1) a process, and even a process of change; 2) this process is not necessarily something that we understand when we are taking part in this process; and 3) the educational process is inherently meaningful despite the goal. This is further expressed by Dewey in "My Pedagogic Creed":

> I believe that to set up any end outside of education, as furnishing its goal and standard, is to deprive the educational process of much of its meaning and tends to make us rely upon false and external stimuli in dealing with the child. (Dewey 2010 [1897] p. 29)

The idea that the process and the goal of education are one and the same thing has more recently been articulated by Tristan McCowan (2013) in his book *Education as a Human Right*. The relation between ends and means,

McCowan points out, was criticized by Dewey for being artificial. Often, we seem to have concerns about the nature of the means despite their ability to bring about the ends. And in some cases, argues McCowan, “the ends will actually be embodied in the means” (p. 76).

And yet, it would be hasty to settle for this description of education as an individual (or personal) process of change. The progressive movement within educational theory, which Dewey is commonly associated with, has, sometimes rightly, been accused of being too *child-centred* (see e.g. Arendt 2007 [1958]; Peters 2007 [1965]). However, when Dewey speaks of “the false and external stimuli of the child” it is a criticism of the external aims, not the socialization aspect of education. For Dewey, as well as for Peters, education is a social process:

> I believe that all education proceeds by the participation of the individual in the social consciousness of the race. This process begins unconsciously almost at birth, and is continually shaping the individual's powers, saturating his consciousness, forming his habits, training his ideas, and arousing his feelings and emotions. Through this unconscious education the individual gradually comes to share in the intellectual and moral resources which humanity has succeeded in getting together. He becomes an inheritor of the funded capital of civilization. The most formal and technical education in the world cannot safely depart from this general process. It can only organize it; or differentiate it in some particular direction.
>
> […]
>
> I believe that education, therefore, is a process of living and not a preparation for future living. (Dewey 2010 [1897] p. 24)

And Peters (2007 [1965]) argues that

> all education can be regarded as a form of ‘socialization’ in so far as it involves initiation into public traditions which are articulated in language and forms of thought. But this description is too general in that it fails to mark out the difference between education and other forms of socialization. (p. 56)

Thus, apart from recognizing that education is a 1) a process, and even a process of change; 2) that education can be unconscious, i.e that the process is not necessarily something that we understand when we are taking part in this process; and, 3) that the educational process is inherently meaningful despite the goal, we can also add the idea 4) that education is some kind of process of socialization and 5) a "process of living", i.e. a constitutive part of what it means to live a human life.

The task in this thesis is to capture how education as constituted by socialization differs from other forms of socializations and how the right to education can be understood as a human right to this social process rather than being a right to be enrolled to school or to acquire specified knowledges.

ii. The Problems of Education as a Human Right

David Reidy notes that "all or nearly all enduring liberal democracies have some form of compulsory education that directly or indirectly but almost always purposefully serves assimilationist ends" (Papastephanou, 2014, p. 3). Add to this that every nation, except USA, has ratified the United Nations' 1989 *Convention on the Rights of the Child* (CRC), stating that

> 1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
>
> (a) Make primary education compulsory and available free to all;
>
> (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
>
> (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
>
> (d) Make educational and vocational information and guidance available and accessible to all children;
>
> (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

> 2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
>
> 3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries. (CRC, Article 28)

Keeping this “omnipresence” of education and schooling in mind, one might wonder if it really is a pressing issue to address the question of what the *right* to education is and ought to be, or more specifically, education as a human right? Is there a problem here at all? I will take on these questions by arguing that it is not just one problem; there are in fact many problems concerning how we ought to understand education as a human right.

The most obvious issue is an empirical claim and concerns what Human Rights Watch (HRW) has chosen to label “The Education Deficit”, describing the fact that more than 120 million children and adolescents are absent from class (hrw.org). And this is certainly something that we ought to consider as a problem. However, the problem is not just the fact that children and adolescents are missing out on school. Another problem is how the right to education is measured. Too often education is reduced to either school access or learning outcomes. The point is that this empirical claim of an “Education Deficit” fundamentally rests upon certain conceptual, ontological and epistemological assumptions concerning the nature of education.

Thus, another issue has to do with the meaning of the terms “education” and “human rights”, and the global political monopolization of the definitions of education and human rights. First, HRW focuses on children and adolescents. How are children’s rights related to universal human rights? Second, as pointed out by Robin Barrow, if the good intentions to form autonomous citizens; to universalize it by recognizing education as a human right; and to use the level of school attendance and PISA measurements to measure national success all fail, then it may not be because schooling, state provision or state control is wrong in itself. Instead, the problem arises if a society has a faulty conception of the purpose of education in a liberal democracy (Barrow, 2014).

And while the critical tradition focuses on the governmentality of school institutions, another "post-critical" tradition focuses on freeing schools and education from the bondage of "learnification" (e.g. Biesta, 2005; 2015). I think that both of these approaches to education are interesting as well as important when we try to understand schools as institutions and how the school-system can be enforced in our societies. They are less relevant however if we want to capture the nature of education. We do not need theories of learning and schooling in our quest for capturing education as a human right. Instead, I aim to argue that we need a theory of social ontology that can capture the relational constitutive element of education. Education is always socially situated.

Following Sally Haslanger's terminology, the formulations of education in human rights documents can be described as a *discursive classification* of education, and education as a human right, where education and human rights come to have, partly as a result of having been classified in a certain way, a set of features that qualify it as education and as a human right. "Something is discursively constructed just in case it is (to a significant extent) the way it is because of what is attributed to it or how it is classified" (Haslanger, 2012, p. 123). Thus, another question emerges concerning the ontological status of both education and human rights.

Quite recently, philosophers within social ontology have started to address questions concerning human rights (e.g. Searle, 2010 and Gilbert, 2018). However, to my knowledge, social ontology has not yet seriously been applied within the field of educational theory and philosophy of education, and more particularly to the question of education as a human right. This thesis marks my attempt to do precisely this.

Education is generally understood as a *welfare right* (i.e. a positive right). It is not only a negative right in the sense that it is the liberty to be left alone and given the freedom to seek knowledge, develop skills and wisdom. It is a *claim* on others to aid in this process of studying. Some philosophers in the liberal tradition have pointed out that it seems hard to justify positive welfare rights as being human rights rather than merely political rights.[3]

[3] John Locke (2018 [1688]) argued that there are "natural rights" that we have in a pre-political state of nature such as the right to "life, liberty and estate". The idea that there are some fundamental human rights not to be violated by anyone can also be traced to the Kantian tradition and the idea of individuals' "inherent dignity". According to the Kantian imperative no human individual should be treated merely as a means to an end. Both the Lockean and the Kantian idea appears in more contemporary libertarian works such as Robert Nozick's *Anarchy, State and Utopia* (2013 [1974]) where Nozick argues that there are moral rights that can be understood as state of nature rights, i.e. rights that precede any social contract. These rights are negative in the sense that they specify types of conduct that ought not to be done to individuals, rather than types of conduct that must be done for

From this problem follows another problem: If the right to education is a claim on others, who or what is the bearer of duty?

While a question such as the question of climate change concerns our collective responsibility towards future generations, the question of education as a human right concerns our collective responsibility towards all humans in the here and now, as well as our collective responsibility towards future generations. I will not argue that we necessarily have such a moral responsibility. I will, however, argue that in our implementation and enforcement of education as a human right, we ought not to lose sight of what education is all about. In other words, if education is considered to be a human right, how should we understand this right?

So, we should add the question of what kind of education we reasonably all have a right to, if education is considered a human right.

iii. The Purpose of this Study and some Theoretical Claims

The main purpose of this study is to give an account of how to answer the questions: What would be the most reasonable interpretation (if any) of the statement "Education is a Universal Human Right?"; Does such a right exist, and if so, how does such a right exist? The purpose is not to justify, explain or recognize education as a human right as stated in international conventions. Anything could be stipulated in a document. And it is important that these formulations and stipulations in the international conventions are constantly critically examined. Neither is it an inquiry into the historical explanations of the political ideals that has promoted these rights. Rather, it is an attempt to explain how we come to recognize it as a human right in the first place. Or in other words, an explanation of what gives us reason(s) (if any) to recognize "education" as a "human right" in conventions and documents. It is a question concerning ontology (i.e. how something exists) rather than a question that can be answered through an empirical descriptive analysis of what the various rights-documents say. It is an ontological question because it is concerned with what kind of existence a

---

people. Additionally, John Searle (2010) argues that "there are very few, if any, positive human rights […] And the reason for this is that the existence of a universal human right imposes an obligation on all human beings" (p. 193). Though this view is far from accepted in the present debate concerning human rights, most human rights documents start with these negative liberty rights such as Article 3 in the UDHR: "Everyone has the right to life, liberty and the security of person". And in the European declaration most of the positive welfare rights were put in a separate treaty, the European Social Charter of 1961 (Council of Europe, 1961). However, the right to education does appear, after amendment 1952, in the general European Convention from 1950 (Council of Europe, 1950).

statement concerning the human right to education is trying to track or refer to.

The statement "Education is a Human Right" contains two central concepts, namely "education" and "human rights". And the answer to the two questions "What is education?" and "What is a human right?" will have implications for how to answer the third question "Is education a human right?".

The term "education" is not just a label for an abstract idea. It is rather a term that is used to label a certain kind of activity that we recognize as education. Therefore, in principle, the statement "X is education" can be verified empirically once the extension of the term "education" is stipulated or agreed upon. However, the questions of what education is, or what we mean by education, are questions of educational theory, philosophy and semantics. And presumably, the questions of the purpose and aims of education are also questions of personal ideals, political theory and politics.[4] And as pointed out by Peters (2015 [1966]) education is not like gardening which picks out a particular type of activity. He says,

> Something, of course, must be going on if education is taking place and something must have been gone through for a person to emerge as an educated man. For education is associated with learning, not with a mysterious maturation. But no specific type of activity is required. (p. 24 f.)

My own view differs somewhat from this idea of Peters. Even though I agree that education cannot be captured as a specific type of activity, it can be understood as a specific type of relation between a teacher and a pupil. And I think he is simply wrong when he states that a man can educate himself in "solitary confinement" (p. 25). I believe that we can learn a lot in solitary confinement, but to be educated implies to stand in a specific relation to some other people. We should therefore make an even clearer distinction between learning (even social learning) and education. Because, even though Peters is right when he states that education is associated with learning, learning is not necessarily a constitutive part of education.

[4] This last statement is surely debatable, and I thank Morten Korsgaard for this remark. However, I believe that the question of the purpose and aims of education is much more context-dependent and open, and therefore more susceptible to both individual and political ideals, than the more fundamental question of what education is. This is one of the main reasons for why I think it is important to focus our attention towards education rather than schooling or learning outcomes.

The proposition “X is a human right” entails that there is some X that is something that is, not only a right, but a specific kind of right, i.e. a *human* right. Because of the fact that rights are frequently invoked in contemporary moral and political discussions, we can reasonably assume that rights do exist in some way or other. When we talk about rights it is not like when we are talking about unicorns or Santa Claus. Rights seem to be real in a sense which unicorns and Santa Claus are not. But in what way do rights exist? And what is the difference between human rights and other rights? It is indeed possible to hold the view that education is a right while denying that it is a human right. Finally, what do we mean when we say that a human right is a *universal* human right? All of these questions have to be answered before we can answer the question of how education could be a human right.

Bringing these different questions together in the question “What could be a proper interpretation (if any) of the statement ‘Education is a Human Right?’” is to bring two big fields together: Philosophy of education and philosophy of human rights. While human rights is a rather well-established subject within contemporary philosophy, philosophy of education is rarely taught in philosophy departments. Instead, philosophy of education is mainly studied within departments of education.[5] Within philosophy of education, human rights education is a growing topic, often as a sub-field of moral education, but the question of the entitlement to education, i.e. education as a human right, is seldom addressed. It does however appear in the contemporary discussions within philosophy of human rights.[6] Perhaps as a consequence of the main focus of the field of philosophy of human rights, the more fundamental question of educational theory and pedagogy, i.e. how education can be properly defined and what kinds of education we are entitled to, often lacks a more thorough philosophical analysis.

Tristan McCowan (2013) addresses the question of education as a human right and the entitlement to learning and relates the discussion to several philosophical human rights-theories, but McCowan does not offer philosophical justifications of human rights on a more metaphysical level. However, he does argue for a non-instrumental “rights-based approach” to education as a human right. McCowan notes that,

> A right, most simply put, is a justified claim on others. A human right is a

[5] For similar remarks on philosophy of education in relation to philosophy see Noddings (2016) “Preface” and Phillips & Siegel (2015).

[6] E.g. education is central in the works of James Griffin and Martha Nussbaum.

> right that pertains to all human beings and only to human beings, and so is distinct from the rights that might be held by virtue of citizenship of a particular territory. (p. 11f.)

The reasons for adhering to a rights-based approach, according to McCowan, is 1) the "unconditionality of access to education"; 2) viewing "people as agents rather than beneficiaries"; 3) being "attentive to process as well as outcomes"; and 4) to highlight

> the importance and urgency of the task: universal access is not an aspiration that we can fit in where possible if time and resources permit. It is an absolute requirement of justice, an immediate obligation, and one that implicates all human beings, directly or indirectly. (p. 12f.)

These are all strong claims, and in addition claims that I tend to agree with if we want to label the right to education as a *universal human right*. However, such claims need stronger philosophical justifications than they get from theories that value education as a means for developing e.g. "capabilities that can be of central importance in any human life" (Nussbaum, 1997) or "normative agency" (Griffin, 2014). I think of my contribution very much as a strengthening, and a modification, of McCowan's important work. The focus of my inquiry will be on the semantics and the ontology of education as a human right. In other words, I will focus on the questions: "what does it mean to say that education is a human right?", and "how does such a right exist?", rather than on what justifies such a right from a particular ideal.

A further purpose of this inquiry is thus to apply a framework that can give us new tools for the fundamental question concerning the nature, purpose and aims of education as well as the ontology of human rights, and more specifically the question of education as a human right. My assumption is that this can be done by bringing in a third field from contemporary analytic philosophy, namely *social ontology*. The study of social ontology builds upon the assumption that some kind of distinction can be made between the social and the non-social. The distinction to be made is thus on the one hand between what is "natural" and what is "social" and on the other hand between what is "individual" and what is "social".

Sometimes we tend to naturalize what is socially constructed, and other times we seem to label what is natural as "merely" socially constructed. If we can capture the nature of the socially constructed, perhaps we can also capture where to draw the line between what is natural and what is socially

constructed, and further to draw a line between what exists as a consequence of physics and evolution and what exists as a consequence of human practices and human ideals.

Even more important is to make a distinction between what is social and what is individual. A fundamental hypothesis of this inquiry is that education, as opposed to learning, is always a social activity. Accordingly, to have a right to education is to have a right to stand in a specific relation to others.

I will therefore devote Part One of my thesis to the field of social ontology, so that a theory of social ontology can serve as a theoretical framework for the questions of rights and education, dealt with in Part Two and Three respectively.

As described, this project is both analytic and synthetic. It is analytic in the sense that I aim to analyse the meaning of one single statement, i.e. "Education is a human right". It is also a synthesisation of three different fields of research: education, human rights and social ontology.

iv. Some Central Assumptions

Education is a social activity and a social construction. However, to recognize an activity as education does not necessarily imply that the recognized activity itself is a social construction, even though the activity is social in the sense that it involves cooperation. Lots of animals are involved with complex and highly skilled cooperation, and at least some non-human animals are engaged in social learning activities and what we, in a rather broad sense, could call "teaching" (Gärdenfors & Högberg, 2017; Tomasello, 2014). Therefore, social learning as well as teaching seems to be natural capacities among some non-human animals. Still, education is very much a human social construction. How could we explain the difference between social learning as a natural capacity and education as a social construction?

Many features that we refer to as "natural" are in fact a result of social forces. Sally Haslanger (2012) reminds us that,

> If one function of references to "nature" is to limit what is socially possible, thereby "justifying" pernicious institutions, we must be wary of any claim that a category is "natural". Yet it would be ridiculous to maintain that there are no limits on what social arrangements are possible for human beings. (p. 5)

What separates human cooperation from other animals' cooperation is our capacity "to change the practices, and to design them for conscious ends" (Haslanger, 2012, p. 20). Whatever is "natural" is neither good nor bad in itself; it has no purpose or aims; it only is. However, we can value the "natural" as good or bad and provide it with a function, and with purpose and aims.[7]

John Locke argued in the seventeenth century that God and nature were the sources of the state and property. Political authority is justified in accordance with the natural rights of each individual created equally (2018 [1688]). However, it seems hard for a secular theory of human rights to view human rights as natural rights. Human rights therefore are most likely to be recognized as social constructions. This does not necessarily imply that human rights are a set of legal rights, or even formally institutionalized rights in a broader sense. I will argue that human rights are closer to a set of the most basic universal (moral) standards than they are to political rights. A human right is best (and most commonly) understood as a right that we have simply by virtue of being humans. Otherwise, human rights will do a bad job functioning as norms that help to protect all humans everywhere from social, legal, political and other kinds of institutional abuse.

Moral convictions seem to have an advantage concerning normative power that legal rules lack. At the same time, legal rules are epistemically and ontologically less problematic than moral convictions. Margaret Gilbert points out that "one can never settle the existence of such a [moral] rule by simply looking at documents or at the moral systems various groups or individuals have articulated. Morality is not determined by anyone's statements about it" (Gilbert, 2018, p. 46). According to Gilbert, moral human rights lack the right-holders authority to claim her rights without joint commitment. The central assumption here is that it is not enough for an individual to have a demand-right simply by appealing to either morality or law. Some form of collective recognition has to be supplemented.

Further, we ought to separate between the right *to* education and the right *within* education. A person can have a claim-right *to* education, and if so, someone has a corresponding duty to offer education. Once *within* an educational setting, a pupil presumably has a right to be taught, and a teacher

[7] Even when a biologist refers to the function of the heart to pump blood, this would be more of a metaphor building on our teleological heritage from Aristotle. There is no inherent function in the heart. The heart is caused by an evolutionary process and an evolutionary survivor in the Darwinian sense. The fact that the heart causes the blood to go around is caused by evolution, not by some fulfilling of a purpose.

has a right to teach. And, correspondingly, it seems that a pupil has a duty to be taught, and a teacher has a duty to teach.[8]

Finally, because social constructions, such as e.g. education and human rights, are *socially constructed* by real persons, they cannot exist independently of persons. And also, maybe an even stronger claim, social constructions, such as e.g. education and human rights, cannot exist without *relations between individuals*. Therefore, we need an agentic account of education as a power-relation.

v. Outline of the Argument and Disposition

In the first part of this thesis, I will give an account of the field of social ontology, which will serve as a framework for the rest of the discussion concerning rights and education. Inquiries concerning the nature of the social has been a topic within philosophy since ancient Greece. The term "social ontology" has become more frequently used in recent years within analytical philosophy and is often connected to philosophers such as Michael Bratman, Margaret Gilbert, John Searle and Raimo Tuomela. A key concept within these theories of social ontology is *collective intentionality*.[9] The concept is useful for analyzing the fundamental building blocks of social phenomena on a micro-level. Thus, collective intentionality is useful for describing and explaining institutional facts, collective action and social power. There are, however, messier aspects of social life than the paradigmatic examples of interdependent rational agents acting together (intentionally) in an egalitarian setting (see e.g. Kutz, 2000; Andersson [now Burman], 2007; Fricker, 2007; Haslanger, 2012; Ásta, 2018; and Brännmark, 2019a, 2019b and 2021). An account of social ontology should be able to deal with individuals in large and hierarchical groups, and macro phenomena such as opaque social structures. Traditionally, these types of social phenomena are studied within the field of philosophy and social theory that is generally labelled critical theory.[10] While critical theories usually focus on uncovering power relations and giving them causal explanations as historical and political inventions, social ontology aims to explain how social constructions and power relations are *constituted*.[11] I will argue

[8] See also McCowan (2012) concerning the distinction between the right *to* and *within* education.

[9] Bratman rather talks about "shared agency" than collective we-intentionality.

[10] The ontological discussion here concerns whether social constructions primarily are the result of psychological states of individual people, actions, or practices.

[11] I will come back to this later on page 33, however, it seems important to already draw the distinction between social constructivism as an "-ism" and the study of social ontology

that we need an agentic account of the concepts ‘cooperation’ and ‘power’ if we want to capture the asymmetrical power-relation as a constitutive part of education.

I will defend a *Searlian account* of social ontology and institutional facts, but with some modifications. Björn Petersson’s defence of a we-mode perspective in collective intentions is added to Searle’s general theory to avoid the circularity charge that theories of methodological individualism, as well as more collectivist approaches such as Margaret Gilbert’s, face. My own contribution to Searle’s account is two-fold: I defend a broader understanding of collective intentionality than the narrower use of the concept which seems to be the prevailing one in this context. I also try to clarify how institutional facts are a sub-category of social facts, and here I try to bridge the gap between Searle’s modified version of social contracts and Haslanger’s critical theory. Both of these aspects open up for a theory of collective intentionality geared to handle contested institutional facts and make it easier to capture the distinction between such notions as “learning” and “education” in a more nuanced way. It also helps explain how education as a human right in some contexts is an unidentified opaque social fact.

In the second part, I focus on the social ontology of rights and how human rights are related to stipulated laws and agreements as well as normative (and moral) standards, conventions and opaque structures. The main purpose here is to offer an analysis of how human rights differ from other kinds of rights. I will defend a deontic approach to human rights which is grounded in our conception of human nature rather than on telic, pragmatic and instrumental premises; it is thus based on our actual views on human evolution, human capabilities and human functioning in social settings, and the actual practice, rather than in ideal goals and practical consequences.

The main purpose of the third part of the thesis is to address the question of the nature, purpose and aims of education. Here too the framework of social ontology will be used to highlight education as a deontic relation and as a social construction.[12] I will argue that even though education, including its purpose and aims, is a social construction, it is grounded in a natural capacity that we share with other kinds of animals. I will also argue that

as recognizing some existing phenomena as socially constructed rather than natural or individual.

[12] Some seem to prefer to use the term “historical invention” or “political invention”. Although this is not substantially equivalent to social construction, I hold it as formally equivalent, i.e. as biconditional $(P \leftrightarrow (Q \vee R))$. If something is a historical or political invention it is also a social construction, and if something is a social construction it is also a political and/or historical invention. In other words, something is a social construction iff it is a historical or a political invention.

socialization is a constitutive part of education and that education necessarily contains collective recognition. Thus, education is not equivalent to learning because education necessarily involves social cooperation, as well as different agents with different social positions in a deontic relation. Learning, however, does not. The definition is fruitful for distinguishing education from learning, teaching and schooling. It also serves to show that education is not equivalent to indoctrination or manipulation even if the two can, and often do, occur within educational settings. And yet, it highlights that education is a normative asymmetric power relation that naturally gives rise to moral considerations.

In the last section I will address the main question of this inquiry: *What could be a proper interpretation (if any) of the statement "Education is a Human Right"?* The aim is to provide a formal account of human rights with the right to education as an example of a right that could qualify in a more substantial account. I will argue that the abstract right to education is not a right to a thing such as the right to specific information or certain knowledge, the right to a specific skill, the right to go to school, or the right to get a specific degree; it is not a matter of distribution of things or capacities. It is rather a right to a specific relation, i.e. a right to a social activity[13] that we label education and which commonly involves specifically defined rules specifying what people can do in relation to one another. I am therefore suggesting an alternative definition of the "nature" of education, i.e. what we have a right to if education is a human right, that I think has some advantages over other suggestions about how to understand education as a human right.

In its most general and abstract form, one that could presumably qualify as a human right independent of citizenship, the right to education ought to be the right to *a specific deontic relation involving asymmetric social positions taking part in collective study with the purpose to increase understanding.*

Education is, if we borrow a concept from Martha Nussbaum, a *combined capability*; a relation with both an internal and external component. In contrast to Nussbaum, I will argue that education is not merely an instrumental resource or means for other capabilities. Education qualifies as a *central capability*. "The central capabilities are not just instrumental to further pursuits: They are held to have value in themselves, in making a life fully human" (Nussbaum, 1997, p. 286). Thus, education can therefore be understood as a *fundamental right*. Nussbaum describes her list as

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[13] The right to free speech can be described in a similar way as a right, not only to speak your mind but also to be listened to, i.e. as a right to a specific relation or social activity.

“Open-ended and humble” and suggests that it can always be contested and remade. I suggest that we can add education to such a list of combined capabilities.

This abstract right to education is not a fundamental abstract right from which our concrete micro-level rights and duties are derived. It is rather the other way around. The abstract right to education is derived from a universal practice found in any human society throughout history, and as such it is ubiquitous and omnipresent as it cuts across every human context, despite cultural, religious and political differences. In this sense, the abstract idea of education as a human right is in perfect accord with a universally existing human practice.

Finally, I will try to apply my proposal for how we ought to understand education as a human right to Tara Westover’s memoir *Educated*.

The main arguments can be summarized in the following way:

1. Human Rights are best understood as rights that pertain to all human beings.
2. Education is not equal to learning.
3. Education is not equal to schooling (e.g. formal education).
4. The right to education is not the right to a thing; it is the right to a specific deontic and asymmetrical relation.
5. Socialization is not merely a possible aim of education; socialization is a constitutive element of education.
6. The human right to education should not be understood as the right to a specific kind of a narrowly contextualized education with articulated content, aims or learning outcomes; it should be understood as the right to a specific deontic and asymmetrical relation that is in accord with a universal human practice.
7. To be denied the human right to education is to be denied this specific kind of deontic and asymmetrical relation.
8. The right to education, therefore, ought to be a right to this specific asymmetrical relation, and a right that we have simply in virtue of being humans.

vi. Social Ontology, Educational Theory and Ameliorative Conceptual Analysis

Education is a fundamental part of any human society. We might even call it a fundamental *institution* of human society. And when we think of education, we often think of the formalized school system in our contemporary societies. As stated by Marianna Papastephanou, today "schools appear as natural, self-evident and unavoidable" (Papastephanou, 2014, p. 3). This "naturalization" of schooling that Papastephanou wants to illuminate, or maybe more accurately in my own words – *a particular discursively shaped school system that appears natural* – is part of a liberal approach to education where the modern school system is primarily acknowledged for its potential as a means for individuals to gain autonomy and freedom.[14] This liberal view on education has for some decades now been the target of critical theorists within educational theory, pointing out how social and psychological sciences have infiltrated pedagogy. What is often labelled "educational science" has become a field with the aim to shape education and the schools into a place where the future citizen can be governed, "calculated and designed" (e.g., Popkewitz, 2008 p. 92). This kind of critical educational theory usually follows a tradition from Freud, Marx and Nietzsche through Foucault and the Frankfurt School, and has worked in opposition to the liberal approach. An alternative and more radical view is also advocated by Paulo Freire (2017 [1971]) who criticizes both the traditional and the progressive view on education, much in line with the critical theorists, but who also recognizes the "liberationalist" potential of education. In 1971, Ivan Illich released *Deschooling Society* where he advocated for a de-institutionalized education, warning us that whatever good intentions we have in setting up our institutions, they will stagnate and most certainly end up working against these good intentions.

A similar division of traditions can be found within political and social theory in general, where the more liberal tradition can be traced back to British philosophers such as Thomas Hobbes, John Locke, David Hume and Adam Smith. This tradition has, in contrast to critical theory, focused more on the individual mutual benefit of social institutions based on rational agreement.

Since the late 1980's and the early 1990's the term "social ontology" also has become prominent within the analytical tradition of philosophy as a branch of metaphysics that is concerned with the nature and properties of the social world. The general question for social ontology thus concerns

[14] See e.g. Griffin (2008) and Nussbaum (1997).

determining which features of the world are products of humans and human society instead of nature, and this question can be traced back to ancient Greek philosophers. Many of the questions within social ontology are directly related to the previously mentioned tradition from the British enlightenment philosophers, and focus on the positive aspects of collective action, cooperation and institutions.[15] There are, however, also other issues that concern social ontology which are related to critical theory, such as the social construction of language, the ethical aspects of knowledge, social classes, gender and race, and the power relations that emanates from these constructions.[16]

Meanwhile, in recent years, there has been clear signs of a reaction against critical theory within the more sociologically oriented continental tradition of educational theory and pedagogy criticizing the "child-centred" progressive movement and the political focus on education. This self-named "post critical" approach instead focus on the teacher and the positive aspects of the school as an institution with the potential of being a "free zone" (e.g. Masschelein and Simons, 2013; Hodgson et. al., 2018; Vlieghe and Zamojski, 2019). A common inspiration seems to be Hannah Arendt's "The Crisis in Education" from 1958 where she criticizes the progressive movement for disregarding the adults' responsibility as an authoritative figure.

I believe a theory of social ontology can give us some new ways of dealing with fundamental problems within philosophy of education such as the nature, purpose and aims of education as well as the right to education. Turning to social ontology is an attempt of addressing education and education as a human right without adhering to any "-ism" or ideal. As pointed out by Robin Barrow (2011) there is indeed a long tradition of teaching philosophy of education, and I would add educational theory in general, by way of different "schools of thought" or "-isms". Turning towards social ontology is thus for me a way to go back to a more general philosophical analysis of 'education' and 'education as a human right' as parts of our common social world. And it is my conviction that Barrow is right when he writes that "embracing philosophical analysis is not itself to embrace any kind of ideology" (p. 21). It is a way of turning our attention to the ontological and conceptual questions "What *is* education?", "What *is* a human right" and "*Is* education a human right", rather than the question "*Why* is education a human right". I am not really concerned with the question

[15] E.g. Gilbert (1992 and 2006), Searle (1995 and 2010), Bratman (2014) and Toumela (2014).

[16] E.g. Andersson ([now Burman] 2007), Fricker (2010), Haslanger (2012) and Ásta (2018).

"why?". Therefore, I will not ask the causal question of how education came to be (and also came to be a human right). Neither will I ask the telic question of the purpose of education (or justifying education as a derived instrumental human right). A desideratum here is thus the more orthodox version that if education is a human right, it is because all humans have the right to education simply in virtue of being humans, despite all and any instrumental value that might follow from treating education as such.

Yet, usually it is exactly one of these two other kinds of questions that are asked in educational research. Historians and sociologists are usually occupied with the causal, or genealogical question. What made education the way it is thought to be? Other educational theorists, such as for instance some educational philosophers and human rights theorists focus on the normative question concerning what education *ought* to be: What is the proper, or ideal, form of education?

So, my focus on the question "What *is* education?" has to do with the constitutive parts of what education is or with the "nature" of education. In other words, I am interested in what makes us label something as being education in relation to not being education. Stating the question in this way is to adhere to a method of conceptual analysis concerning education that owes much to R. S. Peters' work on philosophy of education and conceptual analysis. Some parts of the method of Peters are very similar to the more contemporary works on conceptual engineering, such as for example the ameliorative conceptual analysis suggested by Sally Haslanger (2012). There are, however, also differences.[17] Haslanger separates between three different projects of conceptual analysis, i.e. three different ways of answering the question "What is x?": *conceptual*, *descriptive* and *analytical*. A traditional philosophical conceptual inquiry, like e.g. Peters', seeks to articulate *our* concept of a particular concept, and usually looks for *a priori* methods for an answer. In contrast, a descriptive approach focuses on the actual extension of the concept and is therefore more likely to rely on empirical methods. Such inquiries, says Haslanger, "what it is to be, for example, a human right, a citizen, a democracy, might begin by considering the full range of what has counted as such to determine whether there is an underlying (possibly social) kind that explains the temptation to group the cases together" (2012, p. 223). Within social science, such inquiries can enrich our "folk" conceptualization and e.g. illuminate such phenomena as "human rights" as relying on social kinds rather than natural kinds. Finally, in an analytical approach

[17] I thank Jane Gatley for making me see these differences more clearly.

> the task is not to explicate our ordinary concepts; nor is it to investigate the kind that we may or may not be tracking with our everyday conceptual apparatus; instead we begin by considering more fully the pragmatics of our talk employing the terms in question. What is the point in having these concepts? What cognitive or practical talk do they (or should they) enable us to accomplish? Are they effective tools to accomplish our (legitimate) purposes; if not, what concepts would serve these purposes better? (pp. 223–224).

One way of doing this kind of conceptual engineering, or amelioration, is to stipulate the meaning of a new term. Another way, however, is to offer an improved understanding and revision of our everyday concepts. This means that we start by asking: What is the point of having the concept in question? (p. 367). And further for the purpose of this inquiry: What valuable purpose does our concept of education as a human right serve? What valuable purpose does the concept of education serve that is not captured in other similar concepts, such as for instance 'learning' and 'schooling'? And what (if any) is the core meaning of this concept? Similarly, we can ask the question: What valuable purpose does the concept of 'human rights' serve that is not captured in other similar concepts, such as for instance 'civil rights' or 'legal rights'?

The idea is that our everyday vocabularies serve both cognitive and practical purposes that can be improved by this kind of theorizing. It is a critical project which aims to enhance our conceptual resources and improve our social world. And when I use the terms "our conceptual resources" and "our social world" I really mean "us" in a universal sense. Haslanger suggests that we sometimes have good reasons for resisting a purely non-critical/non-normative approach. A purely "descriptive" approach to concepts, says Haslanger, either ignores the normative question of what concepts we ought to employ, "or assumes implausibly that the […] concepts we do employ are the ones we ought to" (p. 351).

> On an analytical approach the task is not simply to explicate our ordinary concept of X; nor is it to discover what those things we normally take to fall under the concept have in common; instead we ask what our purpose is in having the concept of X, whether this purpose is well-conceived, and what concept (or concepts) would serve our well-conceived purpose(s) – assuming there to be at least one–best. Like the descriptive approach, this approach is quite comfortable with the result that we must revise –perhaps even radically–our ordinary concepts and classifications of things (p. 352).

Applying this idea to the concept of education as a human right means that the answer to the questions "What is education?", "What is a human right?" and "Is education a human right?" will not necessarily capture our intuitive concept of education, human rights and education as a human right, "but instead offers a neighboring concept that serves our legitimate and well-conceived purposes better than the ordinary one" (p. 353).

PART ONE: SOCIAL ONTOLOGY

CHAPTER 1. THE “NATURE” OF THE SOCIAL WORLD

Introduction

The aim of this thesis is to provide an analysis of the right to education, and more specifically how to understand a statement such as “Education is a human right”, by using social ontology as a theoretical framework. Since nearly all social relations, as well as having a right and having a duty, involves social power, an analysis of social power and its relation to social ontology is needed to explain the right (and duty) to education. Until quite recently, normativity within the field of social ontology has mostly been concerned with what follows logically from accepting constitutive rules within an institution. It is quite trivial to state that a nation that has agreed to the *United Nations Declaration of Human Rights* and/or the *Convention of the Rights of the Child*, has a normative reason to provide the members of that state with primary education, in a similar way to how giving a promise to someone, within an institution of promise making, results in an obligation to keep the promise. However, as stated by Åsa Burman: “we might also want to ask questions about the institution of promising or the institution of monarchy itself; can it be justified?” (Andersson [now Burman], 2007, p.17). For the purpose of this thesis, what I am concerned with is not so much the question of on what grounds the institution of education as a human right can be justified. It is rather the question of what it is we want to justify in our justification of education as a human right. How should such a right be understood? *What could be a proper interpretation (if any) of the statement “Education is a Human Right”?* And following Haslanger’s ameliorative analytical approach, what work do we want the idea of education as a human right to do for us? Thus, it is rather to ask if such concepts as education and human rights, and the idea of education as

a human right is justified. However, before we address these questions it seems reasonable to explain what is meant by social ontology.

1. Stating the Problem: What Constitutes Social Facts?

If human rights are social constructions, rather than "natural rights" as proposed by some of the enlightenment philosophers, such as for instance John Locke, how should we explain the social ontology of education as a human right? This is the main problem of this inquiry. And in addressing this problem we therefore need a theory for how to explain the ontology of social constructions in general. That is, we need a theory of social ontology. The main question in this part is thus to examine what *constitutes* social facts and to ask: how do social facts exist? A theory of social ontology will then serve as a theoretical framework to consider the other questions of this inquiry: What makes a right a human right? What makes a teacher a teacher? And what makes education education? These are some of the questions that we need to address.

There are three important distinctions to be made in such an inquiry: First, the assumption that the social world has peculiar features that goes beyond what is merely natural. One such feature is that humans have the capacity to invent new social facts by mere agreements and social power. A teacher can decide that a lesson starts or ends at a certain time. Given the authority that is given to the teacher, the lesson will start or end when the teacher decides so. The teacher generally has the capacity to create and dissolve a lesson simply by saying "It's time to start the lesson" or "Class dismissed". Similarly, an educational institution can become a university by assuring specific education qualities that are specified and controlled by an authority in charge and a group of licensed examiners. And once recognised as such, *it really is a university*. If a human would possess the same kind of power over natural facts this human would seem god-like, as when God created light by saying "Let there be light". It is thus to adhere to a view that some features of the world are socially constructed and maintained by human beings while others are not.

Second, it is important to distinguish between the deontic and the telic features of the social world. The deontic features are the social rules that govern our actions and behaviour, while the telic features are the aims that govern our actions and behaviour. These two features can be given different weight in a theory of social ontology. A deontological view of the social world will give more weight to the social world as made up of rules, while a telic view of the social world will give more weight to the social

world as justified in accordance with how the different features of the social world function in relation to certain (collective or individual) ends. A deontological approach can acknowledge that we as humans have both individual and collective aims while denying that this is what necessarily governs our actions and our behaviour. A teleological approach can recognize that we act and behave according to rules but insists that they only function as means to (collective or individual) ends.

And finally, it is necessary, if we want to give a more exhaustive explanation of the social world, that we distinguish the explicit and formally institutionalized features of the social world from the opaque and informal features of the social world. There is a sense in which we can formally decide the rules (i.e. rights and duties) by legislation, by international agreements or on a very local small scaled level and there is a sense in which we can "discover" rules as patterns of behaviour. Similarly, there is a sense in which we can formally create a school-system and also a sense in which we can "discover" informal educational activity both inside and outside this school-system. In a paradigmatic educational situation, such as a classroom situation, there are explicitly stated asymmetrical power relations, such as e.g. between a teacher and a student. A theory of social ontology should be able to capture this relation. Also, it should further be able to illuminate other kinds of activities such as hidden power structures within an educational system.

2. Agents, Institutions and Social Facts

A first assumption to be made is that individuals play a role in creating and maintaining the social world and its social facts. However, our lives are also structured by practices and institutions. And even if we also assume that these structures are made up by individuals and influenced by individuals, it would be hasty to draw the conclusion that they are also fully designed and controlled by anyone individually. More metaphorically we could say that social structures and entities sometimes seem to live their own lives "out there" as if they were natural kinds to be discovered. Mattia Gallotti and John Michael point out that some theorists, such as e.g. Ruth Millikan have suggested that some

> social entities owe their existence to their functional history rather than to anyone or any group assigning particular functions to them. It seems likely, in fact, that in some cases, institutions may evolve without anyone ever

> having a concept of them or an intentional attitude that is specifically related to them. (Gallotti & Michael, 2014, p. 2)

Whether institutions are informal or formal, institutions such as the educational system in modern societies—as well as other practices and institutions such as our language, religion, the government, the economy etc.—shape our lives, and they are maintained through complex conventions and social collaborations. And these structures often seem to be beyond our control as individual agents. Furthermore, these structures, practices and formal institutions distribute power among individuals (Haslanger, 2012). They are charged with *deontic rules* that set the stage of rights and duties for each individual. Some of these constraints and liberties are explicit and formal while others are implicit and informal:

> Institutions are the humanly devised constraints that structure political, economic and social interaction. They consist of both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights). (North, 1991 p. 97)

Institutions are thus a complex of less complex social forms such as norms, rituals, laws and conventions. According to Seumas Miller (2019), another important point to be made is that institutions are *constitutive elements* of societies:

> A society, for example, is more complete than an institution since a society—at least as traditionally understood—is more or less self-sufficient in terms of human resources, whereas an institution is not. Thus, arguably, for an entity to be a society it must sexually reproduce its membership, have its own language and educational system, provide for itself economically and—at least in principle—be politically independent.

The institutional and humanly produced world also appears "objective", even though, as pointed out by Berger and Luckman (1991 [1966]), it is a *constructed objectivity*. Despite this objectivity of institutions "[t]he institutional world is objectivated human activity, and so is every single institution". This means that the institutional world does not have any "ontological status apart from the human activity that produces it" (p. 78). The relation between agents, the producers, and the world is dialectic. The agent acts within the socially constructed world of institutions and "[t]he product acts back upon the producer" (ibid). This dialectical relation is

threefold: 1) *society is a human product*, 2) *it is an objective reality*, and 3) *man is a social product*. According to Berger and Luckman, an analysis of the social world that leaves out any of these parts will be distortive. They also point out that sociological theorists often leave out the first part, that society is a human product, which results in a "dehumanized world" of thing-like structures (p. 106). Other theorists, however, taking a more *individualistic* or *agentive* perspective, sometimes leave out the third part.

In a fully individualistic, or "atomistic", approach to social structures, institutions are merely an aggregate of individual actions, "e.g. conventions as regularities in action" (Miller, 2019). Also, the value of an institution is reduced to its derivative value for the individual agents. That is, an institution is only valuable in so far as it contributes to the individuals' needs, desires or interests. In contrast, a *holistic*, or *structuralist/functionalist*, approach starts from the social system as a whole:

> Functionalist theories in the social sciences seek to describe, to understand and in most cases to explain the orderliness and stability of entire social systems. In so far as they treat individuals, the treatment comes after and emerges from analysis of the system as a whole. Functionalist theories move from an understanding of the whole to an understanding of the parts of that whole, whereas individualism proceeds in the opposite direction. (Barnes, 1995, p. 37, quoted in Miller, 2019)

Sometimes, holistic accounts use the metaphor of society as an *organism.* Institutions can thus analogically be described in terms of how parts of the human body function in relation to the body as a whole, where the human body as a whole is analogous to society as a whole:

> [T]he human body relies on the stomach to digest food in order to continue living, but the stomach cannot exist independently of the body or of other organs, such as the heart. Likewise, it is suggested, any given institution, e.g. law courts, contributes to the well-being of the society as a whole, and yet is dependent on other institutions, e.g. government. (Miller, 2019)

A third alternative, according to Miller (2019), is to offer a *molecular* account, that does not reduce institutions to simpler atomic forms, such as individual actions in relation to conventions. Neither does the molecular account explain institutions in terms of how they contribute to the society as a whole. Viewing institutions as analogous to molecules is to recognize that they have constitutive parts, such as conventions (i.e. "atoms") but also

that they have their own structure and unity that is not fully reducible to those constitutive parts. In other words, a molecular account suggests that institutions as wholes are *more than the sum of its parts*. According to Miller, a molecular account of institutions can better explain transnational organizations. An important function of a convention of human rights is to protect individuals from severe political, legal and social abuse by a nation or a state. Also, a molecular account can better account for how we experience institutions as "living their own lives out there", not being within our individual power as agents. Additionally, a molecular account of institutions can capture the desiderata suggested by Berger and Luckman, recognizing institutions as made up by humanly constructed rules and constraints that appear objective and that also shape who we are, what we believe and what we do.

Following North (1990) and Miller (2019) among others, institutions consist of conventions, laws, rules, social norms, roles and rituals, as well as other kinds of codes of conduct. As formulated by North, "Institutions are the rules of the game in a society, or more formally, are the humanly devised constraints that shape human interaction" (1990, p. 3). The function of institutions can broadly be described as facilitating human interactions:

> Institutions reduce uncertainty by providing a structure to everyday life. They are a guide to human interaction, so that when we wish to greet friends on the street, drive an automobile, buy oranges, borrow money, form a business, bury our dead, or whatever, we know (or can learn easily) how to perform these tasks. We would readily observe that institutions differ if we were to try to make the same transactions in a different country—Bangladesh for example. In the jargon of the economist, institutions define and limit the set of choices of individuals. (pp. 3-4)

Many economists, like North, have used this conception of institutions to capture how institutions facilitate economic growth. However, the purpose of an institution varies between different individuals and groups of individuals, and the same institution can be good for some and bad for others. Also, an institution can be recognized as unjust. Despite what purpose we ascribe to particular institutions and how we value particular institutions, North's conception of institutions is also interesting if we want to understand what an institution is. If institutions, as proposed by North, are "rules of the game in a society", institutions ought to be distinguished from organizations, groups and individual "players" of the game. North recognizes

that like institutions, organizations also provide a structure to human interaction. Individuals within a group or organization generally comply to some "group ethos" (see Toumela, 2014). But it is important to distinguish the players from the rules. While the rules define the way the game is played, the players of the game play in relation to those rules. We can take part in a game as individuals or as teams. And we can have different purposes and aims playing the same game. Additionally, we can also consciously or unconsciously violate the rules of the game, and we can try to cheat. An organization can thus be understood as a group or a team. North divides organizations into political bodies (political parties, the government, a regulatory agency etc.), economic bodies (firms, trade unions, cooperatives etc.), social bodies (churches, clubs, athletic associations etc.), and educational bodies (schools, universities, vocational training centres). Thus, organizations can be understood as a specific kind of *group agent*.

According to North, organizations are "groups of individuals bound by some common purpose to achieve objectives"(1990, p. 5). However, as will be shown in my discussion concerning groups and social acts, it is not at all necessary for individuals participating in a group or organization to share a common purpose or goal. We will therefore need a deontic, rather than a telic account of institutions.

To summarize: As pointed out by Berger and Luckman (1991 [1966]) the social world (i.e. social facts and institutions) is produced by individuals and individuals are products of the social world. Thus, on the one hand, a fully atomistic, or individualistic, account of social institutions seems insufficient to capture how we as individuals are shaped by the social world. On the other hand, a functionalistic or holistic account of social institutions seems insufficient to capture the social world as made up by individual agents. Therefore, Miller's molecular metaphor appears to be the most proper way to capture the complexity of social institutions. North's metaphor of institutions as "the rules of the game" and individuals and organizations as "players" is useful to make a distinction between institutions and agents. However, the peculiar phenomena of social facts and institutions as something that both affect us and depend upon us, is a phenomenon that needs to be addressed in more detail. We should not settle with metaphors such as "molecules" and "games". How can the social world be a human product and at the same time human individuals be a product of the social world? And how can something that is socially constructed be objective? We will investigate these questions further as we proceed.

3. The Objectivity of Social Facts

An institution "attains a firmness in consciousness" (Berger and Luckman, 1991 [1966], p. 77). And this explains why the social world cannot be easily changed. As pointed out by Berger and Luckman, children, especially in their early socialization into the world, view the socially constructed world as *the* world. The parentally transmitted world is not fully transparent; it is a world for the children to discover and to be taught about. This transmission of the social world to a new generation is however also necessary for the grounding of the dialectic of the social world as constructed by agents, its objectivity and the agent as a social product. Put differently, *it captures the necessity of education in every human society*. Education functions as a way of maintaining the constructed world and works as a tool for socializing individuals. However, education also functions in a way that allow humans to understand the world well enough to look at it critically. Children are taught about and introduced to the world right from the start, long before they enter "primary school". There is thus an inevitable "informal education" of premises (facts, sanctions, taboos, customs, traditions, codes of conduct, as well as abilities and opportunities) preceding formal education (see also Dewey, 2010 [1897]). Education is in this sense a way of explaining and justifying the institutions of the world. However, it is a "historical reality" that is presented, and it "comes to the new generation as a tradition rather than as a biographical memory" (Berger and Luckman, 1991 [1966], p. 79). Children are taught to "behave" and to "keep in line", as well as "what is" and "what is not".

A useful distinction to be made, in relation to the objectivity of the socially constructed world, is, according to John Searle (1995 & 2010), the distinction between what is *ontologically objective and subjective*, and what is *epistemically objective and subjective*. Something is ontologically objective if it exists independently of human minds and actions. In contrast, social constructions, such as our institutional reality is mind dependent and therefore ontologically subjective. Additionally, some facts are epistemically objective in the sense that (almost) everyone can agree on them after some examination or proof. A teacher in a classroom can point towards the window and state that "it is raining outside". And if it is in fact raining outside, we can presume that every pupil in that classroom will agree on this fact. The fact that it is raining is thus an epistemically objective fact. It is also an ontologically objective fact. It is not raining as a consequence of human actions, thoughts or beliefs. It would also be an objectively true statement if the teacher were to say "Donald Trump was the president of the USA between 2016 and 2020". That Trump was the president of the

USA between 2016 and 2020 is an epistemically objective fact. However, this would be an example of an ontologically subjective fact. Donald Trump was only the president of the USA during this period because he was recognized as such. It is, in Searle's terms, an *institutional fact*.

In contrast to epistemically objective facts, other judgements are epistemically subjective in the sense that "the truth or falsity is not a simple matter of fact but depends on certain attitudes, feelings, and points of view of the makers and the hearers of the judgement" (1995, p. 8). Searle gives the statement "Rembrandt is a better painter than Rubens" as a paradigmatic example, and contrasts this with the statement "Rembrandt lived in Amsterdam during the year 1632". It seems like the first statement can be true for some and false for others, while the truth of the second statement is independent of our attitudes, feelings or points of view. Similarly, we can have different attitudes and feelings towards Trump being president of the USA, but this does not have any effect on the fact that Trump was president. Ontological subjectivity and objectivity, according to Searle, "have to do with the mode of existence of *entities*", while epistemic subjectivity and objectivity "have to do with epistemic status of *claims*" (2010, p. 18) The fact that something is a school, a teacher or a pupil is, in ways we have to explain, as epistemically objective as something being money, a president or a nation state, despite the fact that they are social constructions and thus ontologically subjective: "The question is not, How can there be an objective reality which is subjective? But rather, *How can there be an epistemically objective set of statements about a reality which is ontologically subjective?*" (ibid.).

That there can be an epistemically objective set of statements about an ontologically objective reality (i.e. natural facts) such as "Metal expands when heated" may appear less mystical. We can accept it as epistemically objective in light of empirical evidence and inductive reasoning, and we can explain it through deductive reasoning from physical theories. There are of course also contestable statements concerning natural facts as well as contestable theories for explaining various natural phenomena. Natural scientists also consider the probability of fallibility. New empirical evidence can falsify or at least question a theory, and a new theory can better explain the empirical data at hand. The point however is that the "object of study" is not generally thought of as constructed.

Following the assumption that the social world is a product of individual agents, we should now take a closer look at "the players of the game", i.e. the human agent as a producer of the social world.

4. The Human Agent as a Producer of the Social World

The social world is a human product, and it consists of social facts, societies, institutions, organizations, groups of people and individual agents. It both evolves and is altered by human beings. How then, do we, as human agents, construct the social world? Consider the following example:

> Ms. Andersson works as a teacher in a school. Although she has no teacher training and know almost nothing about educational theory, she strongly identifies herself as a teacher, and she prepares and holds lessons with participating students. The students get assignments from Ms. Andersson and turn in their assignments to and get grades from Ms. Andersson. Student A thinks that Ms. Andersson is not a teacher because Ms. Andersson lacks formal teacher training and lacks knowledge of educational theory. Student B and student C both hold the view that Ms. Andersson is in fact a teacher, but for different reasons. Student B holds that Ms. Andersson is a teacher because she is hired by the school as a teacher, while Student C thinks that she is a teacher because she acts like a teacher. Student D agrees with student A that Ms. Andersson is not a teacher but for yet another reason. According to student D, Ms. Andersson is not a teacher because she is not accepted as being a teacher by the whole class. Clearly, Ms. Andersson cannot be both a teacher and not a teacher at the same time. Or could she? Because it also seems that students A, B, C and D, as well as Ms. Andersson herself, all have good reasons to hold the view that Ms. Andersson is (or is not) a teacher.

A sociologist or a Foucauldian genealogist would probably try to explain the fact that Ms. Andersson is considered to be, or not considered to be, a teacher through an illumination of socio-political and historical factors that have caused us to view Ms. Andersson as being, or not being, a teacher. Such an inquiry would explain *why* we consider Ms. Andersson to be (or not to be) a teacher. It would not, however, answer the questions if Ms. Andersson is in fact a teacher or what is valuable with having the concept teacher. It is the latter normative question that I want to address, "What purpose (if any) does the concept teacher serve?", not what causes someone to be recognized as a teacher, or what causes someone to become a teacher or identify him-/herself as a teacher.

One way of tackling this dilemma is to simply say that each, or all, of these views are right, or at least exist, in their own way. We can accept that there will always be contested views concerning what it is to be a teacher,

and argue that the current dominant view is what we need to examine critically. However, if we want to conduct a constructive and critical examination, and also avoid full blown epistemic relativism concerning social facts, and if we want to be able to draw some kind of line between what it means to be a teacher and not being a teacher, such a response is not very satisfying.[18] How then, can we argue for what we believe to be the most proper definition of a teacher? If we follow the response of student A—let us call this approach *the naïve formalist approach*—someone is a teacher iff one meets the formal criteria of what it means to be a teacher, much in the same way as one is a medical doctor iff one has a medical degree and license, or that education is a human right iff it has been formally recognized in an international constitution.[19] However, a lot of social facts are not formally recognized in this way. And a lot of people seem to disagree about the way that a social construction is formally recognized by an authority. From a *naïve formalist* point of view, it follows that if someone teaches me to ride a bike, but lacks bicycle-teacher training and a formal license to teach others how to ride a bicycle, then that someone would not be a teacher of bicycling.

Student B can avoid this problem by saying that if someone is hired or appointed as a teacher in a specific context or situation by someone else with the proper authority to do so (e.g. a school, a principal, a parent etc.) this is what is meant by being a teacher. Call this *the conferralist approach*.[20] Both of these approaches can explain the fact that someone can have the *title* of being a teacher even if that person fails to perform the

[18] This is not to adhere to a Platonic essentialism where every word is a label for a specific concept that corresponds to an eternal unchanging entity. Both words and concepts vary depending on context and as for social facts, they are contingent in themselves. Contingency is part of the very nature of social constructions and words and concepts are indeed social constructions. However, this insight should not preclude us from trying to make useful distinctions between what it is to be a teacher from what it is to not be a teacher, or a distinction between education, learning and schooling, or a distinction of human rights from other kinds of rights. As pointed out by Barrow (2020) there will always be many plausible accounts in any conceptual analysis. This however does not mean that *any* account will do: "Many but not any should, I suggest, be a mantra for our trade" (p. 719).

[19] A lot of our social categories are legally defined and protected in various jurisdictions, not only such obviously socially constructed categories as teachers and medical doctors, but also categories that sometimes are considered to be more "natural", such as childhood, gender and race.

[20] E.g. Ásta (2018) describes the general idea of her conferralist approach: "On my view, a social property of an individual is one that one has because of something about other people, and the conferralist framework captures that intuition: it is a property that someone has conferred on them by others. This property is a social status consisting in constraints on and enablements to the individual's behavior in a context (behavioral constraints and enablements)" (p. 2).

practical functions (doing what is expected) of being a teacher. The problem for the conferralist approach is that it seems perfectly reasonable to say that someone can be an unemployed teacher, i.e. being a teacher in A's sense without working as a teacher or in any way being conferred by anyone as being a teacher.

A similar problem arises in *the practice approach* of student C. Someone is a teacher iff someone is part of a practice where that someone acts as a teacher and the other participants act as if this person is a teacher. Thus, if a person is not part of a practice where that person functions as a teacher, then that person is not a teacher. Hence, a person cannot be a teacher without participating in this particular practice.

Finally, in the last approach of student D, *the consensus approach*, people do not need to act as part of a practice, but merely recognize someone as a teacher, or agreeing that someone is a teacher. However, would it then ever be possible to have the wrong belief about someone being a teacher? Maybe someone can be wrong about someone not being a teacher if the majority of people still recognize this person as a teacher? It seems intuitively strange however if being a teacher or not could be decided simply by voting, or that it would be constituted by the beliefs held by the majority.

Regardless of which of these approaches we find most appropriate, or least bad, they all have in common that they lack any proper criteria for what *teaching* is.[21] The discussion above seems to be addressing the question of who gets to decide rather than the actual properties of being a teacher. It is true that a social position in a community commonly is limited and/or enabled through the recognition of others. In this sense, Ms. Andersson can have all the properties of being a teacher (whatever they may be), but if no one treats her as a teacher, she does not in fact have the social position as a teacher. This idea as a constituting role for social facts has been highlighted by, among others, John Searle (1995):

> For social facts, the attitude that we take toward the phenomenon is partly constitutive of the phenomenon… Part of being a cocktail party is being thought to be a cocktail party; part of being a war is being thought to be a war. This is a remarkable feature of social facts; it has no analogue among physical facts. (pp. 33-34)

[21] The practice approach does attach being a teacher to a practice. What I am after though is the specifics of the practice, i.e. what constitutes such a practice.

On the other hand, consider the juridical distinction between murder and manslaughter. Someone can be considered and convicted by a community as being a murderer. And even though it is true that the person that is treated as a murderer has killed another person, we could in fact be wrong about the killer being a murderer rather than someone who has committed manslaughter because the killing was done *unintendedly*, i.e. it was an accident. In this sense, the difference between being a murderer and committing manslaughter lies in what "really" happened and in the intentions of the killer. Further, it could also be the case that the convicted murderer is wrongly convicted in the sense that he or she is totally innocent of the killing. It would be strange to say that someone *is* a murderer because that someone is treated in a community as a murderer even though the distinction between being a murderer and committing manslaughter is a social construction. The concepts "murder" and "manslaughter" serve different purposes and have different functions in our language because they track different things; things that have nothing to do with the conviction *per se* or how they are treated or thought of by others in a specific context. This is partly what makes it possible that we can in fact be wrong about social facts.

The fact that we can be wrong about social facts in this way can be explained by separating *types* from *tokens*. Given that we have stipulated definitions of what it means to be a murderer and a person who commits manslaughter as a type, we can then be right or wrong concerning our beliefs of different instances or tokens. We all seem to be aware of what is meant by the word "forest", and in a similar manner we all seem to have a prima facie idea of what is meant by "education". However, we can debate where to exactly draw the line between a forest and a grove. According to the Food and Agriculture Organisation of the United Nations (FAO) "a forest is land with tree crown cover (or equivalent stocking level) of more than 10% and an area of more than 0.5 hectares. The trees should be able to reach a minimum height of 5 metres at maturity in situ" (EU, 2020). Accordingly, a group of trees no matter the area or the density where the trees are not able to reach a height of five metres when fully grown is not a forest. Someone who states that such a group of trees is a (token of) forest would simply be wrong, according to FAO and the EU. A stipulated definition of a kind or a type can always be contested and this is generally done by pointing out why it is either too narrow or too broad to capture what we mean when we use the word in our daily practice. There is thus a constant interdependency between stipulated definitions and our empirical reality. We can, and should, always consider the possibility of a more proper definition than the one that is the current hegemonic one.

Yet, it is also the case that things can function as something other than what it is generally considered to be. If I successfully use a knife as a screwdriver, the knife functions as a screwdriver in that specific context. The *title* however remains. I would not call the knife a screwdriver because in the more "proper" sense it is still a knife and not a screwdriver. The reason why I do not consider it to be a screwdriver is because it is not generally accepted as a screwdriver in the social community, and commonly it will be used as a knife and not as a screwdriver. Using the knife as a screwdriver is an exception from its "proper" function. However, we could imagine a community without any "proper" screwdriver. In this community it may be perfectly okay to call the knife a screwdriver, and to think of it as *the screwdriver* when used as a screwdriver, because it is part of the knife's generally accepted proper function within that specific community. It seems then that what we need for social kinds to exist is some kind of social criteria to govern our use of a term in a "proper" way *in a specific context*. The definition of a forest, as the one given by FAO and the EU, could thus work very well in one context but not in another.

Being a screwdriver, a forest, a cocktail party, a murderer or a teacher is to function as a screwdriver, a forest, a cocktail party, a murderer or a teacher, and to be acknowledged and accepted as such within a social community. Thus, for something to be a social fact is to stand in a specific relation to *us*. The proper functioning of a teacher *per se* is not the same as having the formal title of being a teacher or being thought of (or being treated) as a teacher by others. We can think of a teacher who is hired as a teacher, but where none of the pupils recognize or treat him/her as a teacher, i.e. where the teacher's authority, and the teacher's proper practicing of teaching, is undermined and goes unrecognized by the students. What then needs to be tracked to meet the purpose of the concept of "teacher"? I will hold off the analysis of this particular example until the third part of this book where I deal with the nature, purpose and aims of education. However, it seems reasonable for now to assume that *a teacher is someone who actually teaches*, in the same way as *being a murderer is someone who actually has committed murder*, or *being a screwdriver is a tool with the actual function of driving in screws*. Thus, for something to be a social fact is not only to stand in a specific relation to us, but also to be constituted by a specific *collective* or *social act*.

> In the case of social objects […] the grammar of the noun phrases conceals from us the fact that, in such cases, process is prior to product. Social objects are always, in some sense we will need to explain, constituted by social acts; and, in a sense, *the object is just the continuous possibility of the*

> *activity*. A twenty dollar bill, for example, is a standing possibility of paying for something. (Searle, 1995, p. 36)

Before we return to the questions concerning what constitutes a teacher, what constitutes education and education as a human right, or what constitutes social facts more generally, we need to consider how to characterize social acts.

Conclusion

If we want to take the desideratum of Berger and Luckman (1991 [1966]) seriously, we need to be able to explain how the social world is both a product of human action and how humans are products of the social world as well as how our socially constructed world can be considered objective. In this chapter I suggest, following Miller, that we treat social institutions as molecular, rather than as mere aggregates of individuals (i.e. the atomistic view) or as mere parts of a given whole (i.e. the holistic/functionalistic view). This account can thus capture how we experience institutions as "living their own lives". They cannot easily be changed by us as individuals and nor can they be fully controlled by communities, states or international organizations. Additionally, North's view on institutions as being "the rules of the game" allows us to separate institutions from the "players of the game" such as individual agents and organizations. North's metaphor also captures the *deonticity*, i.e. the rule-governing role of institutions rather than the telic goal-oriented intentions of the players engaged in this game. Thus, if we view both education and human rights as institutions, we can allow ourselves to treat these phenomena as something separated from the players (such as e.g. children, adults, parents, communities, schools, corporations, municipalities, governments, legal systems, international treatises etc.). And they are molecular in the sense that they are not merely aggregates of these players nor parts of a given whole. This is also what makes them appear as objective for the individual player, because the rules of the game are not easily changed by the individual player without losing sight of the game itself. When children enter into the world, the institutional facts are already there to be discovered and they are further fortified through education. This explains why so many of the institutional facts that surround us are epistemically objective, even though they are ontologically subjective. Because institutional facts are still products of human agents, and their existence is relative to us through *our recognition* of them as facts of the world and *our constant reinforcement of them through our acceptance and our social acts*. This seems to suggest that our social

world is constituted by some kind of *cooperation*. The following chapter will therefore be devoted to social acts and cooperation.

CHAPTER 2. SOCIAL ACTS

Introduction

Social facts or "objects" differ from natural facts and objects studied by the natural sciences. According to John Searle this difference can be explained by showing that social facts are constituted by social acts rather than having independently objective existence. What, then, is a social act?

Humans, and most of the other animals that we know of, do things both individually and collectively. If a collective action is one where at least two agents perform an action jointly, what is the difference between an action and mere behaviour? What is the difference between an (individual) action and a collective action? And what is the difference between collective action and collective behaviour? Some birds travel in special group formations which optimize the energy that is used when they fly. Some cats, such as lions, usually hunt in a pack. Bees create beehives that biologists describe as hierarchical "societies" consisting of the "queen", "workers" and "drones". As for humans, some of us go for walks together, dance tango and paint houses together. Some play instruments in different constellations such as in a violin quartet or a symphonic orchestra with a conductor. Some of us attend concerts as part of a large audience where we subject ourselves to, and embrace, institutionalized norms for how to behave as part of an audience during a concert; and the norms will differ greatly depending on if we are part of an audience at a symphonic orchestra at the opera house or at a jazz concert or rock concert in a club. Some humans go to work as a part of a large corporation, and most of us take part in different educational activities such as e.g. football practice, study groups or primary school. Humans can also commit crimes and declare war as a group or a nation, and many of us believe that it is true that we are collectively destroying our planet with pollution.

But most of us do not do all of these things and some of us do none of these things. Some do it because they choose to do so, and some choose

not to do these things. Some, however, are not able to choose to do these things at all. Our actions are related to, and often dependent upon, our biology, our context and background, but they are not always necessitated by these factors. For a long time, humans were not able to fly because of our biology. Today, many of us are able to fly all over the world. Others still do not have this opportunity because of social and political factors. And some choose not to fly, and instead take the train, even though they have the social opportunity to fly. And during the COVID-19 pandemic most of us were not able to fly at all.

The point is that human collective actions can range from spontaneous walks and intricate instrumental duets to highly formalized and institutionalized hierarchical cooperation within bureaucratic structures. And they can be more or less voluntary. A first distinction to be made in relation to social acts is between a mere *event* and an *action*. If someone bumps into me and causes me to spill my coffee, the spilling of coffee was not done by me. I did not act in a way that caused the spilling of coffee. This differs from an example where I consciously intend to spill my coffee in order to get a new cup. A third example would be that I spill my coffee because of general clumsiness or some reflexes or twitches. In the first case, spilling the coffee is a mere event, in the second case it is an action, and in the third case it is my behaviour that causes the coffee to be spilt. If this last example is thought of as an action of mine it is still not the same kind of action as when I consciously intend to spill my coffee. So, it can also be useful to separate between mere behaviour and action.

Another distinction to be made is between an *individual social act* and a *collective social act*. Many of our actions would not take place at all if the relevant institutions would not be in place. If I decide to fly from Copenhagen to Birmingham, I have to buy a ticket, go through the passport control and board a plane. This is an individual act though it is still a social act because my actions are related to a social context. If we decide as a group to travel from Copenhagen to Birmingham *together*, this is an example of a collective social act. And yet another important distinction to be made in relation to collective actions, that we will have reasons to come back to, is the distinction between *collective action in the strong sense* and *collective action in the weak sense*. If I decide to fly from Copenhagen to Birmingham and you decide to fly from Copenhagen to Birmingham and we are on the same plane, there is a sense in which we are both flying to Birmingham together. However, it is not necessarily in the strong sense of "collectivity" or "togetherness", as in the case where we planned to fly from Copenhagen to Birmingham together.

We should also make a distinction between small groups and bigger groups. While small groups can consist of symmetric authorities and power relations, the bigger the group it is, the more likely it is that authorities and power relations are asymmetric. Roughly then, we can make a distinction between, on the one hand, *symmetric groups* and *asymmetric groups*, and on the other hand, between *simple groups* and *structured groups*. Two friends can voluntarily start a study group. This would be an example of a simple group and it is likely that the relation is either symmetric in such a collaborative investigation, or that the roles between being a teacher and a student, if such roles are identified at all, are very informal, tacit and flexible. Compare this to the relations within a state funded compulsory school with a formalized curriculum, where roles between teachers, pupils and other positions are clear-cut and structured. The pupils attend involuntarily and the teachers, as well as the rest of the staff, are hired for money. This latter kind of group is thus a structured group with asymmetric positions and power relations. North's (1990) example of organizations can be defined as structured groups.

Additionally, we can separate between agents voluntarily forming a group, i.e. an act of *group formation*, and an agent *entering an already existing group*. In the first case we can imagine that the agents can form a group for a common reason. However, in the latter case it is, I dare say, quite common that we join an already existing group for very different personal reasons. Following North, a group, such as e.g. an organization can be seen as a player of the game, i.e. as an agent. According to Raimo Tuomela (2013) a group agent is a collection of individuals who are collectively committed to some *group-ethos*, i.e. some collective belief or goal.

1. Groups and Categories as Social Agents

In his exhaustive work *Social Ontology Collective Intentionality and Group Agents* from 2013, Tuomela presents a typology of social groups based on two main categories of groups: (A) Autonomous groups (governed by internal authority, and (B) Non-autonomous groups (governed by external authority with power over the group). Typically, a non-formal study group is an example of group A and a group of pupils within a formalized school setting is an example of group formation B.

A group, according to Tuomela, is generally understood as a group of people sharing an *ethos* "viz. common goals, beliefs, standards, norms, practices, constraints, history, etc." (p. 57). Toumela picks out three different variables for his group typology:

VEN = voluntary group entrance

VEX = voluntary group exit

AET = formation of group ethos based on internally autonomous collective acceptance and (possibly) appointment of position holders.

In the A cases the values of the three variables are decided within the group whereas in the B cases the values of the variables are decided by an external authority. Given the three variables there are $2^3 = 8$ cases in both categories:

A1. +VEN and +VEX and +AET (e.g. a voluntary study group open for everyone)

A2. -VEN and +VEX and +AET (e.g. an exclusive club, capable of democratic ethos formation)

A3. +VEN and -VEX and +AET (e.g. a group with exit prohibited by a norm)

A4. +VEN and +VEX and -AET (according to Toumela, not a possible group)

A5. -VEN and -VEX and +AET (e.g. an ethnic group organized for decision making)

A6. -VEN and +VEX and -VET (according to Toumela, not a possible group)

A7. +VEN and -VEX and -AET (according to Toumela, not a possible group)

A8. -VEN and -VEX and -AET (according to Toumela, not a possible group)

And

B1. +VEN and +VEX and +AET (a non-autonomous group with internal leadership e.g. a university)

B2. -VEN and +VEX and +AET (e.g. state in a union state with, say, ethnic criteria for entrance)

B3. +VEN and -VEX and +AET (e.g. catholic marriage)

B4. +VEN and +VEX and -AET (e.g. business company qua part of a consortium)

B5. -VEN and -VEX and +AET (e.g. intrastate ethnic group with self-government)

B6. -VEN and +VEX and -VET (e.g. commercially ruled sports team)

B7. +VEN and -VEX and -AET (e.g. catholic marriage without internal autonomy)

B8. -VEN and -VEX and -AET (e.g. compulsory school or compulsory military service)

It should be mentioned here that Toumela considers B8, and his example of a national army based on national conscription, to be an "extreme case" (p. 59). Given that compulsory schooling qualifies as B8, the contemporary school system that many of us take for granted could in this sense be viewed as an extreme group formation. One further aspect to consider here, however, (that possibly renders compulsory military service slightly more extreme than compulsory schooling) is that compulsory schooling generally applies to underaged children while compulsory military service generally applies to young adults and adults. In fact, children are generally forced into non-autonomous groups all the time in a way that adults are not.

A further important aspect to consider is that while a military soldier probably considers him-/herself as part of a group that acts as a group agent, it is not at all necessarily so with the average student or pupil. The individual student at a university does not have to identify him-/herself as part of a group agent with a specific group ethos. And additionally, as pointed out by Sally Haslanger with reference to Iris Young, not all social groups are well defined social entities "whose members recognize themselves as such and take their membership in the group to be important to their identity" (Haslanger, 2012, p. 323). Many social groups have little or no sense at all of themselves as a group, but individuals may very well

come to understand themselves as part of a group, and sometimes they do this "only as a result of policies imposed on them" (ibid). This becomes even more evident when we consider groups such as 'human', 'male', 'female', 'child', 'adolescent' or 'adult'. Or consider Tuomela's example of "ethnic groups" above (i.e. A5 and B5) where there is neither voluntary entrance nor voluntary exit. One need not recognize oneself in any of these categories at all *from the inside*, but every one of us is forced into these kinds of categories anyway, *by others*. Often, we accept these categorizations uncritically—I am a white male adult Swedish citizen. Thus, our social positions in the world are not determined by ourselves as individuals and how we identify ourselves:

> Our identities can also occasionally be mismatched with how we are categorized by others. For instance, a person can identify herself as a woman, while others categorize her as a man. In such a case it could be argued that we should typically see the others as the ones being mistaken, that there is a default first-person authority [...] But when it comes to which social position one occupies the reverse seems to hold. It does not matter if a person does not identify with the position in question, if others label her that way then that is the social position that she will occupy in those interactions. (Brännmark, 2021, p. 519)

Consider the example of Ms. Andersson again. It would be odd to hold the view that she is a teacher because she identifies herself as a teacher. Her social position as a teacher is rather determined by how others categorize her. And equally her social position as a woman is also determined by the categorization of others.

According to Ásta (2018), social categories such as being a president as well as being a white male, a black female or being a nerd, are properties that we have because someone has conferred them on us. And this is according to Ásta what matters in a social practice. Now it does not take away the fact that we can be wrong about how we categorize individuals and ascribe social positions. An umpire can (wrongly) judge a pitch as a strike in a baseball match, given the definition of a strike. And similarly, a judge can (wrongly) convict someone as being a murderer given the juridical definition of murder, and I can in fact (wrongly) label someone as being a woman or being a teacher, given my belief or some general definition of what it means to be a woman or a teacher: "there is a physical property (or some other property not conferred in that context) in the vicinity that the conferrers are attempting to track, even though the property that matters is

the conferred property itself". And Ásta adds that, "to give a metaphysics of social properties is to give an account of the properties that *do matter* socially, not ones that *should matter* but don't" (p. 11). If the umpire judges a strike, it *is* a strike, if the judge sentence you to prison because of murder, you *are* in this sense a murderer, and if a community labels you as being a woman, *the social position you occupy* in that social context is, among others, that of being a woman. However, as pointed out by Haslanger, part of what it means to be a human is to have the power over the social facts in our social world "to change the practices, and to design them for conscious ends" (Haslanger, 2012, p. 20).[22] We can thus change the rules of the game. Given that we want a fair game, according to the rules, we could challenge the umpire's judgement in a baseball match. If we do, we challenge the power that has been given to the umpire and thus challenge the rules of the game. Technology, such as goal-line-technology used in football, is one possible way of improving the umpire's ability to track the right properties. Similarly, a judge's decision can be overturned. Someone who has been convicted of being a murderer can get a retrial by appealing against the judgement. This is often part of the rules of the game. If we want a just decision from an umpire or from a judge, the ultimate goal is to get it "right". But there is another way of challenging the game by challenging what the game takes to be "right". And this is paradigmatically what is being done within critical theory. Instead of asking if the judge or the umpire is right according to the game, we ask if what the game takes to be right is actually right or just. This is to take a normative approach. Personally, I don't see any reason to challenge the rules of baseball, I can just choose to not take part in the game. And the distinction between murder and manslaughter seems to be both useful and important. It seems to me

[22] The idea that many of the features that we refer to as natural are social constructions has a long tradition and is e.g. found in the writings of Karl Marx, Friedrich Nietzsche and members of the Frankfurt school (e.g. Adorno & Horkheimer). It can also be traced back to the relativistic ideas of the sophists in ancient Greece as well as some of the enlightenment philosophers. David Hume (1985 [1740]) writes that "the sense of justice and injustice is not derived from nature, but arises artificially, though necessarily from education, and human conventions" (Book III, Sect. i, p. 535) and "As publick praise and blame encrease our esteem for justice; so private education and instruction contribute to the same effect. For as parents easily observe, that a man is the more useful, both to himself and others, the greater degree of probity and honour he is endowed with; and that those principles have greater force, when custom and education assist interest and reflection: For these reasons they are induced to inculcate on their children, from their earliest infancy, the principles of probity, and teach them to regard and the observance of those rules, by which society is maintained, as worthy and honourable, and their violation as base and infamous. By this means the sentiments of honour may take root in their tender minds, and acquire such firmness and solidity, that they may fall little short of those principles, which are the most essential to our natures, and the most deeply radicated in our internal constitution (Book III, Sect. ii, pp. 551-552

that there is a big difference between intentionally killing someone and accidently killing someone. Following North (1990), the primary function of the rules of the game is to “reduce uncertainty by providing a structure to everyday life. They are a guide to human interaction” (p. 3). Other categories and groups, such as being a woman, a man, a child or an adult, deserves our constant critical challenges. Questions such as what are the pros and cons of viewing someone as an adult the day that someone turns 18 are important to ask. What purpose does such a rigid definition serve? It definitely has a useful function in guiding us when we make some decisions, such as serving alcoholic beverages to someone in a pub or allowing someone to vote. And yet, the fact that someone is 18 does not necessarily make that person any more mature than a seventeen-year-old. Similarly, what are the most proper definitions of being a teacher, a student or education? And what is the most proper way to understand education as a human right? Given our knowledge that such groups and categories are not necessitated by nature, we should always be open to the idea that they can be improved. Refraining from such a critical examination will not stop us from being agents that construct these categories, it will only stop us from becoming aware of how they are constructed and in what way we contribute to these constructions. We are causal agents in the social world, and we uphold institutions, rules and traditions not merely by being active and aware of them, but also by being passive and unaware of them.[23]

Despite the fact that there are physical, biological and institutional/social background factors that frame our social positions, our behaviour, and our group formations, we tend to think of ourselves as agents capable of making decisions and of acting upon those decisions. Quite often, we feel that we are aware of how our consciously planned actions change and construct the social world. Humans are generally, to use a term from Michael E. Bratman (2014), “planning agents”, and our roles as planning agents seem central to our constructions of social facts as well as our social acts. As pointed out by Berger and Luckman (1991 [1966]), *we* are not only products of the social world; *we* are also the producers and constructers of the social world:

> Social order is not part of the ‘nature of things’, and it cannot be derived from the ‘laws of nature’. Social order exists *only* as a product of human activity. No other ontological status may be ascribed to it without hopelessly obfuscating its empirical manifestations. Both in its genesis (social order is the result of past human activity) and its existence in any instant of

[23] See also Fricker (2007) on epistemic injustice.

> time (social order exists only and in so far as human activity continues to produce it) it is a human product. (p. 70)

So how are we to understand this *we* as producers of the social world? A popular view within social ontology is to ground the construction of the social world in some kind of collective acceptance or recognition.

2. *We* as Content of Individual Intentions

Even though the governing of citizens through for example education, curricula and schools ought to be examined critically, planning, calculating and designing are vital for our social world. Most social actions need to be coordinated to some degree. Educational research generally starts off in the contemporary and local setting, typically the object of study is the contemporary formalized educational system or some phenomena within this complex system. Education is thus generally studied as a B1, B4, or as a B8 (if it is compulsory education) group. Such studies can have the purpose of improving the practice according to aims already set up for the practice. They can also have the purpose of revealing the hegemony and the power structures of such a practice. However, such studies also tend to rule out various informal examples of education, such as A1, and thus fail to give a constructive answer to the normative question concerning what education could be or ought to be. I suggest that we start in the other end by identifying what the core features for labelling a situation as "education" or "educational" is. The task is thus to describe the basic building blocks of education. Given that we view education as some kind of social endeavour, i.e. a social act, a general theory for social action, groups and institutions is needed before addressing education as a specific example. In other words: a fundamental assumption in this inquiry is that education is always situated in a social context; *education is preceded by sociality*. It is thus neither purely individual nor natural; education is necessarily both a part and a product of our social world. Accordingly, before we take a closer look at a possible account of the building blocks and constitutive elements of education, we ought to consider how social acts constitute sociality as such.

(a) Planning Agents and Social Acts

Michael E. Bratman (2014) suggests that planning structures are basic for our individual agency, and also that they play central roles for our sociality. Bratman takes his project to be to reflect upon what he calls the "basic

forms of sociality" (p. 3). His examples revolve around friendship and love, singing duets, dancing together and engaging in conversations. According to Bratman, these basic social actions are both intrinsically and instrumentally valuable. Humans are indeed, like many other animals, social beings adapted through evolution to live in groups. We therefore have a natural need to belong to a group. Many of our social engagements are thus intrinsically valuable as expressions of this need for belonging. Others are of course also instrumentally valuable as means for gaining other things, and some are even purely instrumentally valuable. Going to the dentist could in principle be intrinsically valuable for some, but for most of us, I dare say, it is exclusively instrumentally valuable.

Once a social group formation is in place we tend to engage in social learning and even educate each other. Skills and knowledge are shared, and the wisdoms of previous generations are introduced and carried on to the next generations. Already in these kinds of basic social actions we can make a vital distinction between two kinds of behaviour: *merely imitating each other's behaviour* and learning something through mere observation of our surroundings and our peers, or engaging in a *cooperation of study* with a possible shared intention to increase certain skills and knowledge. We can imagine two apes where one of the apes are using a stick to gather ants from an ant-heap while the other ape is watching what the first ape is doing.[24] Later on, the other ape tries to imitate the behaviour of the first ape by using a stick to gather ants. This kind of behaviour differs from a situation where the first ape is *showing* the other ape how to use a stick. In the first case, where the other ape is imitating the first ape using the stick, the first ape can be completely unaware of the fact that another ape is watching. However, it can also be the case that they are sitting close together and that the first ape is fully aware of the presence of the other ape, but without actually trying to show anything.

Another type of situation to distinguish from full social cooperation is mere coordination in a Nash equilibrium. Bratman separates between the case of two strangers walking side by side along a busy street trying not to bump into each other, from a situation where two people are actually walking together. In the first case of two strangers walking alongside each other their pattern of behaviour might very well be in a strategic equilibrium in a context of *common knowledge* so that "each is acting in pursuit of what she wants in light of her beliefs about how the other is and will be acting, where what the other does depends on his beliefs about what she will do, and all this is out in the open" (p. 5). In such a case there is a sense in which

[24] I use the word "ape" here as in a 'hominid' which includes humans.

each is acting strategically "in the light of what she values, the expected actions of the other, expectations about the corresponding expectations of the other, and so on" (pp. 5-6). Still, they might not in fact be walking together. Bratman points out that what we are after is to describe what it means to be *engaged together in shared activity*, and that there are important aspects of cooperation that cannot fully be captured in too broad a game-theoretic model. What needs to be added, according to Bratman, is "shared intention" among the participants of a group. There needs to be a pattern of ordinary shared intentions and beliefs that coordinate the agents' activities in the group. In this way, Bratman's theory of social cooperation is analogous to his more general *individual planning theory*. Much in the same way as an individual agent needs to coordinate his or her own beliefs—desires and intentions in his or her own individual activities—an agent that participates in a group also needs to coordinate his or her beliefs, desires and intentions with the other participants. If I desire to have good teeth, and I believe that going to the dentist will improve my chances of having good teeth, then I intend once in a while to go to the dentist. In this case my beliefs, desires and intentions mesh. An individual's plan states play organizing roles both synchronically and diachronically:

> According to the planning theory, intentions of individuals are plan states: they are embedded in forms of planning central to our internally organized temporally extended agency and to our associated abilities to achieve complex goals across time, especially given our cognitive limitations. One's plan states guide, coordinate, and organize one's thought and action both at a time and over time. (Bratman, 2014, p.15)

Intentions should, according to Bratman, not be understood as ordinary desires or beliefs or ordinary evaluative judgements or rankings. They should instead be understood in terms of norms and roles in our individual planning agency. I can intend to do A while at the same time rank doing B instead as equally good. I can be totally unsure of which alternative is the best alternative and still intend to do A instead of B. Thus, I do not thereby desire to do A more than I desire to do B.

Bratman considers what Paul Grice has called "creature construction" where the aim is to understand more complex forms of agency by building step-wise from simpler forms of agency. We can start by looking at simpler, temporally local purposive agency that can handle problems of coordination and organization over time and then build more complex struc-

tures of planning agency on top of these. All agents have cognitive, connotative and affective limitations of different degrees that set limits to the time we have for reflection, given the pressure for action, limits of knowledge about the future and limits for the complexity of the content of our thinking. And the task in front of us can range from gathering ants in an ant-heap to making plans for attaining a doctoral degree. In every task or process we can strive for more or less control of the organization and coordination, and we need to take into account our needs of self-control and self-management as well as conflicting sources of motivation and conflicting options of means to reach our goal.

The next step is to go from this account of individual planning agency to shared agency of a group. Bratman recognizes that it is also quite possible to go from simpler local purposely agents to shared agency. Swarms of bees and flocks of lions have a kind of shared agency in this sense. But what we are after, says Bratman, is *our* shared agency, i.e. the shared agency of participants that are supposedly planning agents. The task is to understand and explain "the striking richness of our temporally extended and organized individual agency. And once these planning capacities are on board, we should expect them to play important roles in our sociality" (2014, p. 26). If we consider the example of intending to attain a doctoral degree, it is obvious that my plan involves interpersonal coordination of action and planning in my pursuit of getting a doctoral degree as well as structuring of related bargaining and shared deliberation concerning how to earn my doctoral degree. My seemingly individual intention of getting a doctoral degree is already shaped within a social background and a network of more or less implicit beliefs, assumptions and norms, i.e. it is in this sense a social act. Our sociality involves characteristic norms of interpersonal rationality. Bratman refers to this as "social rationality". This social rationality has an explanatory role for why I have the intentions that I have and why I make the decisions that I do. It could be questioned if an account of individual planning agency could also give an account of the social rationality behind my intentions. It is clear that Bratman focuses on the individualistic norms of individualistic participants in a social context rather than on their collective acceptance of social norms. In his example of two people singing a duet together, the social norms that he wants to explain is the shared intention to sing together, the shared intention to sing in a certain key and in a certain style etc. It is not the collective acceptance of the structure of A minor as a proper key in itself or the collective acceptance of the value of singing in the same key. Rather, it is for Bratman the shared intention to choose to sing in A minor instead of B minor that is important

for an account of shared agency. The roles of shared intention do not require interpersonal consistency of judgement. Singing a duet together requires consistency about which notes to sing, though it need not require that our aesthetic judgements about a certain key or notes are consistent: "It is interpersonal consistency in *plan*–not in evaluative judgement–that is central to modest sociality" (p. 29).

It is true that shared intention in favour of shared action need not involve commonality of all the possible reasons, or any of the reasons, for participating in the sharing. It is quite common that we have diverging background reasons for our shared intentions in action. If we ask each student that is participating in the same philosophy course the reasons for why they are taking the course, we assume that all of the students share the intention of taking the course, but we also expect to get different answers for why they are taking the course. And similarly, if we ask them to evaluate the course, we would also probably expect different answers. Bratman also adds that this extends to shared commitments to weights:

> Perhaps some on a college admissions committee participate in their shared policy of giving weight to legacy considerations because they think this is an effective fundraising tool; whereas others participate because they think their institution has made an implicit promise to its alumni to provide this benefit to their children. Members of the committee participate for different reasons: their sharing is in this way partial. But their shared policy about weights nevertheless establishes a common and interlocking–albeit, partial–framework for their shared deliberation. (2014, p. 145)

Bratman summarizes his account of shared agency and the shared intention for a joint action (*J*) with the following five conditions:

A. *Intention condition*: We each have intentions that we *J*: and we each intend that we *J* by way of each of our intentions that we *J* (so there is interlocking and reflexitivity) and by way of relevant mutual responsiveness in sub-plan and action, and so by way of sub-plans that mesh.

B. *Belief condition*: We each believe that if the intentions of each in favor of our *J*-ing persists, we will *J* by way of those intentions and relevant mutual responsiveness in sub-plan and action: and we each believe that there is interdependence in persistence of those intentions of each in favor of our *J*-ing.

C. *Interdepedence condition*: There is interdependence in persistence of the intentions of each in favor of our *J*-ing.

D. *Common knowledge condition*: It is common knowledge that A-D.

E. *Mutual responsiveness condition*: Our shared intention to *J* leads to our *J*-ing by way of public mutual responsiveness in sub-intention and action that tracks the end intended by each of the joint activity by way of the intentions of each in favor of that joint activity. (p. 103)

For example, if we have a shared intention to form a study group reading Nietzsche's text "Schopenhauer as Educator" together, then each intend that *we* study this text together, and we each intend that this is brought about by way of each of our intentions to study the text and by way of co-realizable subplans for this task. Also, we each believe that if the intentions of each in favour of studying the text together persists, we will study the text together by way of those intentions and relevant mutual responsiveness in sub-plan and action. Also, we each believe that there is interdependence in persistence of those intentions of each in favour of our studying the text together.

In Bratman's account of shared agency for joint action manipulation, coercion and deception are not really adressed. Any possibilities of social pressure, implicit bias or adaptive preferences are placed in the background. Bratman is not concerned with the fact that a joint action can involve a great deal of inequality and injustice between the participants. What counts to explain joint action is, for Bratman, the shared intentions of the participants to participate and mutual belief that each participant has this intention. Bratman is not trying to explain *why* the participants choose to participate or the *value* of the chosen task.

> Modest sociality involves interpersonal coordination and organization of practical thought and action. But modest sociality is possible in the face of conflict of judgements about the right and the good, or even certain conflicts of goals (Bratman, 2014, p. 29)

And we might add that modest sociality can involve asymmetric power relations such as a parent and a child with the shared intention of going to the store for some weekly shopping. It is quite possible here that their purpose for going to the shop and their subplans are totally different. And yet, presumably (and maybe hopefully) the parent's purpose and subplans override the subplans of the child. This is at the same time both the strength and the weakness of the planning theory. The strength is that it gives an account of what it is to engage in cooperation as a planning agent, and it does this in, what we could call, a *non-ideal* way. That is to say, it explains what it is to have shared agency in a group despite our personal ideals or desires.

And this is an important point to make: we can work together even though we have different reasons for it. We can make plans together and we can pursue those joint plans without agreeing on the purpose(s) or the aim(s) of the joint action. It is not necessary then that we share the same ideals, purposes and aims for us to be able to work together or to give certain weight to certain things within a cooperation. This answers the question of whether or not cooperation of any kind must start by the parties involved agreeing on a common goal or ideal with a "no". We do not need to formulate ideal cases or select and abstract from concrete cases specific purposes and aims that prompt our joint action. This makes Bratman's analysis of shared agency descriptive rather than inherently normative. We only need to agree that we have the intention to go ahead with our joint action. This suggests that cooperation can be fully functioning without pointing towards idealized cases, e.g. we do not necessarily need to agree on what an ideal case of good education is to recognize that education ought to be given weight.[25] This does not necessarily mean that we ought to give up normative inquiry concerning e.g. education. It means (1) that agents that are engaging in educational activities do not have to share the same purposes and aims, and (2) that normative inquiries concerning what education, or the right to education, ought to be, do not have to be abstracted from an ideal idea of education. It can start from a common idea of what the constitutive, core elements of education are. Thus, instead of asking "What do we aim for?" we ask "What do we do to make education happen?".

The most obvious weakness of Bratman's theory of shared agency is recognized by Bratman himself: "My claim is only that planning structures are *one* salient and theoretically important aspect of the psychology that underlies our agency" (p. 4, [emphasis added]). He is fully aware of the

[25] This however is not to suggest that abstraction or idealization is inherently bad in itself. Only that it can be quite risky if we assume that it is what always and necessarily grounds cooperation, or gives any general answer to every empirical problem whatever they might be in any inquiry, and more importantly, it shows that it is in fact not necessary for joint actions. When we do philosophy or theorizing of any kind, we look for patterns and seek generalizations. And yet, we ought also to ask ourselves what details are, and are not, relevant in any question or problem that we want to examine. If I ask the question "In what way, if any, was Tara Westover denied her right to education?", I need to give an answer to what I mean by "education", what it means to have a right to education and what it means to be denied this assumed right. There are always a lot of background presuppositions to every formulated question. As it happens, Westover does in fact earn a doctoral degree and, in her memoir, Westover summarizes her process as "education". And yet we, or at least I, have a strong intuitive assumption that her right to education in a way has been violated. In this way, formulating a question reveals what we want to know, and what we want to know is somewhat determined by our background presuppositions.

fact that his theory does not capture “all of the stunning complexity of human agents” and admits that “forms of unplanned spontaneity and responsiveness play important roles in our agency. We have complex and frequently opaque emotional lives” (ibid.). This makes his theory somewhat too narrow if we want to be able to include all forms of collective social acts. First of all, Bratman gives an example of a more complex version of strategic equilibria:

> Perhaps a boy and a girl on Fifth Avenue, while strangers in the night, each walk down the avenue in a way that aims at ensuring that he or she achieves his or her personal goal of remaining close to the other. Nevertheless, they still might not be engaged in what is natural to classify as a shared intentional activity of walking together. (p. 6)

Even though we might very well like to describe this as a case of a collective social act it is not a proper joint action according to the planning theory. Though it seems to be a case of mutual belief that in a weak sense fulfils the *belief condition*, none of the other conditions of Bratman’s theory for joint action seem to be met. The two strangers cannot really know the intentions of the other; they can only assume or hope that the feeling is mutual.

Second, we also do cooperate with agents that are not what we generally consider to be paradigmatic examples of planning agents. Sometimes we cooperate with very small children and animals, and yet, these kinds of joint actions do not fit very well with Bratman’s five conditions.

Third, a lot of joint actions are spontaneous rather than planned and these kinds of social acts do not live up to the demands of the mutual responsiveness condition. Christopher Kutz (2000) imagines a case where we are having a picnic and it suddenly starts to rain:

> I jump up, grab the sandwiches and head for the car. I intend to do my part of our saving the picnic, hoping you will simultaneously grab the drinks and the blanket. If you do, then it is reasonable to say that we will have jointly saved the picnic. We might not have acted jointly, if, say, you had been dozing when the rain hit. But if we do both act with participatory intentions, then we will have jointly saved the picnic though neither had formed an intention to save the picnic in the light of expectations about the other’s intentions. (p. 18)

Fourth, Bratman's focus on egalitarian small-scale shared activity seems unable to fully capture what happens in a bigger group with an unmanageable set of participants. How should we explain the "we" in "*we* brought down the Berlin wall" or "*we* voted for Trump as our president"? This also seems to be cases of some form of cooperation or shared agency, albeit in a weaker sense. There seems to be a sense of communality in such cases of doing one's part towards a common goal.

(b) Doing One's Part in a Social Act

In contrast to Bratman, Kutz (2000) aims to give a *general account* that can hold for *all* collective actions such as "the cooperation of loosely linked agents" and which also is "anti-egalitarian enough to reconcile collective action with hierarchy" (p. 3). He describes his account as a *minimal account* where joint action is defined as overlapping participatory intention. A collective action is, according to Kutz, when each participant has the intention to do one's part. In relation to Bratman's account, Kutz's account is more instrumental because it focuses on the collective end rather than the collective enterprise in itself. Rather than having the intention that *we paint the house, we each do our own part in getting the house painted*. In this way, Kutz is able to account for such joint actions as voting or doing one's part in a large cooperation without knowing the intentions of other workers or even knowing that they exist. However, as mentioned earlier in relation to Bratman, it also seems to be the case that we do not have to share the same goal for participating in a joint action. Kutz states: "Individuals may intend to do their part of our G-ing, and thus jointly G, without intending that we G" (p. 22). This means that there need not be a full group intention to actually reach the goal, only that each agent intend to do her part in achieving the joint goal.

Kutz rightly points out that there are many examples where it would be out of place to attribute group-intentions to participants. For example, the CRC, which is now part of Swedish law, states that "No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation". It would surely be to ask too much if we thought that every single teacher, parent or person—whether he or she works in administration or legislation or not—would assume more than to be able to do one's part in reaching this goal. It is also true that one can truly try to do one's part towards this goal without believing that such a goal can ever be reached. Kutz asks us to imagine another case were a famous neurologist lives in a country with a ruthless dictator, and where the doctor also has secret dissident political sympathies. The dictator has just had a stroke and

the doctor is called in to save the dictator's life by giving him the appropriate medicine. The doctor gives the right medicine without hoping to save the dictator's life. Thus, the doctor does not give the medicine in order to save the dictator's life, although the medicine is a means for saving the dictator's life. It seems then that the doctor is doing his part in the joint action of saving the dictator's life. As argued by Åsa Burman, this is an important point to make because it shows that Kutz's account is able to handle the fact that individuals can participate in joint action towards a goal even though they are being hesitant about the joint goal or even coerced to act in a certain way (Andersson [now Burman], 2007). This is, however, not a real problem for Bratman's account either, where it is part of the background rather than a special case of joint action.

So, the fact that we can have divergent opinions concerning the goals is not a problem either for Kutz or for Bratman. The problem is rather, according to Searle (2010), that working towards the same goal, and/or having mutual knowledge of one's intentions, does not necessarily qualify as cooperation:

> I try, for example, to minimize air pollution, whenever I can. But I am not in any sense cooperating with anybody when I do it, even though I know that a large number of other people do the same things with the same goal. Just having the same goal, even having the same goal in the knowledge that other people share that goal and even in the knowledge that they know that I share that goal with them, is not by itself enough for cooperation in my sense. (2010, p. 49)[26]

To summarize Bratman's and Kutz's accounts so far: on the one hand it seems that even if we have common knowledge of others' intentions of *J*-ing (e.g. minimizing air pollution), and/or work towards the same goal (i.e. minimizing air pollution), it is not necessarily so that we cooperate. On the other hand—which is pointed out by both Bratman and Kutz—we do not need to share the same goals when we cooperate in a joint action, and also,

[26] To be fair, Searle does not refer directly to either Bratman or Kutz when he gives the example. However, the point made by Searle is important. Sharing the same goal and knowledge of other's intentions are not sufficient for cooperation in a strong sense. But Searle's example does not really seem to pose a threat to either Bratman or Kutz. Bratman would probably answer that Searle's example does not live up to either the *Interdepedence condition* or the *Mutual responsiveness condition*. And Kutz would probably answer that the example does not contain that the agents are *doing their part* towards a common goal. So, both Bratman and Kutz could argue, in line with Searle, that the example is not an example of cooperation in a strong sense. I thank Johan Brännmark for reminding me of this.

which is pointed out by Kutz, our joint actions do not need to live up to the conditions of mutual responsiveness or common knowledge.

Thus, we can engage in cooperation without knowing the intentions of each of the other participants. And this is a problem for Bratman's account. How should we apply the *Interdependence Condition* to all of those involved in the global climate strike movement *FridaysForFuture*? I think that it would be utterly wrong to not describe this as cooperation. And we can engage in joint action without aiming at the same goal. Imagine a group of skateboarders working on their skateboarding skills in a skateboard park. Let us also assume that none of them are acquainted with one another. Each of them is trying to improve various tricks on their own and simultaneously coordinate their movements so as not to bump into each other. It is in this sense very close to Bratman's example of someone walking down a busy street. And yet, I presume, there is a stronger sense of "we" and even that "we are doing this together" in the case of the skateboarders. The stronger feeling of communality is not necessarily because there is a stronger belief of the others' intentions than there is in the case of the pedestrians. Even the strangers on the busy street believe that the other pedestrians have the intention to walk the street just as much as each skateboarder believes that the other skateboarders have the intention of skateboarding in the park. The stronger feeling of community has in this case more to do with a sense of *belonging* and shared *identity*. The skateboarders can conceive of themselves as a group (i.e. as a *we*), and might even view this as an *educational activity* and their fellow, but unacquainted, skateboarders as their "teachers". Or at least, it seems to me, that a group of skateboarders in a skateboard park, acquainted or not, comes closer to a *cooperation of* study, or a *pedagogical relation*, than *merely imitating each other's behaviour* or *a set of interdependent individual actions*. And yet, not even Kutz's minimalist account seems to be able to capture what is happening here because there need not be any sense of doing one's part towards a specified collective goal.

Before I proceed towards a more constructive account of how to identify the *we* in a social collective act, I will consider a further criticism of Bratman's and Kutz's accounts: *The circularity charge*.

3. The Circularity Charge

Bratman's shared agency-account, as well as Kutz's participatory-account for joint action is a way of describing collective action as individual intentions with a collective content, i.e. group actions are analysed in terms of

each of the participants individual plans or intentions In relation to the social-scientific debate between collectivism and individualism concerning groups, some social ontologists, like Bratman, Kutz, Tuomela and Searle, tries to find a middle path.[27] Tuomela describes this as recognizing the fact that "humans are inherently disposed to live in groups and to think and act as group members" (Tuomela, 2014, p. 10). As group members we tend to share goals, values, beliefs and standards with other members of our social groups, and we also tend to collectively act according to these shared goals, values, beliefs and standards. At the same time, Toumela also acknowledges that under normal circumstances we as individual human agents seem to be in charge of what we do, and in this sense, we make individual plans and individual choices. The term "normal circumstances" should be understood as when an individual's behaviour is not fully controlled by external forces (ibid.).

Shared or participatory intentions, in Kutz's and Bratman's accounts are viewed as a special class of intentions with a collective content, and the collective content of these intentions are viewed as "irreducible collective". This prompts the question whether we can understand what kind of collective content these intentions have without understanding the concept of collective action in the first place. For if the task is to understand what collective action is and the aim is to show that there are collective actions in a strong sense, i.e. collective actions that are something more than a set of interdependent individual actions, this needs to be done without making reference to an already assumed collective action. Otherwise, it seems, the analysis is circular.[28] Both Bratman and Kutz offer different suggestions to overcome the circularity charge. One suggestion that has been offered by both of them is to provide a genealogy of collective action (Kutz, 2007 [2000]). The idea is that such a genealogy can show how collective action can emerge from simpler forms of individual actions, i.e. "how the capacity to engage in collective action emerges out of capacities explicable without

[27] This is sometimes referred to as versions of methodological individualism (MI). Åsa Burman (Andersson [now Burman], 2007) refers to this as "the mixed approach" because it holds that the joint intention is the intention of individuals related in a certain way, but also that the content of these intentions refer to a joint activity or the group. The difference then from collectivism is that the intentions are intentions of individuals. The difference from a fully individual approach is that the intentions have an irreducible collective content.

[28] I should be noted that even a collectivist account such as Margaret Gilbert's plural subject account (e.g. Gilbert, 1992 and 2018) is open to a circularity charge (see e.g. Andersson [now Burman], 2007). I will not depict more of the discussion between individualism and collectivism including the difference between collectivity as content, mode or subject than is needed for my inquiry. For an introduction to this topic see Schweikard and Schmidt (2021).

reference to collective concepts" (Kutz, 2007 [2000], p. 86). Another suggestion offered by Kutz is that the circularity problem is "more methodological than substantive" (ibid.).
In his text "Collectivity and Circularity" (2007), Björn Petersson argues that both Bratman's and Kutz's accounts make reference to collective action in their analysis of collective action, and also that their responses to the circularity charge do not solve the problem. First, if we want to find out the *meaning* of collective action, a genealogical *explanation* will not do the trick. Such an explanation will not meet the circularity charge regarding *definition*:

> The challenge is not that intentions with a noncollective content must come before intentions with a collective content, but that we need a characterization of the content of the components referred to in the definition of a collective action–a characterization that does not rely on that very concept. This requirement is reasonable independently of which genesis we assume that these components have. (p. 144)

Neither is it a solution to suggest that the problem is merely methodological. Kutz suggests that an analysis can be informative even if it is circular. Petersson admits that circular analyses can help clarify the *extension* of a concept. If we take the example of "art" for which we already possess a pre-theoretical understanding of the meaning of the concept, we can still be uncertain of the extension, i.e. the exact borders for the application of the term. If we then explain art as what the artworld regards as art, we have clarified the extension of the term even if we have given a circular definition. That is, we have not clarified the *intension* of the term, i.e. the meaning of "art". However, it is not the extension of "collective action" that we need to explain first. We need to explain the intension, or the meaning, of "collective action" if we want to show that collective actions exist and how to characterize collective action.[29]

[29] According to Petersson, collective action cannot be fully explained by a set of individual intentions or beliefs about other people's intentions and means-ends reasoning:

> Suppose I want the window smashed. When I note your presence on the street, I think that if you act in a certain way, the window can be smashed as a result of both our acts, and I form an intention accordingly. What I intend in that case is merely to get the window smashed, while predicting that your actions will be components in the process leading to that result.

4. *We* as Mode of Individual Intentions

In contrast to both Bratman and Kutz, John Searle (e.g. 1995 & 2010) proposes that in addition to singular or individual intentions and intentionality of the form "I intend" there is also *collective intentions* as in "we intend". The main difference lies in Searle's conviction that collective intentions cannot be reduced to individual intentions with collective content plus mutual belief. Thus, instead of analysing "we intend to *J*" as "I intend that we *J*" Searle takes we-intentions to be a special *mode* of intention which is primitive and therefore unanalysable in terms of I-intention. Hence, Searle avoids the circularity charge by not trying to analyse collective action by reducing it to individual intention with collective content.

(a) The Recognition of *We* in Social Acts

In his book *The Construction of Social Reality* Searle states that: "Obvious examples are cases where *I* am doing something only as part of *our* doing something […] If I am a violinist in an orchestra I play *my* part in *our* performance of the symphony" (1995, p. 23). Thus, the singular intention and action of the violinist is derived from the collective action and 'we-intention' rather than the other way around. Even if cooperation *implies* the existence of common knowledge or common belief, it is not enough to have common knowledge or common belief together with individual intentions for cooperation; we also need collective 'we-intentions' (2010, p. 49). Further, Searle's 'we-intentions' are simpler and less complex and cognitively demanding than Bratman's intention condition. And in that

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> This prediction may rest upon my knowledge that your intentions are similar to mine, and that our subplans are likely to mesh in a way that enables me to reach my goal. There is mutuality and interdependence, in line with Bratman's requirements. Still, I would say, nothing in this picture captures "sharedness" or "collectivity" in any sense distinct from what we can construe in terms of standard individualistic theory of action (Petersson, 2007, pp. 140–141).

Bratman (2014) points out that Petersson fails to make it clear in his example "that I *intend* our joint window smashing in part by way of your intention" (p. 93). Therefore, Bratman argues, Petersson is right that the case such as described by him is not a case of "sharedness". Bratman stresses that it is important that all of his five conditions are fulfilled, not only the intention condition. However, Petersson (2015) repeats his basic point that "[t]he fulfillment of these conditions would be a consequence of, and presuppose, the agents having formed the right kind of intentions to begin with" (p. 35). Again, an individual intention of joint action seems to presuppose a *we*.

sense, Searle's theory is also more parsimonious than Bratman's theory (Petersson, 2015). Bratman, however, refers to the principle of Ockham's razor and David Lewis' distinction between qualitative and quantitative parsimoniousness, and argues that Searle's theory is not qualitatively parsimonious because Searle introduces a new *kind* of intention, i.e. a 'we-intention':

> A doctrine is qualitatively parsimonious if it keeps down the number of fundamentally different kinds of entity. … A doctrine is quantitatively parsimonious if it keeps down the number of instances of the kinds it posits. (Lewis, 1973, quoted by Bratman, 2014, p. 106)

Bratman utilizes the conceptual resources that is already in his theory of ordinary individual agency in his explanation of shared agency, without introducing new kinds of entities, and therefore Bratman's theory is qualitatively more parsimonious in David Lewis' sense. Also, it is one thing to introduce new kinds of entities, as Searle does, but it is even more disturbing to also suggest, which Searle also does, that this special kind of intention is primitive and non-analyzable. If we want to explain joint action of the sort "*I* am doing something only as part of *our* doing something" it is *our doing* that needs to be explained. And though introducing a primitive notion of we-intentions, i.e. what *we as a group intend to do*, seems to avoid the circularity charge it still leaves us with an unexplained *we*. The question remains: what constitutes the recognition of *we*?

(b) *We* as a Causal Agent

In two articles Björn Petersson (2015 & 2017) elaborates his idea of groups as causal agents that he first presented in his earlier critique of Bratman and Kutz (i.e. Petersson, 2007). First, Petersson states that there are two notions of 'qualitative difference'. One is the distinction made by Lewis between quantity and quality concerning a theory's parsimony where "'qualitative difference' simply means difference in kind or type" (2015, p. 30). Another distinction, derived from Husserl, Frege and others, separates between the quality, form, or mode of an intentional state, and the content, or "matter", of that state:

> the act of hoping that p is another kind of attitude than the act of doubting that p in virtue of being of a different quality. However, as François Recanati and others have argued, other sorts of qualitative differences – differences in modes, or "perspectives" of believing, for instance – need not

> involve different kinds of attitudes. In this sort of framework, qualitative differences may or may not imply differences in kind. (ibid.)

So, *attitudinal modes*–such as the difference between believing that p and hoping that p–are different modes, or kinds, of attitudes. But we can also admit different modes in the sense *perspectival variations* of the same attitude:

> Suppose I claim now that it is raining. Typically, you would regard this statement as false if it is not raining here and now. You could be wrong about that context though. Maybe I had just been phoning home and was thinking about what happens there. So, the full meaning of my utterance is richer than its content and the asserting of that content. It comes with tacit perspectival information about time and place for evaluation. In a similar manner, the proper context of evaluating the content of my corresponding belief that it is raining may vary even though the intentional content of that belief is just 'it is raining'. The point of view from which I believe determines the context of evaluation for that belief. In that sense, the belief's content can be conceived from different perspectives. (2017, p. 212)

With this in mind, Petersson presents a five-step suggestion for how to understand we-intentions in a "broadly functional framework", "beyond Searle":

> (1) There is a meaningful distinction between mode and content of intentional states.
>
> (2) Modes determine contexts of evaluation.
>
> (3) Our general conceptual constraints on kinds of intentional states may leave room for variations in the modes of some kinds of states.
>
> (4) The 'subject of intention' of an intentional state should be distinguished from the intentional subject, the individual in whose head the intentional state resides.
>
> (5) We-intentions are intentions held in a collective mode, or from a collective perspective. The subject of intention of a we-intention is the collective. (2015, pp. 30-32 and 2017, pp. 211-214)

(1) the distinction between mode and content is crucial. When I perceive a flower, the flower that I perceive causes my perception of the flower. This differs from a memory of a flower. However, what I perceive is the flower, not the fact that the flower causes my perception. There are thus essential features of perceiving which do not belong to the content of my perception. And these features belong to the mode of my perception. A memory of a flower is a different mode but could have the exact same content. (2) The mode determines the context of evaluation. For my perception of the flower to be true, the flower has to be present at the time and place of my perception. If I have a memory of a flower, the flower is not present at the time of my memory. (3) If I claim that it is raining you would regard my statement as true if it is raining at the time and place of my utterance. However, I could in fact be watching the news and comment on the fact that it is raining somewhere else. The full meaning of my utterance is thus richer than the content and the assertion of the content. The content of my assertion can be viewed from different perspectives. (4) While the truth condition of a belief does not need to refer to the believer, a perception is always self-referential. So, a perception always has a subject of intention. It is thus conceptually possible to separate between the bearer of the attitude, i.e. the intentional subject, and the subject of intention. So (5), action intentions, like e.g. perceptions, are "essentially self-referential and therefore have a subject of intention" (2015, p. 32):

> Unlike my mere desire to see the page turned, my intention to turn the page is not successful unless I perform the action of turning the page. This does not imply that the 'I' figures in the intentional content of the intention. The subject of intention is a perspectival feature of the mode of some types of intentional states, like perceptions and action-intentions. That mode determines the context of evaluation. (ibid.)

Petersson concludes that there is "no contradiction in assuming that an intention in the head of an individual can be in the we-mode. That is, you and I can have intentions from the group's perspective" (ibid.). The functional role of a we-mode is the same as an I-mode. It is just from another perspective: "it is successful when the same kind of relations between the agent, i.e., the unit of activity determined by the mode of intending, and the intended event obtains" (ibid.). My intention to write this text is successful if I perform the action of writing this text, and our we-intention to

study Nietzsche's text "Schopenhauer as educator" is successful if we perform the action of studying the text "by way of carrying out this intention" (ibid.).

I believe that Petersson's idea of causal agency can capture the difference between Bratman's unacquainted pedestrians on a busy street and my example of the unacquainted skateboarders in the skateboard park. Even if it is possible that the pedestrians view themselves as causal agents it is highly unlikely.[30] It is hard to argue that *they* as a group are more than the sum of its parts. The skateboarders, on the other hand, might very well consider themselves as a group where the whole is more than the sum of the parts. Additionally, Petersson's account of causal agency seems to capture a vital aspect of education: *Education is a paradigmatic example of a social and collective action where the whole is more than the sum of its parts*.

My intention to study Nietzsche's text "Schopenhauer as educator" is successful if I perform the action of studying the text, and our we-intention to study Nietzsche's text "Schopenhauer as educator" is successful if we perform the action of studying the text *by way of carrying out this intention*. Our studying Nietzsche's text "Schopenhauer as educator" is more than the sum of each of our individual studying Nietzsche's text "Schopenhauer as educator". And our skateboarding in the skateboard park is also potentially recognized as more than the sum of each of our individual skateboarding in the park.

Conclusion

To make up individual and collective plans is a big part of our everyday life. I have made several plans for today. Some are quite private, and others are plans that I intend to do with others. In the last case most of these plans for collective action are already agreed upon by the involved parties. In this sense Bratman really does capture a vital aspect of human life. However, Bratman is fully aware of the fact that his account does not capture "all of the stunning complexity of human agents" (2014, p. 4). Kutz claims that he can capture a more *general account* that can hold for all collective actions including the cooperation of loosely linked agents as well as anti-egalitarian collective action with hierarchy. However, both seem to already presuppose a "we" in their individualistic accounts. This is criticized in the "circularity charge". Despite this, both Bratman and Kutz have a point in

[30] Maybe it is possible that they could be identified e.g. as a unit of causal agency of "the modern commercial capitalist society".

the fact that quite often we seem to cooperate despite having neither shared reasons nor shared aims for our joint action. And this phenomenon is also captured in Searle's theory. What matters is that we recognize a "we" in our cooperative action. Thus, it is not the content of our intention that matters. It is the mode of our intention. The fact that we intend to do something. Searle's account however has been criticized for taking the we-intention to be primitive and non-analysable. Petersson tries to explain how we can understand this "we" as a causal agent which is *more than the sum of its parts*.

There is also an additional worry when we aim at constructing a theory of social ontology. Sally Haslanger (2012) argues that Searle's analysis is

> too demanding to capture much of ordinary informal life. For example, we can have coordinated intentions without them being "we-intentions"; things can have a social function even if they aren't assigned it; and social kind membership isn't always governed by rules (Haslanger, 2012, p. 414 n. 8)

The point made is that these requirements are more suitable for explaining conventional institutional facts rather than opaque social facts. The critique is part of a broader critique of analytic social ontology in the liberal tradition. Brännmark (2021) writes that "there is a tendency in analytic social ontology to conceptualize participants as more-or-less equals, or at least as playing the same games of coordination" while there are plenty of historical cases that "are examples of thoroughly stratified societies, characterized by divisions rather than unity—where *force* is clearly a more important factor than *consent*" (p. 143). While Bratman's account in one way can be described as inherently descriptive rather than normative, it can also be recognized as postulating an ideal type, such as the rational planning agent as being paradigmatic:

> An ideal type is an interpretative tool which we use to simplify something more complex to understand it better, and since such complex cases will often be open to different interpretations, the choice of ideal type will have implications for how we read many cases, such as which cases that come out as typical or atypical (Brännmark, 2021 p. 139)

Brännmark refers to Charles W. Mills:

> An idealized social ontology of the modern type (as against, say, a Platonic or an Aristotelian type) will typically assume the abstract and undifferentiated equal atomic individuals of classical liberalism. Thus it will abstract

> *away* from relations of structural domination, exploitation, coercion, and oppression, which in reality, of course, will profoundly shape the ontology of those same individuals (Mills, 2005 p. 168).

The worry then, is that some phenomena such as racism and sexism will be framed as being anomalous. Thus, a challenge is to try to show that a Searlian account of social ontology at least have the potential of handling such phenomena by showing that it does take into account how our attitudes are shaped by our background, pre-existing institutions and opaque social structures.

In all of the accounts for joint or collective action presented above some form of collective attention or recognition is presumed. In Bratman's account there is a joint intention which is common knowledge among the participants. In Kutz's account there is a recognition in doing one's part towards a common goal. In Searle's account there is a recognition of a primitive *we* that the participants recognize themselves as being a part of. And finally, in Petersson's account there is a recognition of a group as a causal agent which makes the individual participants perceive the action from a we-mode perspective. Common for all of the accounts is that they take a first-person perspective (either "I" or "we"). The participants recognize themselves as *participants inside a group*. All of these different kinds of collective recognitions can be captured in a concept that is often referred to as "collective intentionality".

CHAPTER 3. INTENTIONS AND INTENTIONALITY

Introduction

Intentionality is the capacity of the mind to be directed at objects and states of affairs in the world (Searle 2010 p. 25). In this sense, *intention* is just one form of *intentionality* together with e.g. *belief*, *hopes* and *desire*, or other kinds of attitudes.

Searle emphasizes that not all mental states are intentional and only some of our intentional states are *conscious*. According to Searle, “the distinction between consciousness and unconsciousness and the distinction between intentional and nonintentional cut across each other in such a way as to give us four logically possible forms” (Searle 2010 p. 26). A rational agent typically is consciously intentional when he or she performs an action or activity (e.g. I consciously have an intention to write this text in this very moment). But many of my intentional states while doing so are unconscious (e.g. my belief that I am sitting on the chair and my belief that the chair will not fall down through the floor etc.). An agent can also have a conscious feeling of anxiety without knowing why, which, according to Searle, would be an example of a conscious non-intentional mental state because the anxiety in this case is not directed towards anything. Whether there are any real cases of the fourth logical form, unconscious non-intentional mental states, is, according to Searle, more uncertain. “Perhaps”, he says, “unconscious undirected anxiety would be an example of such a state” (Searle 2010 p. 26).

1. Intentionality and Consciousness

The distinction between intentionality and consciousness is important because it stresses that whenever we perform conscious intentional actions there is always both conscious and unconscious intentionality involved, i.e.

some intentionality that we may only become consciously aware of when we reflect upon some previous action. Intentional states are not isolated units; they are part of a *network* (Searle, 2010, p. 31). I cannot intend to write this text unless I also have a whole lot of other beliefs and desires (i.e. that someone hopefully will read it and that it makes for some sort of valuable comment on what other educational theorists or philosophers have said about the subject). And also, when I leave my chair and start to stroll around in the room, I can do so spontaneously and unconsciously, without thinking that I should do it. But I can also do it spontaneously and consciously if I suddenly get an urge to do so and decide to leave my chair. If I do it unconsciously, I can reflect upon this action afterwards and determine that the action helped me to think things through when I got stuck, and this insight could make me consciously and decisively intend to leave my chair at another time. But in addition to this network of beliefs and desires there is also a set of presuppositions necessary for the intention to operate. I seldom think of the fact that I actually can read and write when I write a text. So apart from the network as a set of beliefs, desires and intentional states, most of which are unconscious, there is also, according to Searle, a *background* in terms of a set of abilities, dispositions and capacities (Searle, 2010, p. 31).

2. Collective Intentionality

Understanding intentionality as collective is not just to understand how we engage in cooperative behaviour or joint action. *Collective intentionality* is the capacity of minds to be collectively, or jointly, directed at objects and states of affairs in the world. It refers to our ability to share beliefs, desires, hopes and worries etc. as well as intentions. But also such collective modes as shared attention. Thus, if there is "common knowledge" or if each of us view a "set of agents as the unit of causal agency" it implies that there is also collective intentionality. For Bratman and Kutz, the collectiveness explained is conscious intentions, and conscious intentions for collective action, whether they are explicitly stated or implicit and silent also implies collective intentionality.

This suggests that there are different degrees of collective intentionality, all the way from two or more individuals directing their attention towards the same object, to two or more individuals engaging in full cooperation. As previously shown, shared knowledge of one another's intentions or shared goals does not necessary imply cooperation in the strong sense. And while collective actions in Nash equilibria requires some kind of shared attention and shared belief, it does not amount to cooperation in the sense

of doing something together. A further argument to be made is that collective intentionality in the sense of shared attention towards an object does not necessarily imply such modes as collective intentions in action, collective desires, collective believes or even mutual understanding. For it is quite possible to direct one's attention collectively towards an object without there being any mutual understanding or belief concerning what *we* are perceiving. And we definitely do not need to share the same feelings or desires towards the common object of our perception. This means that a theory of collective intentionality ought to be able to handle contested facts. We can collectively direct our attention towards the same object of study and at the same time have contested beliefs and feelings towards this object of study.

On my view, every kind of educational practice requires intentionality in the above-mentioned sense. What separates individual studying or learning from education is that, with regards to the latter, some of the intentionality has to be collective. Whenever you engage in some group activity, such as for instance education, you experience this, and you observe it when you are watching a football game or hearing an orchestra playing music. Collective intentionality seems to play a crucial role in the constitution of the social world, and, so I will argue, is also necessary for education. There seems to be a difference between "I am teaching", "I am studying" and "*We* are engaged in educational practice".

By now we have several distinctions and conceptions in our tool-box. First of all, we have the distinction between what is natural and what is social. Social facts are constituted by social acts while natural facts are independent of agents' minds and actions. If we accept such a distinction, which I think we should, both education and human rights are more likely to be accepted as social constructions rather than natural in a secular theory of human rights. Consequentially, the idea of education as a human right can be reasonably conceived as a social construction. As social constructions they are products of human beings. They are also institutions, i.e. "rules of the game", rather than agents, i.e. "players of the game". Organizations such as the UN, EU, HRW and national agencies for education, as well as other kinds of groups and individuals are players. A group can be recognized from the inside by the members of the group as a "we" or "us", but also from the outside as "they" or "them". And the members of the group do not need to have knowledge of the other members of the group. An important distinction to be made here is to distinguish between genuine cooperation in the strong sense and collective action in the weak sense. For genuine cooperation to take place, the participants need to be in a we-mode, and to be in a we-mode is to recognize the group as a causal agent from

inside the group. When it comes to the weaker notion of collective action or behaviour, it is sufficient that the group as a causal agent is recognized by others from the outside. The group as a collectively held social position is determined by others in a social context. The players of the game can have different and contesting purposes and aims when participating in the game. But if the individual players are recognized as a causal agent where the whole is more than the sum of its parts, it is a social group.

While cooperation implies collective intentionality, collective intentionality does not imply cooperation, collective intention or even mutual understanding. Joint attention is also a case of collective intentionality. If I am watching a flying object in the sky, and another person positioned a block away is watching the same flying object, there is collective intentionality. And there can be collective intentionality even if I shout "It's a bird!" while the other shouts "It's a plane!" and a third person shouts "It's Superman!". We are still looking at the same object. We can share the belief that there is a flying object in the sky even if we interpret what we see very differently. We have different understandings of what we see. And at least two of us, if not all three, have wrong beliefs, even if we have the same true belief that it is a flying object. Our minds are still collectively directed at the same object. And this is the case even if we are unaware of each other. Another case would be when me and my dog are going for a walk and we collectively direct our attention towards a rabbit. This is definitely a case of mutual attention that lacks cooperation, collective intentions and even mutual understanding of what our minds are directed towards![31] Still, there is a tendency in the contemporary debate concerning collective intentionality to not address this kind of collective intentionality or even to dismiss it as not being a case of collective intentionality at all. Instead, an inquiry concerning collective intentionality usually starts with going directly from a formal definition of collective intentionality to describing cooperation as being the paradigmatic example of collective intentionality. In the first passages in the entry "Collective Intentionality" in the *Stanford Encyclopedia of Philosophy* we can read that:

> Collective intentionality is the power of minds to be jointly directed at objects, matters of fact, states of affairs, goals, or values. Collective intentionality comes in a variety of modes, including shared intention, joint atten-

[31] I think Quine's example of "gavagai" from his book *Word and Object* (2013 [1960]) also makes a strong support for the idea that there can be mutual attention towards something without a shared sense of understanding.

> tion, shared belief, collective acceptance, and collective emotion. […] Suppose you intend to visit the Taj Mahal tomorrow, and I intend to visit the Taj Mahal tomorrow. This does not make it the case that we intend to visit the Taj Mahal together. If I know about your plan, I may express (or refer to) our intention in the form “we intend to visit the Taj Mahal tomorrow”. But this does not imply anything collective about our intentions. Even if knowledge about our plan is common, mutual, or open between us, my intention and your intention may still be purely individual. For us to intend to visit the Taj Mahal together is something different. (Schweikard and Schmid, 2021)

Following this, the rest of the article mainly deals with cooperation. I can only guess why this tendence seems prevailing whenever we look up “collective intentionality” in any book on the subject of social ontology. One reason could be the simple fact that the word “intentionality” is very similar to the word “intention” in English, whereas in for instance German and Swedish, the concept ‘intention’ is more often expressed with the word “Absicht“ (swe. ”avsikt“). This phenomenon is often pointed out by Searle (e.g. 2010, p. 25). Another possible reason could be that the authors that have picked up on Searle’s use of collective intentionality are more concerned with action theory, group agents and collective responsibility, than they are with e.g. social epistemology, philosophy of mind, or for that matter philosophy of education. A third possible reason is that when cooperation is explained within a liberal context, the individualistic game theoretical assumption is default, and collective intentionality easily becomes reduced to a useful tool for explaining such a “peculiar” phenomenon as cooperation.

Even Searle often seem to slip in his move from describing intentionality as the capacity of the mind to be directed at objects and states of affairs in the world through the use of collective intentionality as sharing intentional states, to we-intentions as in jointly intending to do something together. It is as if he is too eager to go from collective intentionality to full cooperation. And this is unfortunate. First of all, it is unfortunate considering his effort to distinguish intentionality from both conscious experience as well as conscious intentions in action, and it is also unfortunate because these distinctions are of great importance in a more proper study of the relation between learning and education:

> Many species of animals, our own especially, have a capacity for collective

> intentionality. By this I mean not only that they engage in cooperative behavior, but that they share intentional states such as beliefs, desires, and intentions […] Obvious examples are cases were *I* am doing something only as part of *our* doing something. (Searle, 2010 p. 23)

It is true that cases where I am doing something only as part of our doing something implies collective intentionality. And it also seems fair to say that cases of cooperation, such as a classroom situation in school, are the most obvious examples of collective intentionality. But we have to remind ourselves, again and again, that collective intentionality does not always imply cooperation. Collective intentionality is prior to cooperation. In other words, there must be collective intentionality in place before cooperation can take place, such as for instance some basic mutual belief. This seems to be Searle's view in *Making the Social World* (2010):

> Cooperation *implies* the existence of common knowledge or common belief, but the common knowledge or belief, together with individual intentions to achieve a common goal is not by itself sufficient for cooperation. (p. 49)

Now, how are we to understand "common knowledge or belief" here? It seems that common belief is a case of collective intentionality. A few pages earlier Searle writes that

> in this chapter, we will consider first-person plural forms of intentionality as in sentences of the form "We are doing such and such", "We intend to do such and such", "We believe such and such". I call all of these sorts of cases "collective intentionality", but for the purpose of this book, the most important form of collective intentionality is collective intentions in planning and acting […] But there are also forms of collective intentionality in such things as believing and desiring. I might, for example, as member of a religious faith, believe something only as part of our believing it, as part of our faith. (p. 43)

Even if we acknowledge that common knowledge or belief can be reached through joint attention, cooperation, indoctrination, collective or at least similar experience, and/or joint critical analysis and discussion, the question remains whether "We believe such and such" is properly described when described as "I believe something only as part of our believing it"?

Consider the previously discussed example of the apes learning how to use a stick to gather ants. The second ape does not form the belief that the stick can be used to gather ants "as part of our believing it" but because the second ape observes that the stick can be used to gather ants. Even in the case where the first ape is showing the second ape how to use a stick, the reason why the second ape forms the belief that the stick can be used to gather ants is not from some 'we-belief'. However, there is collective intentionality because both of their minds are directed towards the stick, and more accurately towards this particular function of the stick. Later on, the other ape picks up a stick and uses it to gather ants. It seems that both of the apes have asserted a possible function to the stick as an 'ant-gatherer'. They have collective intentionality of the stick as being a tool with a specific purpose. It is important to note here that this does not rule out that the stick can be used in other ways, such as for plucking bananas from a tree or as a weapon.

The example describes a *learning process*. However, while the second ape learned by *imitating*, the first ape learned to use the stick by herself. And collective intentionality entered as soon as both of them turned their attention to the same *object of study*, but not before this. We can thus separate between *individual learning* and *social learning*. Social learning requires collective intentionality, i.e. mutual attention or recognition of some sort, while individual learning does not. In addition, we can separate *individual social learning* from *cooperative learning*. The latter would be a case of social learning where they learned how to gather ants with the stick together through cooperation rather than by imitating each other's behaviour. Still, it would be odd to describe their shared knowledge as collective in the sense that they know what they know "only as part of their common knowledge". It is more accurate to describe it in the way that they have common, or shared, knowledge (i.e. collective intentionality) because their individual knowledges mesh. "Collective" here is best understood as an *aggregate of individual knowledge*. To be fair to Searle, there are also a great deal of important cases of shared belief that we do have only as part of our believing it. Gaining belief or knowledge through *testimony* is both a common and an effective way of gaining knowledge. And we convey knowledge to others by simply telling them. As an example, I believe that humans have a great impact on the ongoing climate change as part of our believing it, because I put trust in what scientists tell me. There is also another way in which we believe in social facts as part of our believing it. I believe that Joe Biden is the president of USA, not only because it was reported to me through testimony, but also because if everyone else would

stop recognizing him as the president then he would no longer be the president. Him being the president depends upon a certain amount of people collectively believing that he is the president. So, in this sense I believe that J.B. is president only as part of our believing it. Our knowledge and beliefs are in this sense very much a product of the social world. As pointed out by Miranda Fricker (2010 [2007]) among others, we therefore have good reasons to believe that epistemic trust has an irrepressible connection to social power. And we also have good reasons to come back to this issue in the discussion of the nature, purpose and aims of education. As for now, the most pressing issue at hand is how to make sense of collective intentionality and social facts.

3. Collective Intentionality and Social Facts

When Searle states that "any fact involving collective intentionality is a social fact" (1995, p. 38) and "A social fact, as I define it, is any fact that contains a collective intentionality of two or more human or animal agents" (2010, p. 156), it causes some confusion. How do we get from a definition of intentionality as the capacity of the mind to be directed at objects and states of affairs in the world, to collective intentionality and social facts? I think that Searle moves to quickly from a discussion of collective intentionality and common knowledge in general to a discussion of cooperation. And for those who are not acquainted with Searle's previous and thorough work on speech acts, intentionality and rational action, and their relation to social and institutional facts, I assume that it could be even more confusing.

Searle (2010) does explicitly write that he is now talking of *one form of collective intentionality* when he talks about cooperation:

> When I talk about *this form of* collective intentionality [emphasis added], I am talking about the capacity of humans and other animals to actually *co-operate* in their activities. (p. 49)

But it is also unfortunate that he gives the following example on the same page:

> [I]t is just a feature of ordinary English that if I am doing something and you are doing the same thing, there is at least a sense in which we are both doing it. For example, if I am driving to San Francisco and you are driving to San Francisco, then it is true to say that we are both driving to San Francisco. *But this is not necessarily collective intentionality*, for you may be

> driving and may know that you are doing it, and I may be doing the same thing, and you may know that I am doing it. *There may even be mutual knowledge*. But in no sense are we cooperating. (ibid. [emphasis added])

As I take it, the point Searle wants to make here is that there is a difference between merely doing the same thing and doing the same thing together cooperatively. And point taken. This difference is crucial and I have already sided with Searle in that properly doing something *together*, in the strong sense, is a matter of intentional mode rather than the content of our beliefs. What is unfortunate, however, is that Searle describes this as a case where there is "not necessarily collective intentionality" despite him also acknowledging that "there may even be mutual knowledge". I am really trying not to unnecessarily split hairs here, but as I see it, it is either an unfortunate choice of words or Searle has to choose between denouncing the idea of mutual knowledge as not being sufficient for collective intentionality, or bite the bullet and narrow down collective intentionality as cooperation, because I cannot understand this example as anything other than an argument stating that it is not collective intentionality because it is not cooperation. Searle is right in that there need not be any cooperation involved here, but surely there is collective intentionality.[32] If it really is the case that there is mutual knowledge such that you may be driving and I may know that you are doing it, and I may be doing the same thing, and you may know that I am doing it, then there certainly is collective intentionality concerning our beliefs: We both believe that we are driving, by car, to San Francisco. Also, there seems to be collective intentionality concerning a city named "San Francisco" and a vehicle named "car", as well as a collective desire to get there, and maybe most importantly there seems to be a shared intention to actually get there, and this could be a shared intention in the weak sense if we are totally unaware of each other. However, as Searle points out, we ought to separate the sense of "we" in ordinary English as in we are both doing the same thing from we are doing something together. But how should we handle the distinction between "we are both believing the same thing" and "we are believing the same thing together"? And more pressingly, how should we distinguish collective intentionality from cooperation?

To do this more properly, we need to rewind what has been played out so far: If I were to discover, during my drive to San Francisco, that not only I but also Mrs. Andersson is going to San Francisco, I would definitely,

[32] From my perspective, the more proper choice of words her would be to write "this is not necessarily cooperation" instead of "this is not necessarily collective intentionality".

and accurately, draw the conclusion that we are both going to San Francisco. I would not, however, draw the conclusion that we are going there together. So, I would not draw the conclusion that we are going to San Francisco in the strong sense of *we are intending to do this in a cooperative way*, or that I am driving to San Francisco *only as part of our doing it*. In fact, I do not necessarily know that Mrs. Andersson actually knows that she is heading towards San Francisco at all. It could be that Mrs. Andersson is only out for a joy ride without any set destination in mind, and as it happens, she is heading in the direction of San Francisco. So, it could also be the case that Mrs. Andersson does not know that there is a city called San Francisco at all. In this sense we lack mutual knowledge, not only concerning where we are both headed, but also of the city San Francisco. Still, I believe, knowing that Mrs. Andersson is heading towards San Francisco in a car, that she has some kind of notion of a car, because she is driving one. We have at least some shared knowledge concerning the kind of vehicle that we are both driving; we each have some kind of knowledge concerning the function of the vehicle that we both are driving, as in the case where we have some kind of mutual idea of the function of a stick when we try to gather ants or pluck bananas. I do not think that we need to take this much further to see that there are numerous, perhaps countless, matters of (social) facts that I and Mrs. Andersson both know either consciously or unconsciously without us necessarily cooperating.

So, the first point here is that there is, in contrast to what Searle writes, necessarily collective intentionality in Searle's example. Searle could however refute this by holding on to the idea that there is no collective intentionality because there is no cooperation. Searle could say that we need to have a cooperation in the belief of the function of the car, such that my belief in the function of the car is only a part of our belief in the function of a car. And it could be that I, a while back, did not know what a car was and that I was instructed of the function of a car, and I came to believe, because I was *taught through testimony*, that a car was a vehicle to get around with. And I still believe that it is the primary function, instead of assigning the function of, for example, something to burn, as I do with a log. But I do not assign the function of something to burn to a car. However, the reason for why I do consider it to be something to drive around in instead of setting it on fire is not because I once was taught that it is a vehicle and not something to burn. It is because I believe that this is the most proper function through my own experience. I also believe that most of us consider this to be the primary function of a car. And I would probably still believe that this is the primary function of a car even if no one else did. Thus, I do not believe it as part of our believing it, even if the causal

explanation for *why* I came to believe it in the first place could very well be knowledge transmission in the testimonial sense.

The second point to be made is that there are numerous, perhaps countless, matters of social facts that are shared knowledge between me and Mrs. Andersson. Hence, there are collectively held beliefs concerning social facts; hence, there is collective intentionality. And here, I really have a hard time figuring out how Searle could possibly hold the position that there is not necessarily collective intentionality between me and Mrs. Andersson concerning mutual belief in some social facts. Of course, if Searle does claim that as soon as we have collective intentionality, we also have social facts, and cooperation is necessary for collective intentionality, then cooperation is necessary for social facts. And consequentially, if there is no cooperation, then there are no social facts that are shared between me and Mrs. Andersson.

It seems to me then, and this is how I want to understand Searle, that *collective intentionality is necessary for cooperation, but cooperation is not necessary for collective intentionality*. Perhaps I am knocking on an open door here, and I sincerely hope that I am. However, it is still unclear from my reading of Searle. And I do believe that it is important to bring some clarity to this issue, because it opens up for a discussion concerning the possibilities of a theory of collective intentionality to handle contested institutional facts.[33] We should be careful not to reduce the notion of collective intentionality to the narrow notion of cooperation in the strong sense or simply equate it with conscious collective intentions. As pointed out by Searle (2010) "acceptance" and "recognition" should not be understood as approval (p. 104). We accept and recognize many things both consciously and unconsciously that we do not approve of. Collective intentionality as mutual directedness of our minds to the world is crucial for a study, not only of the social world in general, but for any study of social learning and education. However, if we want to capture contested institutional facts as well as opaque social facts in a theory that explains social facts as collective intentionality, collective intentionality needs to be understood broadly as shared attention rather than just common knowledge or collective intentions. Also, it seems unnecessary to state, as Searle does, that "any fact involving collective intentionality is a social fact". What matters is that if there is a social fact, then there is also collective intentionality. For something to be social, there needs to be some form of shared attention, and the notion of collective intentionality captures this.

[33] See e.g. Brännmark, 2019b for discussion of this topic.

Conclusion

In this chapter I have introduced the concept of 'collective intentionality' as an important concept for understanding social facts. Social facts cannot be social if they are not shared between individuals. This does not mean that we approve of all the facts that we recognize. Neither does it imply that we are always consciously aware of what we believe, desire or intend. Our minds seem to focus on a lot of things in the world that we are not consciously aware of. It is crucial to recognize collective intentionality in this way if we want to have a theory of social ontology that can handle contested beliefs and hidden power structures. Intentionality should not be reduced to what we consciously intend or approve of. We seem to uphold these power structures and accept things in the social world as facts even if we do not approve of them. This will have implications on the concept of education and also the right to education, and I will further elaborate this idea in Part Three.

CHAPTER 4. SOCIAL FACTS AND INSTITUTIONAL FACTS

Introduction

According to Searle, institutional facts are *a special subclass of social facts*:

> hyenas hunting a lion and congress passing a legislation are both cases of social facts. Institutional facts […] are a special subclass of social facts. Congress passing legislation is an institutional fact; hyenas hunting a lion is not. (Searle, 1995 p. 38)

One of the basic principles of Searle's theory of social ontology and institutional facts is that the human institutional reality differs from the social reality of other kinds of animals, because "humans have the capacity to impose functions on objects and people where the objects and the people cannot perform the function solely in virtue of their physical structure" (2010, p. 7). If we take the case of the apes using a stick to gather ants, or even many of our more human devices such as screwdrivers, it is clear that the physical structure of the stick, or the screwdriver, is sufficient for its function to gather ants or to screw in a screw. Compare this to a book. A book can be printed on paper, but it can also be signs on stone tablets or a pdf-document on the computer, or an audiobook.

Among Searle's own favourite examples of institutional facts, we find such things as "money", "property" and being a "president". Searle tries to capture the phenomenon of institutional facts in one simple formula based on his theory of intentionality and speech acts: "the most general form of the creation of an institutional fact is that we (or I) make it the case by Declaration that the status function Y exists" (2010, p. 13). He calls it a "standing Declaration" which can be formulated as "X counts as Y in C

[context]" (ibid). In other words, Mrs. Andersson (X) counts as a teacher (Y) in a specific context (C).[34] For a status function to actually work, according to Searle, there must be collective acceptance or recognition.[35] Recognizing a status function is to recognize "deontic powers" such as "rights, duties, obligations, requirements, permissions, authorizations, entitlements and so on" (p. 9), and therefore, deontic powers give us reasons for acting independent of our desires and inclinations.[36] However, a standing Declaration is not the same as a standing Directive. As a teacher I can have a standing directive to grade students,[37] but it does not constitute me being a teacher. It is therefore, according to Searle, necessary to separate constitutive rules from regulative rules (p. 97).

Unsurprisingly, Searle's ambition to capture the ontology of our social world in such a simple formula has become an easy target. And because it also builds upon many other assumptions and concepts from many different areas, the theory can be attacked in relation to contested theories of sociology, psychology and different areas of philosophy such as philosophy of mind, of language, action-theory and various theories of social ontology. I will not devote the time here to go through all the criticism of collective intentionality, the distinction being made between constitutive and regulative rules, cooperation, the deonticity of institutions, and the notion of status functions. These are ongoing discussions and can be found in more detail elsewhere. What I will do instead is to try to defend the general idea that what Searle calls "the three building blocks of institutional reality", *collective intentionality*, *deontic rules* and *status functions*, can help us explain the notion of education as a human right all the way from various notions of informal learning and the general concept of education to schooling and the institution of human rights.

The main challenge of Searle's theory is to explain how a theory that builds upon collective intentionality, recognition and acceptance can be

[34] Searle makes an even stronger theoretical claim when he says that "All institutional facts, and therefore all status functions, are created by speech acts of a type that in 1975 I baptized as 'Declarations'" (Searle, 2010, p.11).

[35] Again, acceptance and recognition do not imply approval: "Hatred, apathy and even despair are consistent with the recognition of that which one hates, is apathetic towards, and despairs of changing" (Searle, 2010, p.8)

[36] While the early psychology in David Hume´s *Treatise of Human Nature* gives a casual explanation of actions as a result of desires (wants) and beliefs, the more recent approaches often add intention to the antecedent conditions for action. The belief-desire-intention model (BDI) could thus more easily make a distinction between actions of ordinary human beings and agents with limited cognitive resources (Tuomela, 2013, p. 62)

[37] Note that it can be both a right and a duty at the same time. It seems to imply that if I have a duty to φ, then I also have a right to φ. Having a right to φ, however, does not imply that I have a duty to φ.

used to capture not only cooperation such as gathering ants with a stick together, going for a walk together or formal conventions, but also opaque social facts, tacit norms and contested institutional facts such as hidden power structures. Sally Haslanger writes:

> John Searle (1995) has higher demands, including controversial "we-intentions", assignments of function, and the generation of constitutive rules. These elements are more plausibly required in creating institutional facts or *conventional facts*; his analysis is too demanding to capture much of ordinary informal life. For example, we can have coordinated intentions without them being "we-intentions"; things can have a social function even if they aren't assigned it; and social kind membership isn't always governed by rules (Haslanger, 2012, p. 414 n. 8, [emphasis added]).

It is true, as has been shown, that "we-intentions" are required for *cooperation in the strong sense*. However, cooperation in the strong sense is not required for social acts in general. We do not have to deny, within a Searlean theory of social ontology, that pedestrians on a busy street coordinating their actions is a social fact. And we do not have to deny that having the same goal and thus shared intentions, such as minimizing air pollution, is a social act. What is denied is that such a behaviour is necessarily cooperation in the strong sense. Additionally, there can be social functions that are not *formally* and *consciously* assigned, as well as social kinds which are not institutional facts. However, if something is part of an institution it will have assigned functions and be rule-governed. Thus, institutional facts require collective intentionality, social positions/status functions and deontic rules. And here, the distinction between social facts and institutional facts is crucial.

Such a general theory of social ontology for education is much needed today when the field of education and pedagogy is being incorporated into various different fields such as the social sciences, psychology and last but not least, economics. We need theories of education, not just theories of learning or political theories of society. And because education is fundamentally a human social and relational activity, we should start with a theory of social ontology that can explain the agents involved, the institution itself and the educational activity's undeniable epistemic objectivity.[38] Searle's broad theory of social and institutional facts is a good start to capture a conception of education as an institution that ranges from informal

[38] An ontology of teaching, or a theory of learning or a theory of *scholé* is not enough to capture education. Education is relation and therefore needs a theory of *social ontology*.

education to education within formal educational institutions such as the school. And also, in extension, the idea of education as a human right.

1. The Causal and Constitutive Elements of Institutional Facts

Human social and linguistic activities cause certain things to exist and persist. For example, we can easily invent a new game. The game is "real" even if it is "made up". In this sense the ontology of such things as games are social rather than natural. One can *explain why* the game exist through genealogy. However, if we want to give a *definition* of the game that properly *describes* what the game *is*, we need an account of what the *constitutive* parts of the game are. Searle (2010) makes a distinction between doing something by-way-of and doing something by-means-of something else. I can fire a gun by means of another action such as pulling the trigger of the gun. Me pulling the trigger causes me to fire the gun. If I instead take part in a vote, I can vote by way of raising my arm. Me raising my arm and me voting are not two separate actions. Me raising my hand in a specific context *constitutes* me voting. Therefore, when we consider social constructions and social ontology, we ought to make a distinction between causal social constructions and constitutive social constructions.

Sally Haslanger (2012) holds that "something is a causal construction iff social factors play a casual role in bringing it into existence or, to some substantial extent, in its being the way it is" and that "something is constitutively constructed iff in defining it we must make reference to social factors" (p. 87). To answer the question *how something exists* we do not always necessarily need to give a causal explanation.[39] We could give a

[39] I am not trying to imply that causal constructions are unimportant for social ontology. Ian Hacking has, in several works, highlighted the classification of people, how the classifications affect the people classified and "how the effects on the people in turn change the classifications" (Hacking 2006a). Inspired by both Ludwig Wittgenstein and Michael Foucault, Hacking concludes that only through archaeology could we find our way out of the fly bottle, by displaying the fly bottle's shape. In his work, he has coined two slogans: "Making up people" and "The looping effect". The first one refers to "the ways in which a new scientific classification may bring into being a new kind of person, conceived of and experienced as a way to be a person" and the second refers to "the way in which a classification may interact with the people classified"

> We think of many kinds of people as objects of scientific inquiry. Sometimes to control them, as prostitutes, sometimes to help them, as potential suicides. Sometimes to organise and help, but at the same time keep ourselves safe, as the poor or the homeless. Sometimes to change them for their own good and the good of the public, as the obese. Sometimes just to admire, to understand, to encourage and perhaps even to emulate, as (sometimes) geniuses. We think of these kinds

causal explanation for me being a teacher (i.e. what made me a teacher), but it is what constitutes me as a teacher that explains my ontological status as a teacher. We could argue that being a teacher, as a matter of fact, is synchronically dependent rather than casually dependent. It seems to me, roughly, that it is reasonable to hold that I am a teacher because I am recognized as a teacher in a social community. We could of course also presumably give a casual explanation for the recognition, but again, this is not what constitutes me being a teacher. It is the actual recognition that constitutes me being a teacher. We can trivially state that I am a teacher only if I am recognized by one or more agents as a teacher.[40] I am a teacher because I am conferred as such. However, even if it is the actual recognition that constitutes me being a teacher, it also seems reasonable to say that the background *causes* the recognition from others in a way that explains why I am recognized as a teacher.

Exactly what causes our individual or collective judgements and recognitions are however hard or even impossible to track exhaustively. Such an inquiry would need thorough empirical and genealogical work. And it does not seem to matter in the actual constitution of an institutional fact. What does matter in a practical sense is if *the recognition is in accordance with the rules of the game*. Consider what would happen if the pitcher throws the ball in the opposite direction and the umpire calls it strike. Would the other participants of the game simply recognize this as a strike because it is conferred by the umpire? It is more likely that they would start questioning the umpire's authoritative role in the game. The umpire definitely has the power to call the ball a strike but, in this case, it would surely undermine the trustworthiness of the umpire. Because the umpire also has a duty to uphold the rules of the game. The umpire's continued social position as an umpire hinges upon the recognition of the umpire as having the intention and capacity to make decisions and judgements in accordance with the rules of the game.

> of people as definite classes defined by definite properties. As we get to know more about these properties, we will be able to control, help, change, or emulate them better. But it's not quite like that. They are moving targets because our investigations interact with them, and change them. And since they are changed, they are not quite the same kind of people as before. The target has moved. I call this the 'looping effect'. Sometimes, our sciences create kinds of people that in a certain sense did not exist before. I call this 'making up people' (Hacking, 2006b)

[40] Ásta (2018) holds a *conferralist* view, by which someone is a teacher because it is conferred by someone in a particular context. From this view one could argue that it is indeed both casually and synchronically dependent.

The distinction between social and institutional facts, where institutional facts are considered to be a subclass of social facts, is a useful distinction to make if we want to be able to separate such “simple” social facts as hyenas hunting a lion together, imitating others’ behaviour or going for a walk, from voting in congress by raising your arm, raising your arm in a classroom to indicate that you want to ask a question, or planning to get a doctoral degree. One thing that separates institutional facts from social facts is that the functions imposed on objects and people are not necessarily regulated by the physical structure of the objects and the people. The functions imposed are regulated and caused by other social facts. Another way of explaining the difference could be to use the distinction from Haslanger separating causal social constructions from constitutive social constructions. It seems that while a social fact can be merely constituted by a social act, such as hyenas hunting a lion, an institutional fact is always both a causal social construction and a constitutive social construction. To be an institutional fact is to be part of a network of other social facts that causes the institutional facts to come into existence.

Take for instance Rousseau’s famous example of the birth of property and ownership as social facts:

> The first man who, having enclosed a piece of ground, bethought himself of saying ‘this is mine’, and found people simple enough to believe him, was the real founder of civil society. From how many crimes, wars, and murders, from how many horrors and misfortunes might not anyone have saved mankind, by pulling up the stakes, or filling up the ditch, and crying to his fellows: ‘Beware of listening to this imposter; you are undone if you once forget that the fruits of the world belong to us all, and the earth itself to nobody.’ (Rousseau, 2022 [1754])

The example from Rousseau is not an example of an institutional fact; it is an example of a social act. It is a social act because the man convinces a group of people that a particular piece of land is his own and no one else’s. It is a social fact that can be used to give a causal explanation of the institution of private property and the institutional fact that I own my car. Thus, to be an institutional fact is to be part of a network of other social facts and institutional facts. The question at hand is: what are the missing pieces that need to be added when we go from a social act such as enclosing a piece of land for the first time, to recognizing my car within an institution of private property? And for my purpose: what are the missing pieces that

need to be added from an act of social learning such as imitating or showing, to recognizing an act as educational within an institution of education? First, there needs to be a recurring pattern of behaviour and action that we can identify for something to be part of an institution. But such a recurring pattern is not enough for human institutional facts. There also needs to be a set of deontic rules or constraints, i.e. what North has described, more metaphorically, as the rules of the game.

2. Institutional Facts and Deontology

While many non-linguistic animals, such as hyenas hunting a lion, are able to communicate many of their equilibria strategies, such social acts are most likely genetically rather than culturally inherited.[41] And most theorists of social ontology agree that Nash equilibria is not enough to explain the complexities of social institutions. We need to add a set of regulative rules of the form 'Do X'. An institution requires a deontology, a set of rules for how we ought to act. What is more controversial in this debate is if an institution also needs *constitutive rules* of the form 'X counts as Y in context C', as proposed by Searle.[42]

Similar to North's distinction between institutions and agents, Searle holds that "any theory of institutions has to begin with a distinction between the *institution* as a *system* and *institutional facts* as within the institution" (2015, p. 508). Private property is an institution while the fact that a piece of land is my private property is an institutional fact derived from my status function as the owner of the piece of land *given the institution of private property*. Such institutional facts only exist, according to Searle, "insofar as they are represented as existing" and "any theory of institutions has to contain a systematic account of representations, linguistic and otherwise, and their role in institutional reality" (ibid.). This is the difference between other animals' collective behavior and social positions within a group and the human institutions. While other animals can engage in collective actions such as social learning, have pair bonding and power structures with alpha females and alpha males, they do not have education, marriage or private property. Lots of animals are involved with complex and highly skilled cooperation, and at least some non-human animals are engaged in social learning activities and what we, in a rather broad sense, could call "teaching" (Gärdenfors & Högberg, 2017; Tomasello, 2014).

[41] This is not to deny that in some cases it is culturally inherited, such as when the older generation teaches the younger how to use a stick to gather ants.

[42] Frank Hindricks and Fransesco Guala (2014) have suggested that such constitutive rules can be reduced to regulative rules.

Social learning as well as teaching seems to be natural capacities among some non-human animals. And yet, they do not, as far as we know, have the concepts of 'learning', 'teaching' or 'education'. They do not have institutions and institutional facts.

On the one hand, it seems reasonable to think that a difference between hyenas hunting a lion and congress passing a legislation, is the capacity of the agents involved in the social act to recognize the particular social act as only one possible alternative among others. As humans we have the capacity to recognize the social act as well as the social fact as socially constructed. And in so doing, we recognize the social fact as being contingent, rather than "natural". What is socially constructed is, in this sense, under *our* control. Social facts can, or could, be otherwise. This is the main idea in Rousseau's example above. A social fact is created through a social act because people are "simple enough to believe him". If some or all of the people would not have believed him, the piece of land would not be his. If people would not have joined in the social act, and instead would have pulled up the stakes, or filled up the ditch, it would not have been a successful social act.

On the other hand, the main reason for why we accept private property in today's societies is rather because we take it for granted. It seems as though it is a natural thing. Group members' different positions in relation to each other and collective behaviour do not have to be recognized by the participators as social facts. They do not even have to be social constructions at all; they could be natural consequences of evolution. If they are in fact social constructions rather than natural consequences, they could still wrongly be thought of as natural. They could be discovered as social facts by an outside observer, such as for instance an anthropologist studying collective behaviour. However, they could also be discovered as social facts by one of the group members within the group itself. The point is that we seldom give an explicit consent to the institutions and institutional facts that surround us.

> Anyone reading this […] has lived in systems of private property all their lives. Have they ever lived in a community where property was allocated by collective intentionality on the principle: the first person who occupies it owns it? The closest we came in American history was the Homestead Act of 1862 whereby if you occupied, lived on, built a house, and farmed a quarter section of land for five years, you owned it. But even in this case the principle was created, imposed, and enforced by federal law. There was no Nash equilibrium. It was a federally imposed distribution of property,

> and as one would expect, people cheated like crazy. One form of cheating was that several members of the same family would apply for adjacent quarter sections. Instead of small family farms, as intended by the law, they had one large family farm. Prior to the existence of federal law, the whites simply stole property from Native Americans. Is that supposed to be a Nash equilibrium? (Searle, 2015, p. 511)

And sometimes societal order such as ownership or being a leader really can be thought of as natural. We can imagine a society with an emperor where the people recognize being emperor as a social role and the rights and duties that are attached to that social role, but they do not recognize this as a contingent social arrangement; instead, they understand it as part of a natural or divine order. But even if we do understand it as a contingent social construction, there is this sense of epistemic objectivity surrounding many of our institutional facts. And this objectivity is upheld by a collective "standing Declaration" which can be more or less explicit or tacit.

3. Opaque Institutional Facts and Standing Declarations

An institutional fact, according to Searle, is maintained by a "standing Declaration", and a "standing Declaration" seems to suggest a Declaration that is recognized as part of a special pattern of deontic rules. Institutions, once in place, can give rise to new status functions. Searle (2015) writes that: "*All institutional facts are status functions, and all institutions are systems that enable the creation and maintenance of status functions*" (p. 507).

Here it is useful to point out another feature of Searle's theory that is easy to misinterpret. A declaration is generally thought of as a conscious speech act. As such, the function of the speech act depends upon both the intention of the speaker and the proper interpretation of that speech act by the receiver in a particular context. But it does not have to be either conscious or verbal, and it can take various forms. A speech act works when it is properly satisfied. When a teacher asks a pupil during a lesson to read a passage from a book formulated as the question "could you read this passage?", we do not interpret it as a question that can be satisfied simply by answering yes or no, but as a Directive, or a prescriptive speech act. And a prescriptive speech act is properly satisfied if the proper action follows, in this case, if the pupil which is addressed reads the passage. Hence, the form of a spoken sentence can differ from its function as a speech act. When it comes to declarations, they are seldom expressed in everyday life as formally as "X counts as Y in C". Most often we create new existences and

functions rather informally as when the teacher suggests that we can use a random table as a rostrum for a presentation. Sometimes, such speech acts are not even explicitly expressed verbally. The teacher may just place the table in a special position such that everybody in the classroom starts to use it as a rostrum. And it can also be the case that everybody starts using a random table in the classroom as a rostrum, without the teacher ever having had this intention in the first place.

If we now add the broader understanding of collective intentionality as shared attention and the idea that collective intentionality, including mutual belief and shared intentions, can be both conscious and unconscious, we can see that it is quite possible that "declarations" can be expressed, accepted and upheld by us without us being consciously aware of them. It is thus quite possible that we can contest an institution on a macro-level while still accepting and upholding the institution and the institutional facts with our behaviour, actions and beliefs on a micro-level:

> millions and millions of small actions and reactions, many of which engender other small actions and reactions, and so on. It seems perfectly possible that we can contest certain institutions on a macro-level, both descriptively and normatively, while still performing actions on the micro-level that support the existence of these institutions. We have just not connected the dots. A possible way forward, then, is to focus on micro-level interactions and how these form patterns that can potentially exist and persist even in the face of widespread contestation on a summative level. But this requires an account of basic institutional facts that places them on the micro-level, rather than understanding them in terms of some kind of broader social agreement. (Brännmark, 2019, p. 1052)

Thus, institutions should be understood as a deontic system of rules that is being upheld by standing declarations through "millions and millions of small actions and reactions". Recognizing that intentionality is not equated with conscious beliefs, desires or intentions suggests that Haslanger's critique of Searle's theory of social ontology as being unable to capture much of our everyday informal life, is questionable.

Conclusion

In this chapter I have argued that it is important to hold on to Searle's distinction between social and institutional facts within a theory of social ontology. It is not enough to use simple egalitarian examples of two people going for a walk or painting a house when we are trying to understand our world of institutions. Institutional facts are products of our standing decla-

rations within a network of other social and institutional facts. The background and the network govern our social acts. Haslanger's distinction between causal and constitutive social facts can be used to capture this distinction between social facts and institutional facts. According to Searle (2010) human social and institutional reality gives rise to deontic power such as e.g. obligations, authorizations, permissions and requirements. I shall therefore, in the following chapter, turn my attention towards the notion of 'power'.

CHAPTER 5. SOCIAL POWER

Introduction

In its broadest sense, power is a capacity and power comes in many different forms. Very often we use the term power rather metaphorically. An earthquake can have the "power" to destroy a house, and a flower can have the "power" to turn towards the sun. How much of a metaphor is it to talk about social structures as having the power to govern human behavior? When we use power in this sense it seems to be a way of describing a causal non-intentional event rather than a capacity or an action.[43]

Power can also be the power of agents. As such it can be individual. I have the power to raise my arm in this very moment, and I believe that I have some power over what will happen tomorrow or next week. However, power can also be social and collective, and all social relations involve power relations.[44] As social agents we have the capacity to influence events and states of affairs in the social world, including each other. This kind of *social power* differs from what is generally called *brute power* (e.g. my capacity to raise my arm). Social power is different from brute power in that the former is dependent upon social and collective ideas and conceptions to exist, i.e. a president has a social capacity (power) to start a war

[43] I pretty much follow Haslanger's broad notion of a social structure as "a general category of social phenomena, including, for example, social institutions, social practices and conventions, social roles, social hierarchies, social locations or geographies, or the like" (2012, p. 413). Haslanger refers to both William Sewell and Anthony Giddens. Sewell writes: "Structures shape people's practices, but it is also people's practices that constitute (and reproduce) structures. In this view of things, human agency and structure, far from being *opposed*, in fact *presuppose* each other" (Sewell, 1994, quoted in Haslanger, 2012). Thus, social structures involve both agents (the players of the game) as well as social facts.

[44] One could argue that not all social relations involve power relations. Some relations seem to be egalitarian and equal, such as e.g. two people going for a walk. And I thank Åsa Burman for this comment. I hold that even such egalitarian relations do involve a power relation. What makes it egalitarian is rather that such a relation can be described as a symmetric power relation rather than an asymmetric power relation, such as the relation between a teacher and a pupil.

but not the brute power to start a war, and a teacher has the social power to start and end a lesson simply by stating that the lesson starts or ends.

Another way to distinguish different forms of power that is closely related to the distinction above is to separate between "power-to" and "power-over". While the former notion of power captures the ability to get what you want, advancing your interests or to do what you intend, the latter notion of power captures the ability to have someone else in your power, i.e. the power over someone else (Andersson [now Burman], 2007). So, a president's power to start a war depends on his power over others. Åsa Burman states that "power-over is intrinsically a relation; it consists in a relation between actors. Power-to is not intrinsically a relation between actors, but a property of an actor and a capacity to do various things" (p. 141). Therefore, "an analysis of power needs to account for the ways in which power can work on other people's minds and account for how social structures can enable and restrict the powers of agents" (p. 140). So, the first question to consider is the relation between *structural power* and *agentic power*.

1. Structural and Agentic Power

> Even apart from how one would expect liberal theorists of justice to follow through on the individualistic social ontology that tends to be assumed, it would accordingly be reasonable anyway to look not for systems of rules but for how there can be patterned distributions of rights and duties. Institutions constrain us, but what this means is not that there is a system of rules that constrain us – it means that we are constraining each other in certain patterned ways (Brännmark, 2019a p. 514).

Social power can be divided into *structural power* and *agentive power* (Fricker, 2007, p. 10ff). It is, however, debatable what constitutes structural power and what constitutes agentic power. From a structuralist, or Foucauldian approach, we can separate between subjectivity and power relations constituted by *discourse*. An important contribution from Foucault is that discourse is not about objects but about social positions and relations in practice. This differs from a Durkheimian focus on norms as systems of rules or juridical systems. For Foucault (2008), power has no central place; it is created and exists everywhere and is best described as *technology* rather than rules. He refers to how Marx recognized power structures in contextualized practice as different from juridical systems. Foucault summarizes this idea as an *archipelago of power* (Foucault, 2008, p. 209). Thus,

the focus for Foucault is on how power *works* within “historical shifts of institutionalized discourse and imaginative habits” (Fricker, 2007, p.11). In this sense, according to Miranda Fricker, power for Foucault works “purely structurally” and “is not helpfully explained in terms of particular agents” (ibid.) such as e.g. persons, groups or organisations.

With his notion of “bio-power”, Foucault highlights that power is productive rather than repressing and prohibiting. Thus, power produces through cultural normative practices and scientific paradigms the ways in which we perceive of ourselves and the world. The evolvement of these normative practices and paradigms, or in Foucault’s terms *discourses*, can be uncovered through genealogical historical studies. Institutionalized organisations and groups such as schools, parents, prisons, churches, hospitals etc. produce a *normalization* that, in turn, produces subjects that can be administrated. Even if it is not the case that any specific individual consciously has produced and formulated aims and objectives, power as interlacing networks according to Foucault has a rationality with aims, objectives and methods. Foucault uses Jeremy Bentham’s *Panopticon* to show that even if power operates rationally from a central place, it is irrespectively of the intentions of the individual guard in the tower. The panopticon is thus a paradigmatic example of modern disciplinary power. The inmates behave as if they are being constantly watched even if they never can *know* if they really are being watched through the monitors. It is therefore not because of external control per se, but rather through a kind of *internal monitoring*.

From a more individualistic approach the focus shifts towards agents’ engagement in social relations with other agents. This does not mean that it is denied that agents are socially situated. However, often the discourse, or structure, is referred to as *the network* or *the background* (see e.g. Searle, 2010 and Bratman, 2014) and even if it is not denied, it is fair to say that the importance of the background is often more or less disregarded in this tradition; there is a strong tendency to focus on the cooperation between autonomous rational agents in egalitarian settings. Lately, however, the importance of the impact of structures and discourses on human action is beginning to attract more attention also in this tradition.[45] Thomas E. Wartenberg describes power relations as *dyadic power relationships* that are socially situated and coordinated relations with social others (Fricker

[45] E.g. Searle (2010) devotes some parts of his book *Making the Social World* to address the question of “Background Practices” admitting the influence from both Foucault and Åsa Andersson (now Burman): “The sorts of things I have in mind are the various typically uncodified sorts of Background and Network constrains on social, sexual, verbal, and other forms of behavior” (p.155).

2007). A teacher's relation to her students is dependent on the social context of the school institution, the curriculum, grading system and the labour market etc. and also by other kinds of more or less tacit and opaque structures and social positions (race, gender etc.) that constrain the behaviour, but it is also an agentic relationship between persons, and the teacher does in fact have the (agentive) power to choose what and how to present in the classroom, and to grade her students. A teacher, or a student, possesses certain power in virtue of their place in a broader network of power relations. The agentic power of the teacher, or the student, is thus dependent upon their *social position* within a *social context*. A social structure is in this sense what enables and restricts an agent's power. Social structures are not by themselves forms of power. They are the presuppositions of social power, and they are at the same time created and maintained by agents; "a social structure exists when members of a social group, in virtue of that membership, systematically have their opportunities (as individuals) restricted or enhanced in ways that are in disproportion to their relevant abilities" (Andersson [now Burman], 2007, p. 153). To make this distinction clearer, we need to make a further distinction between active and passive power as well as between intended execution of power and unintended consequences of actions.

2. Active and Passive Power

Power can operate either actively or passively. Thus, power is not necessarily to exercise power. A teacher usually has the power to start and end a lesson, correct wrong answers on a test, to grade students and to fail and pass students. The teacher can exercise this power, but it is also the case that the power can operate passively. Having the power to correct wrong answers, grade students and fail or pass students tends to influence the students' behaviour even when this power is not being executed. Miranda Fricker (2007) argues that this view on power as a capacity ought to be an "unproblematic metaphysical point" (p. 10), but reminds us that it actually differs from the Foucauldian view on power and Foucault's claim that "[p]ower exists only when it is put into action" (ibid.). According to Fricker, there is no need to make such a claim because we can still keep a rather "metaphysically light conception of power and the idea that power operates in a socially disseminated 'net-like' manner" (p. 10) despite the fact that we recognize power as a capacity. Having a capacity or an ability is here understood as a disposition rather than an execution. We can thus separate between "having power" and "executing power" (see Andersson [now Burman], 2007).

Searle (2010) argues that the main difference between Foucault's use of the panopticon and a more agentic version grounded in intentions and intentionality is that the mere recognition of the prison guard as a prison guard and the inmates as prisoners is what creates the power relation:

> One immediate objection [to Foucault] is that the panopticon works as a vehicle of power only because the observer already has power independent of his epistemic status. He is not just a voyeur or Peeping Tom. He has power over the inmates regardless of his observations. Knowledge, in such cases, does not create power but only enables the more efficient and effective use of power that is already there. (p. 153)

Thus, it is their *social position*, and in this case their *consciously recognized status functions*, that grounds the power relation. The epistemic status can, however, make the exercise of power more efficient.

Often, social power, i.e. power-over, is described as getting people to act against their desires and inclinations. Thus, the teacher has the power to influence the students to study something that they otherwise would not choose to study. This can be formulated as "*A* exercises power over *B* when *A* affects *B* in a manner contrary to *B's* interests" (Lukes, 2005, p. 30. See also Searle, 1995, p. 100). The most interesting part of Steve Lukes' text *Power: A Radical View* is however the idea that the most effective use of power is to prevent conflicts of interests by influencing and shaping people's interests:

> To put the matter sharply, *A* may exercise power over *B* by getting him to do what he does not want to do, but he also exercises power over him by influencing, shaping or determining his very wants. Indeed, is it not the supreme exercise of power to get another or others to have the desires that you want them to have – that is, to secure their compliance by controlling their thoughts and desires? (Lukes, 2005, pp. 24-25)

Lukes is concerned with how to explain why individuals go along with institutions that are not in their best interest. This can be described as a more agentic version of Foucault's idea of governmentality, and is further developed in relation to Searle's theory of social ontology by Åsa Burman in *Power and Social Ontology* (2007), as well as by Searle in *Making the Social World* (2010):

> For example, power can be exercised by restricting the range of apparent choices available to the agent over whom the power is being exercised. If the subject perceives a small range of choices open, when others are in fact also possible, then the agent who can create this perception has exercised a very strong form of power, the power of manipulating the subject's perception of available options (Searle, 2010, p. 149).

Additionally, both Burman and Searle point out that without intentionality, there is no capacity for social power (either actively or passively). Burman argues that even if social structures are important, social structures are a result of unintended consequences, and not themselves forms of power.

3. Causal and Normative Social Power

After making the distinction between brute and social power, where the latter is defined as dependent on collective intentionality, Burman separates between "causal" and "normative" forms of social power: While normative power works through perceptions of normative reasons, causal social power does not. Typically, a normative social power is a deontic right that someone has in virtue of one's social position or status function. A teacher has the power to demand certain tasks from a student. Burman also suggests that some of the normative powers are telic rather than deontic.[46] Telic power works through expectations and ideals rather than rights. A student passing through an educational system will probably form certain ideas concerning what it is to be a good student and a good citizen. And this kind of power is therefore important when we want to understand how we value how well people live up to certain purposes attached to our social positions or status functions within a certain context. It is one thing *to be* a teacher. It is something else *to be a good* teacher. And similarly, it is one thing *to be* a woman. And it is something else *to be a good* woman. In *Making the Social World*, Searle acknowledges this kind of social power and calls it "Background/Network power". He adds however, that this kind of power as described so far does not live up to his exactness and intentionality constraint:

> We would still have to specify who has power over whom with respect to what exactly and what is the intentional content of the exercise of power. If

[46] I used Burman's taxonomy of deontic, telic and causal social powers in my MA-thesis to show how the move from a deontic to telic curriculum opens up to more opaque social power structures.

> I hold political opinions that are regarded as immoral or outrageous, or if I am known to engage in sexual practices that are regarded as impermissible, then society will impose certain sanctions on me, and the threat of those sanctions, I want to argue, is, or can be, an exercise of power (p. 155-156).

Searle's solution is to view society, or parts of society, as a group-agent. He does not use the term "group-agent" but points towards the idea that there is collective intentionality in the form of practices, presuppositions etc. that are typically shared by the members of society. Of course, there are also contested beliefs within a society, but it is quite common that we think of groups as promoting certain ideals, and as such as being causal agents that have at least some impact on the ideals that we ourselves form as individuals. Sometimes these ideals are formalized in conventions, and the causal agent can be everything from a transnational organisation such as the UN or the EU to the idea of the nation state as a *we*, or organisations within the nation state such as the national board of education, political parties and so on. There are also non-explicit informal groups that think of themselves as a *we*: A community, a family or a group of friends. The point is that groups tend to share some common ideals, and to be part of such a group is to be an individual for whom the group has more or less telic normative power-over.

Causal social powers are trickier, but no less important if we want to capture opaque power relations. Some causal powers are visible, while others are not. Visible causal powers are described as a "spill-over-effect" of normative powers. A teacher often has the power to influence the students' opinion, taste and view of the world through e.g. the right to choose some of the content that is being presented in the classroom. Even if it is not the teacher's right to demand that a student acquires certain aesthetic, moral, political or religious values, a teacher often has the causal power to do so.[47] It is also usually the case that a teacher is given more epistemic trustworthiness than the classmates just in virtue of being a teacher. This trustworthiness is not deontic, i.e. the teacher does not have the right to be trusted just in virtue of being a teacher. It could also fall under telic power if the teacher is trusted because of an ideal that trusting the teacher is part of

[47] This idea can possibly explain why it is sometimes hard to distinguish between what is descriptive and what is normative. Sometimes it seems that something that is descriptive in form has this kind of "spill-over-effect", due to e.g. the selection of what is presented and described. News-reports, as well as teaching or doing research, can have an ideal of being objective and descriptive, while still being selective in a way that has effects on our values, desires and intentions, and consequently on our choice of actions.

being a good student. I do not think that such an ideal is in place in contemporary schools, at least not from my experience as a teacher in the Swedish school system. Also, such an ideal would likely result in the opposite effect. It is quite possible that it is a "spill-over" effect as a causal power due to having the status function of being a teacher.

The invisible causal powers are divided into three different possible scenarios. The first scenario is a case of *manipulation* where the subject is unaware of the influence from the power-holder. The power is thus invisible for the subject. Burman refers to a definition from David Easton: "When B is *not* aware of A's intention to influence him but A does in fact manage to get B to follow his wishes, we can say that we have an instance of *manipulation*" (Andersson [now Burman] 2007, p.152). And Burman adds that "[f]or A's ability to be a manipulation of B to be an exercise of *social* power, A's ability to manipulate B needs to be dependent on collective intentionality" (ibid.). This can easily be a scenario for educational activities. Having the status function of being a (trustworthy) teacher set the stage for this kind of manipulation. I will come back to this in my discussion concerning the nature, purpose and aims of education. The second scenario is if the power-holder is unaware of her power while the subject of power is aware of it. Burman gives the example of a person from England that is ignorant of history while travelling around the world:

> In all the British colonies she gets a better room than the local population due to her being British. The hotel staff does not consider her as having the right to the best room, i.e. they do not regard themselves as normatively bound to act in this way. So, we cannot understand this case in terms of deontic powers and hence as a normative form of social power (p. 153).

In the third scenario neither the power-holder nor the subject is aware of the social power in play. Burman writes: "This type of power presupposes the existence of a social structure which is *opaque*" (ibid.). We can apply Fricker's notion of *testimonial injustice* to this scenario and imagining how a male teacher appears more trustworthy than a female teacher. A male teacher that thinks of himself as a feminist could still be totally unaware of his advantages in a group. And the feminist female teachers in the group can be totally unaware of the situation also. It could be the case that the whole teaching staff, and also the students, regard themselves as very aware of the social structures of male domination, and still do not recognize that they are actually upholding this social structure in their actions and behaviour. It could also be the opposite case, that such a group creates a

milieu that has the effect of male teachers stepping back too much, and that this is also not recognized.

We live in a world of both symmetrical and asymmetrical power relations, and many of these asymmetrical power relations are unjust. Injustice is maintained by ideology, and to quote Haslanger: “Ideology critique is essential to lessen the wrongs that are perpetrated not only on the battlefield and in government, but in practices of everyday life” (2019, p. 1). Haslanger highlights two main ideas from the critical tradition of Michael Foucault and Louis Althusser:

> First, self-knowledge and self-mastery are not politically innocent. What I know about myself (what I attend to do, what is true of me, what I make true of myself through self-management) is not necessarily an adequate starting point for critique or liberation. First-person experience, or even the shared experience of a group, may only be evidence of the effects of ideology. Second, ideology is not simply a matter of beliefs, but acts on and trains our bodies, our perception, our desires, our emotions, through our engagement in practices. In order to constantly conform to social norms, it is much easier to identify with them than merely to go through the emotions. (2019, p. 5)

According to Haslanger, we participate in social practices guided by a set of public meanings, what she calls a *cultural techn*ē. My point, following Burman and Searle is that there cannot be a social practice or social positions without collective intentionality. A cultural technē depends upon a mind’s directedness towards the world.

Conclusion

In this chapter I defend an agentic account of social power rather than a structuralist account of social power in the Foucauldian sense. This is not to deny the importance of recognizing social power structures, especially if they are unjust asymmetric power structures. It is rather to point out that there can be no social power structures without agents and collective intentionality. It is therefore never the social structures themselves that execute power. It is the agents within that social structure that create and uphold the social structure and restrict and enable themselves.

Second, social power can be both active and passive. Having a capacity or an ability is here understood as a disposition rather than an execution. The mere recognition of a social position enables and restricts the power

of an agent as well as other agents' power that stand in a relation to this agent. Social power is thus described as a power-relation between agents which means that when we are trying to describe social power, we ought to look for it in the capacity of agents and their relation to each other.

Third, power structures can be opaque in the sense that neither the power-holder nor the subject is aware of the social power in play. This means that these kinds of power structures can be discovered. However, it does not mean that they "live their own lives out there". Åsa Burman suggests that they be treated as a "spill-over" effect, i.e. a causal power due to us having particular status functions and social positions. Explicit powers can be described as either deontic, such as having particular rights and duties, or as telic, i.e. as ideals that govern our behaviour. Searle recognize this telic power as the "Background/Network-power". Our ideals are shaped by our social background and our social network. Still, this social background and the social network are created and upheld by us through our standing declarations.

CHAPTER 6. A SUMMARY OF SOCIAL ONTOLOGY AS A THEORETICAL FRAMEWORK

The purpose of this part of the book has been to create a toolbox that can lay the groundwork for a theory of the social ontology of education as a human right. To enable this, I believe that such a theoretical framework should be coherent with a more general theory of social ontology. This is my main reason for devoting a substantial part of the first part of the book to defend a specific theory within social ontology. I am, and have been for quite a few years, convinced that Searle's theory of social ontology is by far the best theory yet in the sense that it has the broadest and deepest explanation for social and institutional facts. By the broadest explanation I mean that it can handle both small scale social phenomena as well as complex social structures. This is not uncontroversial. Therefore, I use both Åsa Burman's theory of social power and Sally Haslanger's critical approach to show that Searle's theory is more than a refurnished social contract theory that presupposes free egalitarian agents. While Burman's theory is best viewed as an expansion of Searle's theory as presented in *The Construction of Social Reality* from 1995, I also conclude that Searle's theory as presented in *Making the Social World* from 2010 captures more of Haslanger's critical approach than is generally assumed. A more benign reading of Searle's theory reveals that it can handle opaque social structures and contested beliefs. The crucial element here is to recognize collective intentionality as minds' directedness towards the world rather than mere explicit collective or shared intentions. By the deepest I mean that his theory of social ontology is a part of a more general theory of both mind and language. This gives a deeper explanation than most normative and social theories. It is, however, a work in progress that will need constant readjustments. Therefore, I rather consider part one as presenting a toolbox towards a theory of the social ontology of education as a human right.

In the first chapter I started off with some more general assumptions concerning what constitutes a social world. Following the desideratum of Berger and Luckman a theory of social ontology needs to be able to explain humans as the creators of the social world as well as human as situated in, and products of, the social world. And it also needs to be able to explain how, at least some parts of, the social world appears objective. I also used Miller's idea of social institutions as "molecular" rather than functional or mere aggregates of individual desires or intentions. This metaphor captures how the whole of a social institution seems to be more than the sum of its parts. And finally, I used North's distinction between institutions as "the rules of the game" and agents as "the players of the game", where agents include group agents such as organizations and corporations. I conclude in chapter 1 that if agents are the constructors of the social world the social world is constituted by social acts and cooperation.

In Chapter 2, I zoomed in on the question of what cooperation and social acts are. Bratman's theory of "planning agents" was introduced and I acknowledged his theory as capturing a vital aspect of social agency. It is, however, too narrow to capture all aspects of social agency. Even though Kutz offers a broader theory of cooperation as doing one's part towards a common goal, both Kutz's and Bratman's theory seem to already presuppose a "we" in their individualistic accounts, and this presupposition is criticized in the" circularity charge". Therefore, I turned to Searle's idea of cooperation as a "we-mode" rather than the content of individual intentions. However, while Searle treats this "we-mode" as primitive and unanalysable, Björn Petersson offers a way of analysing the "we-mode" as recognizing the "we" as a causal agent where the whole is more than the sum of its parts. Finally, I suggested that Petersson's notion of group agents as causal agents enable us to explain how groups also can be recognized by others from a third person perspective. An individual agent need not recognize oneself as part of a group *from the inside*. As pointed out by Haslanger, individuals are often forced into different kinds of categories *by others*. In this way, groups can be explained as causal agents that are not in cooperation.

While Petersson seems satisfied with an explanation of we-intentions,[48] I turned back to Searle's concept of 'collective intentionality' in Chapter 3. Intentionality is explained as the minds' directedness towards the world and includes, not only intentions, but also beliefs, desires, hopes and fears

[48] Petersson writes that "the position outlined above is an elaboration of Searle's we-intentions, not of his general theory of intentionality" (2015 p. 33).

etc. Another important point is that intentionality is not equated with consciousness; our minds can be directed at things in the world unconsciously. Collective intentionality, then, is when two or more minds are directed at the same thing. Thus, the minimum requirement for collective intentionality is some kind of joint attention. I concluded that we can have joint attention towards things in the world both consciously and unconsciously without sharing the same interpretation or belief. This explains why there can be, not only contested beliefs, but also contested desires and intentions. Collective intentionality does not imply cooperation either in the strong sense of we-intentions or in a weaker sense of Nash equilibria. It does not even imply shared beliefs and desires. It further suggests that we can create, accept and uphold social facts in our social world without us being consciously aware of it. In other words, it suggests that there can be opaque social facts in the world even though they are products of collective intentionality.

In Chapter 4 I tried to defend Searle's idea of *collective intentionality*, *deontic rules* and *status functions* as "the three building blocks of institutional reality", and his notion of institutional facts as a subcategory of social facts. The distinction between social facts and institutional facts is important if we want to make a distinction between social acts and social facts more generally, and institutional facts as parts of institutions with deontic rules and status functions. Here I applied Haslanger's distinction between causal social constructions and constitutive social constructions and argued that while social facts are merely constituted by a social act, such as hyenas hunting a lion, an institutional fact is always both a causal social construction and a constitutive social construction. Thus, institutional facts depend on other social facts and institutional facts. They are always part of a network and a background.

Finally, in Chapter 5 I defended an agentic view on power rather than a structuralist view on power following both the work of Åsa Burman and Searle. Social power structures are created by agents and are constituted by collective intentionality. This does not mean that social power must be conscious and explicit. Social power can be, and is, sometimes opaque. There is however a tendency, in works like Bratman, and maybe also Kutz and Searle, to disregard the importance of the background. Even if e.g. Bratman is right about the fact that we often cooperate despite different ideals and goals, surely our background and personal ideals have something to do with our will to cooperate. However, this insight should not preclude us from assuming an agentic account of social power structures. Again, this is a way of trying to construct a bridge between the rather naïve

view of liberal rational agents making a conscious social contract with others and the critical approach of contested and opaque social facts that we so often conceive of as “structures living their own lives”.

The aim of Part One was to explain the social world in accordance with the desideratum of Berger and Luckman: 1) *Society is a human product*, 2) *it is an objective reality*, and 3) *man is a social product*. The tools and concepts that has been presented in this part will now be applied to the notions of ‘human rights’ and ‘education’ in the following parts.

PART TWO: HUMAN RIGHTS

CHAPTER 6. CATEGORIES OF (HUMAN) RIGHTS

Introduction

> Human rights are the rights to which humans are entitled; or, to put it more accurately, human rights concepts articulate what it is that humans are entitled to. It should be immediately stressed that entitlement is not – as it might sound to some – a matter of privilege. The entitlement of which we speak here is an entitlement of necessity, not of indulgence. Saying that human beings are entitled to something does not thereby make that something an object to be fashionably coveted or popularly desired. It rather implies that these are things that without which human life is not complete or properly human. The entitlement associated with human rights is a requirement of certain things due to any human being. (Biletzki, 2020, p. 4)

Human rights are often explained as rights that all humans have by virtue of being humans, serving to protect all people everywhere from severe political, legal and social abuse. However, philosophers and theorists frequently debate the meaning of human rights, the universality of human rights, the foundation of human rights, the duty bearers of human rights, the priority of human rights, the function of human rights, and the implementation and enforcement of human rights. There are thus many different definitions of, and views on, "human rights", and they agree more or less with the rather ambitious contemporary international declarations at hand. It is fair to say that the notion of "human rights" is highly contested and can therefore not, and should not, be immediately equated with some stipulated constitution.

Two main questions arise when we consider human rights and education and how they are related to each other: the first one is in what way (if any)

education could be considered a universal human right. The second question concerns what place (if any) human rights talk has in education. In other words, the first one addresses *education as a universal human right*, while the second one addresses *human rights education* (HRE). These are separate questions, but they are also related in several ways. Fundamental questions concerning human rights such as the meaning, grounds, existence and justification of human rights, as well as substantial questions concerning the content of any human rights list, are relevant not only if we want to answer the questions if, or in what way, education is a human right, but also if we want to answer the questions of what HRE is and ought to include. The answers to both of these questions are also partly dependent upon our view on the nature, purpose and aims of education: what kind of education can we assume that humans have a right to, and should the educational curriculum be not only descriptive but also prescriptive?

This part is concerned with four main questions: What is a human right? How are human rights related to other kinds of rights? Can human rights be epistemically objective? And can we answer these previous questions within a theory of social ontology? Finally, I will come to the discussion concerning HRE in chapter 12.

The statement "Education is a human right" implies that there are such things as human rights. And human rights are commonly understood as rights that we have simply in virtue of being human. The idea seems simple, even tautological. However, it is an idea that presumes several philosophical assumptions that can be questioned. If there are such a thing as human rights, then human rights are a form of rights. What is a right? What does it mean to have a right? And what does it mean to be a human? What kind of rights are human rights? A further concern is the phrasing "in virtue of".

In her recent book *Philosophy of Human Rights: A systematic introduction* Anat Biletzki challenges us to ask the question: "what is it about being human that entitles us, as human beings, to something that is due precisely, exclusively, and universally, to human beings?" (Biletzki, 2020, p. 3). To say that human rights apply exclusively to human beings is to say that human rights apply *only* to human beings. To say that human rights apply universally to human beings is to say that they apply to *all* humans.

One way to answer the question "Are there such things as human rights?" positively is to use ostension. We can point towards those rights that are listed in various multilateral treaties and conventions. In this sense, education is a human right because it is stated as such in UDHR as well as in other conventions such as the *African Charter on Human and People's Rights* (African Union, 1981). This would be an example of what I have

previously labelled a *naïve formalist* view on social facts.[49] The fact that such rights are expressed in these formal documents does not prove their existence in every-day practice. As pointed out by Jeremy Waldron (2020) ostensive definitions are quite useful and often necessary when we want to define certain terms such as simple colour words, but it will not do when we are trying to understand complex ideas such as human rights. What we want to understand is how the terms "human" and "rights" work together to constitute the meaning of the concept human rights, and additionally in this inquiry, what place, if any, education has in human rights.

It is, as previously stated, fair to say that the question of what exactly human rights are is far from being resolved, and neither is the question of what is meant by "education" in this context. The concept of human rights has a long history and yet, as James Griffin (2008) points out:

> The term 'human right' is nearly criterionless. There are unusually few criteria for determining when the term is used correctly and when incorrectly—and not just among politicians, but among philosophers, political theorists, and jurisprudents as well. The language of human rights has, in this way, become debased.
>
> […] When during the seventeenth and eighteenth centuries the theological content of the idea was abandoned, nothing was put in its place. (p. 15)

Searle (2010) expresses a similar frustration:

> There is a peculiar intellectual hole in current discussions of human rights. Most philosophers, and indeed most people, seem to find nothing problematic in the notion of universal human rights. Indeed, Bernard Williams tells us that there is no problem with the existence of human rights, only with their implementation and enforcement. (p. 174)

It is true that when we teach human rights in school, and even in our every-day talk about human rights, we generally refer to the human rights project that evolved during the 20th century, in the aftermath of the 2nd World War. Even more specifically, we often refer to the *Universal Declaration of Human Rights* from 1948. Sometimes though, we also refer to the enlighten-

[49] I.e. Mrs. Andersson is a teacher because she is formally recognized as a teacher. Mrs. Andersson has a teacher's degree and/or is employed as a teacher in a school.

ment project of human rights. Even though some of the enlightenment philosophers, such as for instance John Locke, referred to "natural rights" derived from "natural law", it is easy for a contemporary critical theorist to discharge the philosophical ambitions of some fundamental moral rights that we have simply in virtue of being human as no more than Western liberal ideals. And the ideas of natural rights were contested already in the 18th and 19th century by Jeremy Bentham (1843) as "nonsense on stilts" and later by Karl Marx (2001 [1844]) as "liberal" and "atomistic". On the other hand, it is also worth mentioning that while some theorists in the Western liberal world dismiss the ideal grandiose project of universal human rights because of the economic and political agenda, people in different parts of the world fight for their right to free speech, education, and freedom of movement.

The subject of rights, liberties and duties has been addressed by thinkers outside the Western liberal tradition. However, as pointed out by Patrick Hayden (2001), while the Western philosophical tradition tends to emphasize individual rights grounded in "features such as rationality and the ability to choose freely for our own purposes, many non-Western philosophical traditions give primary emphasis to the inseparability of individuals and communities" (p. 9). The Chinese philosopher Confucius (551-479 BCE) viewed society as an organic whole in which individuals have a duty to contribute to the harmony of the state. In such a state there are no individual rights claims against the state. Hayden also points out that similar ideas can be found in many African and Islamic traditions. But there are also non-Western schools of thought that emphasizes the protection of individual good when rulers of government may harm that good. Another ancient Chinese philosopher, Mo Tzu (470-391 BCE) argued, according to Hayden, "that justice should be administered impartially so that the needs and interests of all can be cared for equally within a system of humane governance" (ibid.).

The fact that the idea of rights and duties common for all can be found in different cultures throughout time suggests that a more universal human rights culture should not be incriminated all together. It is not merely a political project of the modern Western liberal tradition, and it is not merely agreements between nations and states. The idea of rights (and duties) that we have simply in virtue of being humans has both deeper and wider roots. We are not trying to capture in what context the term "human rights" first appeared or is being used in practice. What we want to capture is the concept or the idea of human rights, i.e. rights that we have simply in virtue of being humans. The western enlightenment idea of natural rights

attributed to individuals and grounded in reason was influenced by an ethical tradition from ancient Greek philosophy, Judeo-Christian scripture, and Roman moral and legal theory (Hayden, p. 3). As pointed out by Charles Taylor (2001 [1996]), this older notion of the Law of Nature was that society stands under the law of the Creator and this Law of Nature was beyond human will. What happened during the enlightenment was that this idea "was reconceived as consisting of natural rights, attributed to individuals prior to society" (p. 413). This liberal and individualistic idea of human rights has been criticized, not only by communitarian and critical theorists in the Western tradition, but also by non-Western theorists and politicians, as being foreign to the cultural traditions of non-Western communities. But it has also been defended. Xiarong Li (2001 [1996]) argues against the dismissal of the universal validity of human rights by pointing out that the critique of the Western human rights-project is merely a rationalization on the part of authoritarian governments looking to rationalize their repression of citizens.

It is easy to see that these tensions within human rights theory are similar to the fundamental questions being asked within social ontology. Are human rights natural or social? Are human rights individual or collective? If human rights are social constructions, and all social constructions are relative to context, how can human rights be universal? Further, if all social constructions, and thus all institutional facts, are produced by humans it seems that they are subject-relative rather than objective. Following Searle, we could even hold that they are observer-relative, thus intentionality-relative. All human rights build upon collective intentionality and collective recognition. Can there then be anything objective about human rights? If human rights are social constructions, they are ontologically subjective. However, the question if they are epistemically subjective or objective is still open for discussion.

Before we address these questions and the question of how human rights are conceptually related to other kinds of rights, we should start with a distinction between the older notion of objective natural rights from a more contemporary notion of rights as individual and socially constructed.

1. Subjective and Objective Rights

The subject of justice, rights, liberties and duties has been addressed by theorists almost since the beginning of philosophy. However, rights theorists usually separate the pre-modern "objective" sense of rights from the modern "subjective" sense of rights (see e.g. Wenar, 2021). The former objective sense of rights has to do with what is just or what is fair according

to the "natural order" rather than ascribing rights to individuals. Socrates divides 'justice', in Plato's *Republic*, into two different types: First, justice in the state as when the various classes perform their proper functions, and second, justice in the soul as when each of the parts in the soul performs their proper functions. The main idea is that there is a type of human rational capacities that must be realized according to the nature of the good, if a just community is to be achieved. Aristotle had a similar idea but highlighted the social, practical and telic aspects even more. According to Aristotle, the best life for a human being is a life lived in accordance with reason. All species, including humans, have a specific nature with specific aims and goals. The function of every species is to move according to its specific nature towards a specific *telos*. Further, Aristotle states in *Politics*, Book One, that man is by nature a social, or even a political, animal. There are no self-sufficient humans in isolation; we are always interdependent. Thus, pure individualism is therefore impossible. Humans need to be habituated into the good life, i.e., the proper life in accordance with reason, through teaching and experience. This means that humans have no antecedent natural rights. Humans can only flourish within the framework of an organized *polis* (Shields, 2020).

In the 13th century, Aristotle's ideas re-emerged in Thomas Aquinas attempt to synthesize Aristotelian philosophy with Christianity. Aquinas states that 'law' is that which binds one to act and that "the rule and measure of human acts is the reason" (Aquinas, 2001 [1915], p. 43). There are four different forms of law: eternal law, natural law, divine law and human law. Laws that are formed by men are either just or unjust. Human laws can be unjust in two different ways according to Aquinas. First by being contrary to human good and secondly by being opposed to the divine good. So, for Aquinas, by the grace of God, there is a divine order in relation to which humanly constructed laws are either just or unjust.

John Locke had a similar but different view:

> …by his [God's] order and about his business, they [humans] are his property whose workmanship they are, made to last during his, not one another's pleasure: and being furnished with like faculties, sharing all in one community of nature, there cannot be supposed any subordination among us, that may authorize us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for our's. […] he has no liberty to destroy himself, or so much as any creature in his possession, yet when some nobler use than its bare possession calls for it. (Locke, 2018 [1688] *Treatises* II. 2.6)

Locke argues, in accordance with his Christian and liberal line of thought, that if all humans are created by God, then all humans are God's property. We are therefore all equal, and we do not have the right to destroy one another or ourselves. Both murder and suicide violate the divine purpose. And if the aim is survival, then life, liberty, health and property follow, according to Locke, as means. Thus, they are natural rights in accordance with natural law:

> The state of nature has a law of nature to govern it, which obliges everyone: and reason which is that law, teaches all mankind who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty or possessions…. (Locke, 2018 [1688] *Treatises* II. 2.6)

This law is recognizable for all humans through reason. The big difference from Plato, Aristotle and Aquinas is that, according to Locke, these natural rights exist for individuals prior to society.

The problem Griffin (2008) addresses is that when the more secular theories (such as e.g. utilitarianism) appeared and the theological content was abandoned, "nothing was put in its place". Alasdair MacIntyre (2007 [1981]) concludes in *After Virtue* that the Enlightenment project of finding other grounds than the theological for morality and natural rights was doomed to fail. Natural or human rights, says MacIntyre, are mere fictions, no more real than unicorns and witches.

However, some debunking philosophers, such as e.g. J. L. Mackie (1990 [1977]) and Richard Joyce (2007), seems to go too far in their rejection of the existence of moral facts. Their main point seems to be that it is hard to see how such peculiar facts as moral facts fits into our scientific worldview. Contrary to this conclusion, Åsa Burman points out that if we can give a plausible view on how social and institutional facts fit in with our contemporary worldview, we can acknowledge moral facts as parts of our socially constructed world. This means that we do not need to reject the existence of moral facts no more than other kinds of social facts. By treating moral facts as institutional facts, moral facts are demystified. Burman concludes that:

> [T]he stake for denying the existence of moral facts will be significantly raised; denying the existence of moral facts means denying the existence of social and institutional facts as well. (Andersson [now Burman], 2007, p. 159)

I suppose one can object here that it is quite possible to accept social and institutional facts and still deny that moral facts are social facts. The point however is that if moral facts are reduced to social constructions, they can still be as real as other kinds of social facts. We do not need to treat them in the same way as unicorns and witches.

Still, treating human rights as moral rights is to view them as different from other kinds of rights, such as e.g. legal rights or even civil rights. What, then, is the difference? Can human rights be something other than political international agreements between states?

2. Legal Rights, Civil Rights and Other Kinds of Rights

One could argue that in a perfectly just world, legal rights, civil rights and human rights would match perfectly so that the distinctions would be redundant, or that we could at least treat human rights as a perfectly fitted subcategory of basic rights within any legal system. However, the world we live in is far from just. It is rather unjust by default. And this is exactly why we need a distinction between legal, civil and human rights.

Legal rights, which are the rights that are stipulated within a legal system, usually within a state, are different in different countries and different contexts. And legal rights are always formal and explicit. Therefore, if someone is unsure of what is legally right or wrong in a specific context, that someone could look it up in a statute book. As such they can be modified, repealed and restrained. In Searle's terms, legal rights are ontologically subjective but epistemically objective. One can reject the content of the *Convention of the Rights of the Child* but if someone denies that the CRC exists as part of Swedish law, that someone would simply be wrong. You can disagree with what the law says but still recognise what the law says as a fact. And you can practice civil disobedience if you have contesting moral or political convictions.

Civil rights can, but does not have to, agree with legal rights. They can be described as political rights that protect individuals from violations of freedom by governments, social organizations and private individuals. Thus, civil rights presuppose a civil society because they protect *jus civis* (the rights of a citizen). The *English Bill of Rights* from 1689, as well as well as the Scottish *Claim of Right Act* from the same year, include such civil rights as free elections, government interference, the right of petition and just treatment of people by courts. Especially the *English Bill of Rights* had a great influence on the *United States Bill of Rights* in 1789 as well as the *United Nations Universal Declaration of Human Rights* (UDHR) 1948 and the *European Convention of Human Rights* (ECHR) 1950. The main

purpose of civil rights is to guarantee equal protection under the law, and such organizations as the *Civil Rights Movement* in the United States is one example of a social movement that aimed to end legalized racial discrimination and racial segregation.

Often a formal distinction is made between negative rights (i.e. non-interference) and positive rights (i.e. the right to provision of some good or service). We can also make a more substantive categorization of rights. We can talk about *security rights* such as protections against assault, murder, torture and genocide. These rights were especially in the fore during the adoption of UDHR in 1948, in the aftermath of WWII. We can talk about *freedom rights* such as the right to an opinion and the right to free speech as well as the right to bodily integrity and the right to property, and also freedom of religion and freedom of association. These are often viewed as negative rights and are especially important in the liberal tradition. Here we can add the right to *political freedom* such as the right to protest, the right to vote and the right to engage in the political public debate. And we can also add *juridical rights* such as the right to an open and fair trial. Then we have *equality rights* such as equal citizenship, equality before the law and non-discrimination. Finally, we have what is generally called *social rights*, and sometimes 'welfare-rights'. These rights are what we can call the paradigmatic examples of positive rights such as the right to health care, the right to a certain standard of living and the right to education.

All of the rights above are generally thought of as rights that we have as individuals. Additionally, there is a debate concerning *group rights*; rights that we have as members of a particular group. Typical examples of such rights are the rights of women, minority rights and children's rights. However, maybe more controversially, if we add such a category as *animal rights*, it becomes obvious that a "human right" is nothing more than a group right, i.e. rights that we have because we are recognized as belonging to the animal subcategory of human beings. Another way to phrase this idea is that "the term 'human' in 'human rights' may refer not to the right-bearers (and various aspects of their humanity) but to the class of people for whom violations of these rights are properly a matter of concern" (Waldron, 2020, p. 162). It is tempting for philosophers, says Waldron, to "first identify some master value like autonomy, dignity or equality and then derive individual human rights from that" (p. 161). But when it comes to rights declarations, he continues, "[t]hey tend to be presented as lists, not theories" (ibid.). Waldron's point is that when we identify human interests that are particularly and universally important, it is always a work-in-progress. Therefore, it would be "a mistake to insist dogmatically on a single

source of rights just in order to give the list a spurious coherence and closure" (ibid.). This means that we acknowledge that there are a class of rights that ought to be of general concern for all humans:

> The idea is that there is a class of rights such that no human should be indifferent to the violation of any right in that class. These rights are called 'human rights' because humans as such are called upon to support them. (Waldron, 2020, p. 162)

I will thus treat human rights as a group right and children's rights as a subcategory of human rights, all of which are *recognitions of rights that we have simply in virtue of belonging to a specific group or category*. Thus, someone can have a right as belonging to the category of being a citizen in the USA, or in Sweden and as a citizen of some other state within the EU. Supposedly, then, someone can also have a right as belonging to the category of being a human. And humans are not necessarily citizens of a state; humans can be stateless.

The question is which of these rights that are listed above are human rights rather than rights as a citizen within a national legal system. And also, of course, if some of these rights are moral rights rather than political rights. Are human rights political rights or moral rights? I will argue that human rights are a special urgent category of fundamental moral claim rights that we have simply in virtue of being human. Without defending a substantial list of exactly what kind of rights that belong to such human rights, the aim of this thesis is to argue that education can very well be understood as a fundamental human right. Following the desiderata suggested by Tristan McCowan (2012), when labelling education as a human right we ought to recognize

> the importance and urgency of the task: universal access is not an aspiration that we can fit in where possible if time and resources permit. It is an absolute requirement of justice, an immediate obligation, and one that implicates all human beings, directly or indirectly. (p. 12f.)

This prompts us to ask two main questions: can we make sense of the idea that education is a fundamental human right rather than a derived right that we infer as a means to secure other kinds of rights? And, are human rights epistemically objective rather than epistemically relative to a particular nation, society or community? The first question is one of the main questions

of this book. The second question is the main question addressed in this part of the book.

3. Human Rights

What is the point of having a concept such as 'human rights'? What valuable purpose does the concept of 'human rights' serve that isn't captured in other similar concepts, such as for instance 'natural rights', 'civil rights' or 'legal rights'? It seems to me that the most proper way of understanding a term such as "human rights" is *rights that we have simply in virtue of being human*. How else should we understand such a term? Do we need such a concept? I think we do. Such a notion captures the idea that there are some fundamental moral standards that holds for every human being.

> Human rights are the rights to which humans are entitled; or, to put it more accurately, human rights concepts articulate what it is that humans are entitled to. […] It […] implies that these are things that without which human life is not complete or properly human. The entitlement associated with human rights is a requirement of certain things due to any human being. (Biletzki, 2020, p. 4)

It would be odd to say that human rights are only those rights that are contained in international agreements between states and at the same time say that human rights are meant to protect *all people everywhere* from severe political, legal and social abuse. Anat Biletzki (2020) suggests that we ought to separate *Human Rights*, as the grand international liberal project of the western world enacted by formal institutions such as the UN, from *human rights* work done on the "rough ground":

> [I]t is that grand, international, organizational, formalistic institution that suffers from illusions of grandeur rather than admitting ordinary suffering, from a desire for power rather than objection to it, and from globalized interests rather than a local interest in welfare. (Biletzki, 2020, p. 225)

When Human Rights, says Biletzki, with reference to Stephen Hopgood, has become an establishment of the Western empire with internal conflicts and external pressure, their viability becomes uncertain; Human Rights has reached a "dead end". What we need to do is to look at and do "human rights in actual political frameworks" (ibid.). In my own understanding, it seems that we have good reasons for treating formal institutions such as

e.g. UN, EFA and HRW, as well as the nations of world politics, as no more than agents, or players, within a much bigger institution of human rights, recognizing that, as humans "on the rough ground" as well as organizations, we are all players of this game every day.

How should this be done? According to Biletzki, this view on human rights means acknowledging that human rights are always political. And it is true that human rights work is almost always politically situated. However, this does not mean that basic human rights are necessarily ideological and political. If we want to be able to criticize the ideological underpinnings of formally constituted Human Rights, we need something to stand on. We need a ground for how to answer what it means, in Hannah Arendt's terms, to have "the right to have rights", and what it means to fight for such rights. I will argue that it is quite possible, and quite necessary if we want to embrace the orthodox idea of human rights as rights that we have simply in virtue of being humans, to defend the view that there are *epistemically objective moral truths*. And we can embrace this epistemic objectivity and at the same time be agnostic about the ontological status of these moral facts. In other words, recognizing moral truths can be compatible with different metaethical views concerning the nature of such moral facts, all the way from moral realism, through moral constructivism to some forms of moral anti-realism (see also Haslanger, 2017, p. 165 n. 14). Too many involved in debunking projects of moral facts fail to recognize the possibility of epistemic objectivity even if the ontology of whatever is debunked.[50]

I am convinced that we can address issues of injustice without using ideal aims of justice. When doing ideology critique, what we need is some kind of moral knowledge to properly target what is wrong in our societies:

> I endorse the presupposition that there are moral truths (facts), for example, that slavery and genocide are morally wrong, that rape is morally wrong, that men and women have a right to bodily integrity. Moreover, the presupposition that there are some moral truths cannot be avoided by those engaged in justified political resistance. To claim that a critique of dominant practices is ideological is itself a claim about the epistemic and moral credentials of that critique; it is not just a claim that the critique rests on different, but equally good, values. Not every cultural technē is ideological. (Haslanger, 2017, p. 165)

[50] See e.g. Joyce (2007).

As will be suggested in this thesis, education as both a process of formation as well as the development of critical thinking, plays a major role in securing such moral knowledge and the epistemic objectivity of such fundamental moral standards. If there is any function in education that can be considered to be a constitutive and necessary element of education, it is to increase our collective intentionality in the sense of mutual understanding of the world. But this is not to suggest that education is a human right because it is a necessary means for securing other human rights. Such an argument would be quite circular. Education is first and foremost a human right because without education, our lives would not be properly human. However, such an argument also needs to be able to explain what is meant by the term "education" in the proposition "education is a human right", and that issue is postponed until Part Three. The focus here is still to try to make sense of 'human rights'.

Before we address the question of universality and human rights and how social ontology can work as a theoretical framework for understanding human rights, we need to take a closer look at what we mean by a right. What is a right? The most well-known formal account of rights is probably Wesley Hohfeld's account from 1913.

4. The Hohfeldian Formal Account of Rights and Duties

Hohfeld suggests a four-folded distinction of rights that also can be applied to human relations more generally:[51]

> The term "rights" tends to be used indiscriminately to cover what in a given case may be a *privilege*, a *power*, or *immunity*, rather than a right in the strictest sense. (1913 p. 30 [emphasis added])

A "right in the strictest sense" is also called a *claim-right* or simply a *claim*. In other words, rights can be divided into *claim*, *privilege*, *power* and *immunity*. The four distinctions of rights can thus be defined in the following way:

> **Claims:** *A* has a claim that B φ *if and only if* B has a duty to A to φ.
>
> **Privileges:** A has a privilege to φ *if and only if* A has no duty not to φ.
>
> **Powers:** A has a power with respect to B *if and only if* A has the ability to

[51] See also Brännmark (2018) and Gilbert (2018) for such general applications.

alter or determine B's Hohfeldian incidents.

Immunities: A has an immunity with respect to B *if and only if* B lacks the ability to alter or determine A's Hohfeldian incidents.

The four distinctions can be divided into *first-order* and *second-order* rights. While claims and privileges are first-order rights, powers and immunities are second-order rights because they involve a modification of first-order rights. Thus, powers are rights to modify the deontic relation. A government can have the power to modify the privileges and claims of the state, the educational system, the schools, the teachers, the parents and the pupils. Immunities can be held against e.g. the government's or the state's ability to change the deontic relation. One way to have immunity against the state is for example by how certain actions of the state would violate one's human rights, and where these rights then trump the state's objectives. The state can of course still carry out the relevant measures by force, but it cannot do it rightfully.

Hohfeld then pairs the list of rights with two other lists of *opposites* and *correlatives*:

Opposites

If *A* has	**a Claim,**	**then *A* lacks**	**a No-claim.**
…	a Privilege,	…	a Duty.
…	a Power,	…	a Disability.
…	an Immunity,	…	a Liability.

Correlatives

If *A* has	**a Claim,**	**then some person *B* has**	**a Duty.**
…	a Privilege,	…	a No-claim.
…	a Power,	…	a Liability.
…	an Immunity,	…	a Disability.

This schema can be directly applied to educational relations. 1) A has a privilege to learn iff A has no duty not to learn. 2) A has a claim that B teaches iff B has a duty to A to teach. 3) A has a power in relation to B iff A has the ability to change the deontic relation between A and B, e.g inferring compulsory education. And 4) B has an immunity towards A to attend

public school iff A lacks the ability to assign a duty to B to attend public school.

The rights are situated in a context of institutional rules, and a person's social position in such a social context determines the rights. We can apply Searle's formula for institutional facts to the Hohfeldian schema: X has a claim-right to education, given the social position Y (e.g. a status function such as being a child) in a specific context C (e.g. within the Swedish educational system). This claim-right is not a privilege for the child against the state. It is not a negative liberty right. It is a positive claim-right, and primary education is also compulsory in this context. The child also has a duty to attend school. It is rather a power of the state, in relation to the parents', or the child's, no-claim to alter or modify the deontic relation within the system of compulsory education. It is thus a liability of the parents and the child in relation to the power of the state and its educational system (including schools and teachers). Both the child and the parents have a duty towards the state. And at the same time, the child and the parents have a claim-right towards the state to offer education. The CRC is now a part of Swedish law. A hired teacher has a liability to the educational system and also has a duty to teach the pupil, and the pupil has a claim-right against the teacher as well as the educational system and the state.

Thus, if we want to say that someone has the right to education (i.e. the right to be taught) then there also has to be a correlative duty for someone to teach. So, if someone in a specific context has the right to be taught, then there also has to be someone who, not only has the ability to teach, but who also has the duty to teach.

If we apply the "ought implies can"-principle it follows that if A has a duty to φ, A has the ability to φ:[52]

> If A has the duty to teach, A has the ability to teach.

And if we hold the ability to teach as a constitutive part of what it means to be a teacher, we could also add that

> If A is a teacher, A has the ability to teach.

Maybe it is possible to go even further and hold that having the ability to teach is both a necessary and sufficient condition for being a teacher. Thus, we can state the stronger claim that

[52] Note that 'ability' is not equal to 'power' in the Hohfeldian schema.

> A is a teacher iff A has the ability to teach.

So, in a context, such as e.g. the Swedish educational system, where there are right-holders of education, there are also duty bearers of education. If we accept that education has to involve both a teacher and a student, then saying that the state has the duty to offer education is to say that the state has the duty to offer such a relation. And while the state has the duty to offer education, it is the hired teacher who has the duty to teach.

> There is a right-holder B that has a claim-right to education, i.e. to be taught) iff there is a teacher A that has the ability to teach B and A has the duty to teach B.

So far, the only assumption concerning education is that education contains a relation between a teacher (A) and a pupil (B) and that the main function of a teacher is to teach, and the main function of a pupil is to be taught. The added Hohfeldian schema gives us added tools for capturing how such a relation could function formally. Nothing substantially has yet been said concerning what teaching and being taught is. These questions are still postponed to Part Three.

Conclusion

In this chapter I have introduced ”human rights” as a special category of rights and suggested that human rights are only valuable as a concept on its own if it is understood as rights that we have simply in virtue of being humans. In other words, I propose an orthodox notion of human rights. Human rights should not be equated with or reduced to either legal rights or civil rights. Neither should they be reduced to formal international agreements between states. This does not mean that we need to treat them as natural rights with an ontologically objective existence. Human rights, as well as rights, are concepts created by humans for humans, and it is not the term “human rights” that is under investigation. It is the idea of having rights simply in virtue of being human. Human rights are thus fundamental moral standards that constitute being human. Still, I believe that we also need a broader conception of what a right is when we talk about human rights. Hohfeld’s notion of rights as relational, i.e. as always having correlatives, is important, and also, his notion of proper rights as claim-rights. Rights are not first and foremost liberties or immunities. Rights are first and foremost social in the sense of having a claim on others.

In this part of the thesis, I will argue that a right is *a right to a relation*, and a human right is *a morally justified claim* that is *independent of membership in a particular nation*. Human rights are abstract rights rather than context-specific rights in the sense that they are rights recognized by humans for all humans and that to be denied such rights would make our life less complete or not properly human. They need to be abstract so they can be adjusted and implemented in different ways in different contexts. To be a human is to be recognized as a human, i.e. as having a membership in some particular culture, locatable in place and time. It is to be recognized as having a certain social position, a social position that entails some rights and duties. It is not merely a social position; it is, in Searle's terms, a status function. In the last chapter of this part of the thesis I will come back to how social ontology can help us to understand human rights. Before this, we need to consider the relation between a right being context-relative and being universal.

CHAPTER 8. UNIVERSALITY AND RELATIVITY

Introduction

Theorists that have a more humanist or fundamentalist approach to human rights typically tend to ground human rights in rationality and language, implying that beings who lack rationality and language, such as small children, mentally impaired humans and non-human animals lack such rights. Other advocates for a more naturalistic approach have suggested that rights could be grounded in sentiments or interests, which would include beings that lack rationality and language. Skeptics, on the other hand, have argued that "natural rights" is simply "nonsense" (e.g. Bentham, 1843), and advocates for a political conception of human rights, instead understand the nature of human rights as their function in modern international political practice. The strength of a political conception is that it avoids grounding human rights in a particular religious, philosophical or moral conception, as stated by Joshua Cohen:

> we do not specify the concept or the content of a human rights conception by looking to worldviews and values, taking them as determinate, fixed, and given, and searching for points of de facto agreement. Instead, we hope that—as is so often the case—different traditions can find resources for fresh elaboration that support a conception of justice and human rights that seems independently plausible as a common standard of achievement with global reach. (Cohen, 2004 p. 213)

This suggests that the most interesting question concerning the epistemic objectivity of human rights is not whether they are grounded in natural facts or viewed as social constructions. The more interesting question con-

cerns how to understand the supposed universality, or possibility for epistemic objectivity, of human rights, if they are recognized as products of our social world. In other words, a more constructive way forward seems to be to focus our attention on the epistemology of human rights rather than the ontology. This is not to suggest that we should abandon ontological questions concerning human rights altogether. First, seeking grounds that can justify human rights is important. However, a theory that grounds human rights in some specified absolute value, such as autonomy or inherent dignity, is probably not the most constructive way for reaching global consensus. Second, I hold the view that we still need a *social ontology of human rights*. We still need to explain how human rights exist in our social world. Otherwise, they could just as well be treated as "nonsense" or "fictions".

1. Minimalism and Global Consensus

One of the most pressing contemporary issues concerning human rights is the question of universality and relativism. It is twofold: the internal question consists in the tension between the supposed fundamental right to freedom of thought and the demand to recognize and accept a list of human rights.[53] The external question consists in the tension between epistemic objectivity and subjectivity. Few states today directly challenge international human rights, and the preeminent political, economic and cultural powers almost unanimously support the human rights project. In other words, as formulated by Jack Donelly (2007), human rights "have become ideologically hegemonic in international society" (p. 282). Some globalization enthusiasts even highlight the possibility of international human rights institutions being part of an emerging global governance regime to diminish state sovereignty.[54] However, there is also a postmodern tendency, within critical legal studies and postcolonial theory, to deconstruct

[53] E.g in the Preamble of UDHR it is stated that "Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge, as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction", and in Article 18 it is stated that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".

[54] See Nickel (2002) for a discussion on this topic.

the objectivist language of human rights and reveal the narrative of human rights as western political myths and illusions (Zembylas, 2014, p. 1150). If human rights are not God-given or in some other way natural and/or morally grounded, but merely contingent ideological and historical inventions, i.e. social constructions, it would seem that human rights are all about political power.

Following this line of critique, one could argue that a political conception is more suited in an open-minded, diverse and multicultural global world. It can thus capture a more "postmodernist" view of rights as context dependent. Additionally, we could in practice reach global consensus concerning some basic rights without discussing metaphysics. On the other hand, one could also argue that a political conception of human rights seems to miss the very point of universal human rights (i.e. rights that all humans have *in virtue of being humans* with the purpose to protect all people everywhere from severe political, legal and social abuse) if it requires political recognition. Political views seem to vary just as much as religious, philosophical and moral views. Also, the fact that there is a consensus concerning some particular human right in a political practice only shows that the parties agree on this notion, and not why this right ought to be understood as a human right.[55] A common criticism against the contemporary human rights declarations, as mentioned previously, is that they are derived from a western liberal tradition. So how are we to arrive at this "common standard of achievement with global reach"?

According to John Rawls, who introduced his idea of human rights as a political conception in *The Law of Peoples* (2001), human rights are *a special class of urgent rights*. Similar to his arguments in *A Theory of Justice* (2005 [1971]), Rawls imagines what kind of international structure free and equal peoples or nations would choose behind a veil of ignorance (i.e. without knowing which country they would belong to including its size, wealth and power). If they were to choose rationally in light of the fundamental interests of their country, they would, according to Rawls, choose principles for global order that would include some basic universal human rights. He arrives at a limited minimalist list of basic human rights that he thinks is plausible for all reasonable countries, not just for liberal democracies but also for what he calls "decent hierarchical regimes" (p. 80):

> Among the human rights are the right to life (to the means of subsistence

[55] This does not have to be a problem per se, if we are ok with HR as merely being international agreements. However, if we want to make a difference between HR and international agreements between states it presents a problem that deserves some attention.

> and security); to liberty (to freedom from slavery, serfdom, and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought); to property (personal property); and to formal equality as expressed by the rules of natural justice (that is, that similar cases be treated similarly). Human rights as thus understood, cannot be rejected peculiarly liberal or special to the Western tradition. They are politically parochial. (p. 65)

The minimalist approach of Rawls can be compared to the more ambitious list of the 1948 *Universal Declaration of Human Rights*. And important to note in this inquiry is that education does not qualify as a human right according to Rawls. In fact, most of the remaining provisions that we usually find in international conventions of human rights, including the socio-economic provisions, are, according to Rawls, merely "liberal aspirations" of which some also "presuppose specific kinds of institutions" (Rawls, 2001, p. 80 n. 23). Another, and more general, criticism of Rawls theory would be that even behind a veil of ignorance, Rawls seems to presuppose that we have some kind of ideal concerning justice and equality. But are not also ideas of 'justice' and 'equality' social constructions from our background and network? Cohen (2004) describes the dilemma in terms of being tolerant of fundamentally different religious, ethical and political outlooks on life, or being ambitious in our understanding of what human rights demand. It seems that we cannot be both: "the proposed route to minimalism begins in toleration and ends in a very thin set of normative principles" (p. 192).

A solution to this dilemma is, according to Cohen, to choose *justificatory minimalism* instead of *substantial minimalism*. While the latter focuses on the content of human rights and generally limits the human rights list to protections of negative liberty, justificatory minimalism depends upon the idea of a "global public reason" that allows different lines of argument within different ethical and religious traditions as long as they arrive at the same conclusion concerning rights. In this way justificatory minimalism can acknowledge pluralism and embrace toleration. A proper minimalism of this sort, according to Cohen, does not have substantively minimalist implications. In other words, justificatory minimalism seems to open up the possibility for a more extensive list of human rights. However, the problem of justifying the content or explaining why it is recognized still remains unresolved. What do we have a right to and why are these rights considered to be human rights? One of the most popular theories during

the last decades is the capability approach that tries to ground human rights in human capabilities.

2. The Capability Approach

The capability approach to human rights (CAHR), developed by Martha Nussbaum and Amartya Sen, highlights the question of *what rights are to be understood as rights to*:

> When we speak of human rights, do we mean, primarily, a right to be treated in certain ways? A right to a certain level of achieved well-being? A right to certain resources with which one may pursue one's life plan? A right to certain opportunities and capacities with which one may, in turn, make choices regarding one's life plan? Political philosophers who debate the nature of equality standardly tackle a related question head on, asking whether the equality most relevant to political distribution should be understood, primarily, as equality of well-being, or equality of resources, or equality of opportunity, or equality of capabilities. (Nussbaum, 1997, p. 274)

Both Nussbaum and Sen have argued that CAHR is a valuable theoretical framework in the international development context and that it has important advantages over approaches that focus on wealth (e.g. GNP per capita) and welfare, often construed in terms of desire satisfaction or utility. Measuring the overall wealth does not say anything about how the wealth is distributed, and the utility approach typically tends to think of the social total or average, which means that it can tolerate a result where a few individuals suffer extreme deprivation as long as the total is good enough. Another central problem for a utility approach is how it should deal with what has become known as "adaptive preferences ", i.e. "preferences that adjust to the low level of functioning one can actually achieve" (Nussbaum, 1997, p. 283). Often, persistent victims of discrimination seem to internalize a conception of their own unequal worth resulting in a quiet acceptance of deprivation and bad fate. The utilitarian calculation of satisfaction does not seem to be able to capture the difference between deprived people's feelings of satisfaction, even when they are in a very poor state, and the angst and dissatisfaction of wealthy and privileged people.[56] Religious, philosophical or moral conceptions also affect how people value

[56] John Stuart Mill did try to solve a similar dilemma for utilitarianism but had no concept of the complexities of "adaptive preferences". In *Utilitarianism* he writes "It is indisputable

their own lives. Rawls' way of dealing with this is, as previously shown, to argue for a limited minimalist list of basic human rights to "primary goods".

Sen has objected to Rawls' list by pointing out that individuals vary in their need for resources and their ability to make use of these resources. The solution according to both Sen and Nussbaum is thus instead a list of capabilities:

> An approach focusing on resources does not go deep enough to diagnose obstacles that can be present even when resources seem to be adequately spread around, causing individuals to fail to avail themselves of opportunities that they in some sense have, such as free public education, the right to vote, or the right to work.
>
> For this reason, we argue that the most appropriate space for comparisons is the space of capabilities. Instead of asking "How satisfied is person A," or "How much in the way of resources does A command," we ask the question: "What is A actually able to do and to be?" In other words, about a variety of functions that would seem to be of central importance to a human life, we ask: Is the person capable of this, or not? (Nussbaum, 1997, p. 284f.)

In contrast to Sen (2005), Nussbaum (1997) has tried to generate and justify a list of what she considers to be central human capabilities. On this list, education is mentioned as necessary for the capability of "Senses, imagination and thought" (p. 287). Thus, education is not viewed as a capability but rather as some resource or means for these other capabilities. Nussbaum states that the list is supposed to list "those human capabilities that can be convincingly argued to be of central importance in any human life, whatever else the person pursues or choose" and that "[t]he central capabilities are not just instrumental to further pursuits: They are held to

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that the being whose capacities of enjoyment are low, has the greatest chance of having them fully satisfied; and a highly endowed being will always feel that any happiness which he can look for, as the world is constituted, is imperfect. But he can learn to bear its imperfections, if they are at all bearable; and they will not make him envy the being who is indeed unconscious of the imperfections, but only because he feels not at all the good which those imperfections qualify.

It is better to be a human being dissatisfied than a pig dissatisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, is of a different opinion, it is only because they only know their side of the question" (Mill, 2015 [1861] p. 123-124).

have value in themselves, in making a life fully human" (Nussbaum, 1997, p. 286).

Nussbaum stresses that the suggestions in the list are "Open-ended and humble" and that it can always be contested and remade.[57] Even though it takes account of biology as a "relatively constant element of human experience" it does not read fixed facts of "human nature". Nussbaum holds that it is "an attempt to summarize the empirical findings of a broad and ongoing cross-cultural inquiry" (ibid.). Sen is even more skeptical towards a fixed canonical list that can be applied globally:

> pure theory cannot 'freeze' a list of capabilities for all societies for all time to come, irrespective of what the citizens come to understand and value. That would be not only a denial of the reach of democracy, but also a misunderstanding of what pure theory can do, completely divorced from the particular social reality that any particular society faces. (Sen, 2005, p. 158)

And

> To insist on a 'fixed forever' list of capabilities would deny the possibility of progress in social understanding, and also go against the productive role of public discussion, social agitation, and open debates. I have nothing against the listing of capabilities (and take part in that activity often enough), but I have to stand up against any proposal of a grand mausoleum to one fixed and final list of capabilities. (Sen, 2005, p. 160)

Important to notice here is that what is discussed is primarily capabilities, not rights, and the relation and supposed correlation between capabilities and rights is not settled. Also, it is important to separate between facts of human nature, functions and valuing certain capabilities as "good" or "bad". We should also separate between universal recognition of rights and recognizing rights as universal. I will now try to deal with these matters in turn.

What is the relationship between rights and capabilities? Nussbaum (1997) understands a human right as "an especially urgent and morally justified claim that a person has, simply by virtue of being a human adult, and independently of membership in a particular nation, or class, or sex, or ethnic or religious or sexual group" (p. 292). Nussbaum separates between

[57] In my view *education* is a human capability that indeed is of central importance for any human life and has a value in itself and not just an instrumental value to further pursuits.

basic capabilities, *internal capabilities* and *combined capabilities*. A basic capability is the innate equipment that is needed to develop a more advanced capability. Thus, most infants have an innate and basic capability for practical reasoning and imagination from birth, but development and education are needed to be able to advance the exercise of this capability. An internal capability amounts to "states of the person herself that are, so far as the person herself is concerned, sufficient conditions for the exercise of the requisite functions" (p. 289). Thus, most adult human beings have the internal capability to use speech and thought in accordance with their own conscience so long as they are not forbidden or in other ways manipulated not to do so. Combined capabilities are thus defined by Nussbaum as "internal capabilities combined with suitable external conditions for the exercise of the function" (p. 290). The best way to think about rights, according to Nussbaum, is therefore as combined capabilities which involve both an internal and an external component

What is involved in securing a right, says Nussbaum, "is usually a lot more than simply putting it down on paper" (p. 293). Viewing rights as rights to capabilities thus guards against the dangers of assuming that the holding of formal entitlements is sufficient for them to be exercised in practice. The external component involved in a right also means that a right contains a more explicit specification of a duty bearer. Nussbaum, more clearly than Sen, also stresses that a human right is an urgent and *morally justified claim* that a person has, *simply by virtue of being a human adult*, and *independently of membership in a particular nation*. The central human capabilities that she lists also take account of biology as a "relatively constant element of human experience". In this sense, I take it that the central human capabilities are related to our conception of human nature and the rights that we recognize as human claim-rights are not just random capabilities of humans but capabilities that we value as especially important for a human life. What, then, is the difference between a human capability and a function? A flower can be said to be capable of turning towards the sun; it is part of the flower's nature. The function of doing so seems to involve an interpretation of purpose, i.e. saying it turns towards the sun because it needs sunlight, rather than saying that because it is a flower, it turns towards the sun. Choosing valuable human capabilities is thus related to assigning purposes to humans. Nussbaum holds that individuals must be left free to determine their course after they have their capabilities, and even though the capabilities approach is highly focused on the goal of functioning, the approach is not to push people into function. Nussbaum says: "once the stage is fully set, the choice is up to them" (p. 290).

3. Universality and Relativity

Returning to the question of universality and relativity, to say that a right is recognized as a universal human right is not the same as saying that rights are universally recognized. The main purpose here is not to argue for a conception of rights as universal rights on the basis that they can instantly be universally recognized, or that they already are so recognized. It is rather to put forward and argue for rights as universal human rights that *ought to be universally recognized and secured for all people everywhere at any time*. This, however, does not mean that we have to argue for a "fixed forever list" of neither capabilities nor human rights. People and societies change and evolve. One could argue that it is a fact that different societies have different perceptions of right and wrong (i.e. "descriptive relativism"). However, it does not necessarily imply that there are no universal rights at all. And it does not imply that there is no universal right that we could universally agree upon after some deliberation. One could also argue that there are no objective moral truths (i.e. "metaethical relativism"). This, however, does not preclude the possibility of universally recognizing rights and duties as universal. On the other hand, one could argue that different persons ought to do different things depending on their cultural attachments (i.e. "normative relativism"). Normative relativism, however, does not logically follow from descriptive and metaethical relativism (Tesón, 1985). As pointed out by Fernando Tesón, normative relativism is incoherent and even self-contradictory because it simultaneously affirms that (a) there are no universal moral principles; (b) one ought to act in accordance with the principles of one's own group; and (c), (b) is a universal moral principle (1985, p. 888).

Now, recognizing something as normative does not mean that we also recognize something as moral. In a sense, we *ought* to follow the law even if we think it is morally wrong. Some practical reasons for action are hypothetical imperatives such as if I want to avoid a fine or going to jail, I ought to follow the law within the given context. Other reasons for actions can be purely traditional. In a specific context I ought to do something because it is traditionally "how things are done".

As pointed out earlier, it might seem that a more political conception of human rights is better suited to deal with both descriptive and metaethical relativism. However, neglecting cultural differences, and philosophical, religious and ethical views altogether for international political negotiations and agreements stipulated in international declarations, is to surrender to a top-down version of human rights as constructed power relations between states and powerful organizations, rather than recognizing universal human

rights and duties between all human beings (including states and organizations). As pointed out by Margaret Gilbert (2018), legal and institutional rights stipulated in documents and declarations may be less problematic epistemically and ontologically than moral rights, but they are at the same time normatively weaker. Every now and then, people all over the world justify going against the stipulated law because of some deeper moral conviction. As mentioned earlier, the central assumption here is that it is not enough for an individual to have a demand-right simply by appealing to either morality or law. Some form of *collective recognition* has to be supplemented.[58]

This does not necessarily mean that the recognition consists of a belief in *inherent dignity* in humans. Laura Valentini (2017) makes a good case arguing for human rights understood as recognized *status dignity* rather than grounded in inherent dignity. First, she states that a plausible definition of human rights should meet the following desiderata:

> (i) Distinctive moral significance: the concept of human rights captures a distinctive moral phenomenon, i.e. human-rights violations must be distinctive wrongs, for which it makes sense to create a separate moral category.
>
> (ii) Consistency with ordinary language use: the concept of human rights is reasonably in line with ordinary language use
>
> (iii) Metaphysical agnosticism: the concept of human rights remains, as far as possible, agnostic with respect to disputed metaphysical views (p. 869)

Second, she distinguishes between inherent dignity and status dignity:

> **Status dignity**: a status an entity possesses, comprising stringent normative demands.
>
> **Inherent dignity**: an inherent property of an entity, possession of which is said to justify the attribution of a given status to it.

[58] In other words, institutional rules can be questioned and overridden by moral convictions. And also, the opposite, one can choose to follow an institutional rule or law despite having moral doubts concerning the rule. However, it seems that if the institutional rule is in accord with the moral conviction, it gives a stronger normative motive than if not. I.e., what matters is if there is a collective recognition within a group to follow a rule.

She argues that "human rights articulate standards for respecting the status dignity of the subjects of sovereign authority, rather than the inherent dignity of human beings qua humans" (p. 864). This opens up for applying dignity to corporate agents, such as states, and not only to human individuals. The focus here is on how human rights and dignity should be understood, not on what grounds or what justifies them. It is thus a *formal* account of human rights rather than a *substantial* account of human rights. According to Etinson and Liao (2012), a formal account "provides criteria for distinguishing human rights claims from those that are not human rights claims", and a substantial account "provides criteria for generating the content of human rights" (p. 347). Valentini holds that the concept of human rights should capture a distinctive moral phenomenon understood as a separate moral category, and emphasizes the *political* function of human rights. Historically, it is correct that the UDHR was created with the purpose of constraining the conduct of states and state-like enteties. Valentini refers to Charles Beitz' view that the central concern is to protect individuals from their governments, and adds that

> human rights regulate the sui generis moral relationships between agents with sovereign authority and their subjects. In today's world, this type of relationship exists paradigmatically—but not exclusively—between states and those within their jurisdiction. (Valentini, 2017, p. 873)

Thus, the political approach, according to Valentini, has more distinctiveness as a distinctive moral phenomenon, than an orthodox (i.e. natural or humanistic) view. The latter view tends to treat the category of human rights as merely a set of fundamental moral rights, while the former highlights the *relation between the state and its citizens*. States are thus, according to the political view, the primary bearers of human rights responsibilities. This, in turn, argues Valentini, is very much in line with ordinary language use:

> By definition, on a political approach, human-rights violations can only be perpetrated by sovereign and authoritative entities: so private murders are not human-rights violations, while state executions of political opponents are. (Valentini, 2017, p. 874)

Contrary to this, one could argue that just because we primarily tend to focus on the violation of state law in the case of private murders, it does not mean that the violation is not also a violation of a human right. It seems

perfectly in accord with ordinary language use to say that it is not only a violation of state law, it is also a violation of a human right, because the right to life, e.g. not to be murdered, is a human right.[59] As an example, the segregation of African-Americans in the USA was motivated by relying on exactly this kind of argument. Despite the 14th amendment of equality before law, segregation was not considered a violation of the African-Americans' rights if it was done by private people, only if done by the state. In fact, from this point of view it seems quite contrary to ordinary language use to say that murder or segregation, private or not, is not a violation of a human right. Similarly, if a Swedish parent deprives his/her child of primary schooling, it is not only a violation of Swedish law, but also presumably a violation of the child's right in a deeper sense.[60] This seems to suggest that in this respect Valentini's political approach fails to give a convincing formal account of human rights; i.e. it fails to provide criteria for distinguishing human rights claims from those that are not human rights claims.

Even if the political approach advocated by Valentini successfully avoids metaphysical controversies by tying human rights to assigned status dignity and duty bearers, instead of inherent dignity in individuals, it still fails to answer the substantial question concerning criteria for generating the content of human rights. How do we agree upon what should, and should not, count as a human right? Could we accept the status dignity account in order to avoid metaphysical disputes and still give a more substantial account?

While the orthodox perspective on human rights has the advantage of capturing the specificity of human rights as human entitlements, the political perspective can more easily capture the point that rights need institutional embodiment and that rights are constructed to fit with specific modern institutional contexts, such as the right to an impartial trial and free elementary education. Gilabert (2013) suggests a general strategy for synthesizing what he labels "humanist" (i.e. "naturalistic") and "political" (or "practical") approaches. CAHR could, according to Gilabert, meet two serious objections from political advocates if it is combined with a contractualist framework of normative reasoning. The first objection concerns the gap between capabilities/interests and rights (i.e. to say that there is reason to value a capability is not a sufficient warrant for saying that there is a

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[59] Private murders are what Griffin has called "doubly universal"; i.e. both the right not to be killed as well as the duty not to commit murder applies to *all* humans in virtue of being humans (see Griffin, 2012 p. 101 ff.).

[60] Here Valentini would probably agree because a parent usually is considered to be a sovereign authority in relation to his/her child.

right to have it). The second objection concerns the disconnection from practice, i.e. “the failure on the part of those conceptions to calibrate their relation with the actual contemporary practice of human rights as it has developed since World War II” (2013, p. 311). Gilabert argues that if we add a Scanlonian contractualism[61] to CAHR, we could solve the proposed gap between capabilities/interests and rights, as well as the disconnection from modern international political practice.

It is useful to separate between *abstract rights* and *specific rights*. Gilabert points out that the naturalistic perspective tends to focus on the abstract rights while the political perspective tends to focus on specific rights. Abstract rights, says Gilabert, “provide us with a moral compass in choosing between alternative feasible institutional designs for the future” (p. 304). However, he also adds that if we have the ambition to seriously protect “general human interests […] we should pay attention to the specific forms they take in specific contexts” (p. 303). Abstract rights are defined as rights that “hold for every human person in every social context”, while specific rights is defined as rights that “hold for every human person in certain particular social contexts” (p. 310). In this way, we could address both institutional and interpersonal threats. Because we can make the distinction between abstract and specific rights, argues Gilabert, there is no necessary conflict between them, and hence no necessary conflict between the natural and the political perspective. A natural perspective need not to be atomistic concerning human nature and propose a fixed set of rights, even though it tends to highlight “quite general features of human beings in their social life” (p. 304). This seems to be in line with Nussbaum’s view that the list in CAHR is “Open-ended and humble” and that it can always be contested and remade.

On the one hand, Gilabert proposes a tightening of Scanlonian contractualism so that it can handle not only principles for right and wrong actions but also handle reasoning concerning rights:

> In general, to say that A (a rightholder) has a right to O (an object) against

[61] “An act is wrong if its performance under the circumstances would be disallowed by any set of principles for the general regulation of behaviour that no one could reasonably reject as a basis for informed, unforced, general agreement” (Scanlon, 1998, p. 153). Thus, an act is wrong if it is unjustifiable. There are four principles of “reasonable rejection”: 1) objections to the proposed principle are stronger than objections to at least one relevant alternative; 2) the proposed principle imposes unacceptable burdens on individuals to whom it applies; 3) the way individuals are affected of a principle is not what other individuals in similar circumstances would not accept; 4) a principle may be rejected by appeal to various considerations such as well-being, autonomy, fairness, and responsibility.

> B (a duty-bearer) involves saying that there are feasible and reasonable demands on B that they respect or promote, in some significant ways to be specified, A's access to O. The specification of what B owes to A regarding O tracks the moral importance of A's interest in O, the feasible ways for B to respect or promote A's access to O, and the subset of such feasible forms of respect or promotion that do not involve morally unacceptable burdens on B or others (given the importance of their own interests) and on A (given the importance of other interests of A besides that concerning access to O). Contractualist reasoning is helpful in identifying the importance and content of each of these considerations. (p. 313)

On the other hand, Gilabert argues that contractualism can serve to tighten CAHR in at least four ways: 1) it can make better sense of human rights as entitlements by adding considerations of feasibility and desirability to make the relation between the right-holder and the duty-bearer more clear, and at the same time add other considerations such as responsibility and fairness besides the value of capabilities; 2) contractualism adds reasonability to rationality in that it stresses the ability to engage in impartial moral reasoning besides the capability to form and pursue a conception of the good; 3) it highlights that rights involve both entitlements and obligations by stressing that "A's right to O against B cannot be justified without showing that the burdens imposed on B to help secure A's access to O are justifiable" (p. 315); and, 4) Scanlononian contractualism provides a clearer distinction between "reasons we happen to acknowledge" and "reasons we should acknowledge" which serves to articulate not only what is valuable but also the reasons for it being valuable. He concludes that if CAHR adopts the contractualist framework, it can avoid the gap between capabilities/interests and rights objection.

Returning to the main dilemma of human rights as universal or relative, we can now hopefully describe it in a more nuanced way. Abstract rights, such as e.g. the right to education, need collective recognition as rights that hold for every human person in every social context. As such, they are (more or less universally) recognized as rights with corresponding duties, despite of ideology and their various instrumental value to different individuals in different contexts. A substantial minimalistic list of abstract rights can, in different contexts, be justified in different ways. Each of the rights can be motivated e.g. as securing human (combined) capabilities, as corresponding to fundamental religious and moral values, or to political ideals. Either way, they are conceived of as abstract and general claim-

rights. The strategy for deliberation can be refined through Rawlisian constructivism or Scanlonian contractualism or more loosely (borrowing a term from Margaret Gilbert) through a recognized joint commitment, as demand-rights with a demand to conformity with that standard. It is not a fixed forever list although it focuses on general features of human beings in their social life. As such it is responsive to human practice as well as our concept of human nature. Neither does such a list have to be grounded in inherent human dignity. It is rather grounded in being *recognized as a (human) person*. Individuals, as well as groups, corporations and states are given the status as persons and agents with specific rights and duties that correspond to these abstract rights.

Moira Gatens (2004 and 2006) states that if the project of human rights is conceived of as a fixed forever list of universal human rights that "must be implemented uniformly in every cultural and political context, then it will fail" (2006, p. 691). Rights are best viewed as specific cultural and historical ways of regulating human interactions, and they are neither "natural entitlements" nor "personal property".

> One is neither simply an historical construction nor an ahistorical self-owning individual. Rather, one's autonomy, identity, and particularity are always inextricably bound up with specific historical, social, and political practices. Moreover, relations of interdependence are universal (in the sense of being natural to the human condition). On this approach it is not a question of "either/or" (identity or difference) but rather of "and" (for example, conceiving of identity through difference, or of autonomy through interdependence). This view is particularly prevalent in much contemporary feminist political theory. (Gatens, 2006, p. 689)

Gatens mentions Martha Nussabaum's CAHR as an example of such an approach. A person's ability to labour is viewed as a *combined capability*.[62] As such, it is not understood as a "given property" of that person, and I believe that the same goes for education. "Human capabilities are inevitably a combination of latent human capacities and specific economic, cultural, and political circumstances" (ibid.).

Being recognized as a human being, says Gatens, is not just to be recognized as a specific genotype or species, and here Gatens refers to Hannah Arendt: "to be reduced, in other words, to a naked body" (Gatens, 2006, p.

[62] Labour is here not equivalent to "work". You can work on your own but doing labour is to work for some other person or cooperation, i.e. to be employed.

691). Being recognized as a human being is “above all about membership in some particular culture, locatable in place and time” (ibid.). Without going into Arendt’s view on the “political”, I interpret such a relation as first and foremost a social and moral relation between individuals. Although such a relation is almost exclusively situated in a political context, *it is always situated in a social context*. Again, with reference to Sally Haslanger (2017), not every *cultural technē* is ideological. Some fundamental social relations are moral human relations of humanity, despite the political context.

> Above all, rights create relationships between human beings. They manage and distribute human powers and capacities for action and for being acted upon. Understanding human being and human societies in relational terms draws attention not only to the complex and always particular ways in which we become human, but also to what we must do in order to preserve our humanity. (Gatens, 2006, p. 692)

Conclusion

To sum up so far, a human right is a component of a combined capability that we have simply in virtue of being humans. A right is a right to a relation, and a human right is a *morally justified claim* that is *independent of membership in a particular nation*. We need to separate between abstract rights and specific rights, where the latter is rather context-specific enforcements of the former. Abstract rights, such as e.g. the right to education, need collective recognition as rights that hold for every human person in every social context. As such, they are (more or less universally) recognized as rights with corresponding duties, despite of ideology and their various instrumental value to different individuals in different contexts.

CHAPTER 9. HUMAN RIGHTS AND SOCIAL ONTOLOGY

To be a human is not only to belong to a specific genotype or species; it is to be a member of humanity; to have "membership in some particular culture, locatable in place and time" (Gatens, 2006, p. 691). Human individuals are products of the social world. However, as such, we have different needs, interests and capabilities that depend both on our physical differences and our social differences (Nussbaum, 1997). According to CAHR, developed by Nussbaum and Sen, the fundamental issue when it comes to human rights is the "variety of functions that would seem to be of central importance to a human life" (Nussbaum, 1997, p. 285). In contrast to Sen, Nussbaum has put forward a list of capabilities that she holds to be "of central importance to *any* human life, whatever else the person pursues or chooses" (p. 286 [emphasis added]). The central capabilities are derived from the idea of fundamental human functions situated in a social and political context. What matters is to be capable of functioning as a human being: "If there were no functioning of any kind in a life, we could hardly applaud it, no matter what opportunities it contained" (p. 289). This suggests that in a theory of human rights within a theory of social ontology, there are two thresholds to consider if we want to make sense of what it means to have a right simply in virtue of being a human. The first one is the question of what it means for a human right to exist. The second one is what it means to exist as a human being.

Social ontologists such as e.g. Searle (2010) and Gilbert (2018) have showed an increasing interest in human rights. The central question here is thus if a theory of social ontology can explain the ontological status of human rights. While Gilbert settles with the idea that joint commitment is necessary if we want to make progress in human rights, Searle argues that human rights can be universal despite them being social constructions. According to Searle (2010), human rights, as a kind of rights, can be viewed as status functions in the same way as other kinds of rights, i.e. as "deontic

powers derived from collectively recognized statuses" (p. 176). The idea is therefore to treat something as being a human right, as well as being a human, as being recognized as having the status of a human right or as being a human being. In his formula X counts as Y in C, the Y term is "human right" or "human being". If some X counts as a human right in context C and some S counts as being a human being in context C, then S is entitled to this human right in virtue of being human. Such a view is obviously in contrast with both the idea that human rights are natural and the idea that they are universal. It is to adhere to the view that not only human rights, but also human beings are socially constructed. Thus, such a view seems to be incompatible with the universality of human rights and the orthodox idea that human rights are rights that pertain to every human being simply in virtue of being human universally. It obviously seems to suggest that being a human, as well as being a human right, are context relative and depend upon collective recognition. And yet, Searle argues that a human right as a status function, as well as other status functions, can exist without being recognized.

First, Searle states that the term "human" "has usage that is prior to humanness being recognized as a special status" (p. 182). And in a way this reminds us of how Gatens turns to Arendt and the idea that being human is also to have "membership in some particular culture, locatable in place and time" (Gatens, 2006, p. 691). However, while Gatens highlights how being human is always partly to be situated in a social context, Searle, argues that "[t]o satisfy those conditions [i.e. "a set of biological facts"] is to count as a human being or a human person, and as a human person the bearer of rights" (Searle, 2010, p. 182). To be a biological human "is taken as satisfaction of the Y term" (p. 183). Searle insists that

> [w]hen someone is denied his human rights he is typically not denied his humanity, just the function that is supposed to go with that status for those who accept the deontology of human rights. (p. 182)

This move seems to be exactly what Gatens means by being reduced to a naked body. And is it not exactly what has been done through history, when some individuals or groups have been reduced to being less human or not being properly enough humans? There are definitely cases throughout history where some have been recognized as satisfying the biological conditions of being human without being recognized as a proper human being or human person. And there are still controversies concerning what it is to be a "person" or a "bearer of human rights". As an example, which already has been mentioned, many human rights theorists argue that only human

adults, and not children, are bearers of human rights. At the same time, it would be hard to deny that human children and human adults do not belong to the same biological species. While Searle says that this is *typically not* the case when someone is denied his or her rights and would probably not deny this fully, others could argue that *this is typically* what happens when someone is denied human rights (see e.g. Mills, 2005). The problem is not that Searle states that the term "human" has usage that is prior to humanness being recognized as a special status. The problem is that he uses this biological usage of the term as satisfying the Y-term of being a human as a status function. The status function of being a human requires collective recognition, while belonging to the human species does not.

In addition, Searle also argues that a human right, such as the right to free speech, can exist even when it is not recognized and gives the example of two common and conflicting intuitions:

> 1. The universal right to free speech did not exist before the European Enlightenment, at which time it came into existence.
>
> 2. The universal right to free speech has always existed, but this right was recognized only at the time of the European Enlightenment. (Searle, 2010, p. 177)

It seems that an advocate of an orthodox universal view of human rights would have to accept (2) and reject (1), while an advocate of a political account of human rights would accept (1) and reject (2). Frank Hindricks (2013) points out that a status function account cannot make sense of statements such as (2) and the idea that human rights can exist without being recognized. Therefore, according to Hindricks, if we want to hold on to the idea that human rights can exist without being recognized, we have to reject the status function account of human rights. Searle, however, suggests that this conflict is only apparent. The argument is that some status functions such as e.g. transgressions can exist even if they are not recognized. Instead, they are discovered. Searle makes an argument from "nature" saying that in the case of human rights the Y-term status function follows "automatically" from the satisfaction of the X-term (i.e. that of belonging to the human species).[63] According to Searle, in the example of (1) we are focusing on the recognition of the Y-term, while in the example of (2) we

[63] This is Ásta's main objection to Searle when she defends her conferralist approach. What matters according to Ásta (2018) is the actual recognition, not what we are trying to track or refer to.

focus on the conditions for satisfying the X-term, i.e. that of being a member of our species. In other words, Searles argument seems to rest upon the idea that being human can be reduced to a decontextualized "naked body".

Åsa Burman (2018) convincingly shows that such an argument can only work for tokens and not for types. A person that loses his citizenship rights is an example of a specific instance (i.e. a token) not being recognized. However, the claim in the statement (2) is rather that there is a type of human right that exists without being recognized:

> For these cases, it is reasonable either to say that he had his citizenship rights but they were not recognized (given that there is a constitutive rule of citizenship in place), or that he did not have his citizenship rights. But citizenship as such, or as a constitutive rule, cannot exist without our collective belief in its existence. The same holds for human rights. (pp. 469-470)

Burman refers to an earlier criticism that has been put forward by Amie Thomasson (2003). According to Thomasson, Searle's theory of social facts cannot account for opaque social facts. As stated earlier, I am not fully convinced that Searle's theory cannot account for opaque social facts. It depends on how we interpret what is meant by "recognition" and "standing declarations". If we accept the distinction between consciousness and intentionality, we might accept such things as unconscious recognitions and unconscious standing declarations. That is, we can make declarations without being aware that we do it. This explains how something can become a norm in a specific context without anyone ever having made any explicit declaration, and it also explains how we can hold different social positions without them having been consciously and explicitly recognized as status functions. Despite this, such opaque declarations and patterns of behavior are certainly not sufficient for something to be a human right. What counts here is whether we consciously recognize that something *ought to be recognized as a human right*. In this sense, Gilbert is right when she emphasizes that we need collective recognition, such as e.g. joint commitment to make human rights work.

Burman (2018) states that the really interesting issue when it comes to human rights is not the issue of specific instances or tokens of human rights. The interesting issue concerns types of human rights. And this cannot be resolved with a status account of human rights. Burman's conclusion, then, is that the status function account "fails to make sense of our conflicting intuitions about human rights" (p. 472). So, it seems that we

have to choose between (2) and the status function account. Still, I believe that Searle has a valid point in his argument from nature. However, such an argument can be better advocated for by turning to a theory such as Nussbaum's capability approach that describes abilities as *combined capabilities* and valuable functions of any human life, instead of as a "given property" of a person. This is a far better argument from nature for a secular theory of human rights than to reinforce the idea of the "naked body" as Searle does when he suggests that the status function of being a human directly follows from belonging to the human species. So, it seems that we need to reject the universality of human rights if we want to stick to a status function account of human rights. However, we may not need to reject the universality of human rights altogether.

As proposed by Tasioulas (2010), what needs to be rejected is the *trans-historical universality*:

> [H]uman rights apply to all those properly designated "human" within the specified historical period. When interpreting the human rights referred to by the contemporary human rights movement. In understanding the human rights referred to by the contemporary human rights culture, the relevant historical period should normally be taken to be that of modernity. (2010, p. 671-672)

The term "modernity" here should, according to Tasioulas, be understood as

> a historical context in which features of the following kind either obtain in the life of each human being or are reasonably accessible: significant levels of scientific and technological expertise and capacity; heavy reliance on industrialized modes of production; the existence of a market-based economy of global reach; a developed legal system that is both efficacious and broad-ranging; the pervasive influence of individualism and secularism in shaping forms of life, and so on. (2012 p. 36)

Thus, to recognize something as a *universal human right* is to recognize that it is a right that we ought to recognize as a universal human right, i.e. for every human, and this implies that there are beings that we recognize as human beings. To be recognized as a human is, however, to be recognized within a context. And in this context, or these contexts, a human right means "being natural to the human condition".

When we try to explain human rights as part of our social world, notions such as ‘context’ and ‘relation’ are central. If we want to hold on to the status account of human rights combined with the more orthodox view of human rights as something that we have simply in virtue of being humans, human rights are recognized deontic relations between humans and groups of humans, and such relations are always contextual. Still, we can recognize abstract rights as rights that ought to be rights for every single human in every single context, or as being natural to the human condition, even if the implementation and enforcement of such a right can look very different in different situations. I hold education to be such an abstract universal right that can be specified and modified in many different ways depending on the context. There are also more specified rights that are easy to embrace such as the right not to be raped or tortured that are derived from more abstract rights such as the right to your own body. Other specific rights seem harder to argue for as belonging to a set of universal rights, such as the infamous right to holiday with pay in the UDHR. What we need to secure for such a right as the right to education is to specify exactly what kind of criteria that necessarily would have to be in place in any type of enforcement. And this is the main task for the rest of this thesis.

PART THREE: THE NATURE, PURPOSE AND AIMS OF EDUCATION

CHAPTER 10. THE NATURE OF EDUCATION

Introduction

Today, fewer and fewer simply get through education, get a degree and work within the same occupation for the next 40 years or so until they retire without any additional education. Almost every field of work goes through changes in technology, technological skills and knowledge that are required for the job. Jobs change, job requirements change, new jobs come into existence, and some jobs disappear altogether. Thus, we are not only, as a matter of fact, learning our whole life; there is also an increasing demand that we ought to be able to learn new things as a means for something else ahead, all throughout our life. The term *lifelong learning* has become the new buzz word. From the fact that societies, technology and labour markets go through constant and more rapid changes, pragmatists and progressivists often draw the conclusion that the educational system needs to be reformed to meet these challenges. It is, however, not necessary to draw the conclusion that it is somehow self-evident that the educational system ought to strive to meet the demands of certain political ideals or the requirements of a given society.[64] And more specifically, it is not necessary to arrive at the idea that the "natural" aim of education is to make someone employable, socialized, or "liberated". Even more importantly, it is not necessary at all to equate education with the contemporary educational system in dominance.

We can trace the philosophical question concerning what education is to various thinkers in ancient Greece, and both Plato and Aristotle argued for

[64] See eg. Rousseau (1889), Arendt (2007 [1958]), Illich (1971), Peters (2007 [1965]), Freire (2007 [1971]) and Masschelein & Simons (2013) for a critical approach to this idea, however from very different perspectives.

public education. During the 18th century, John Locke argued that education was a means for securing the fundamental human right to be able to think for oneself. The intelligent and proper use of one's own understanding and ability to think for oneself is a "fundamental duty which everyone owes himself" (Locke, 2017 [1697] *Conduct* § 41).

The main focus in this part of the inquiry is not to lay down a fixed set of premises for how we ought to construct the educational system based on a rather subjective and contextual interpretation of how society and the world appears today or possibly will turn out to appear tomorrow. It is rather to try to derive the possibilities and necessities of education from the nature of teaching, learning and education. In other words, the main focus is on what education is, not on what education ought to be within a particular context. From a more pragmatic and ameliorative point of view on conceptual analysis, it is to try to mark out what is valuable with a concept such as 'education' rather than 'schooling' or 'learning'. Even though I will not present any ideal version of an educational system, I will argue for a definition of education that I think is both necessary and sufficient. Once this is done it will have implications for possible and non-possible implementations of various educational systems. Thus, the purpose is to address the more fundamental question of what constitutes education, before saying anything about what constitutes good or bad education.

What is the difference between learning, education and schooling? And what valuable purpose does the concept of education serve that is not captured in other similar concepts, such as for instance 'learning' and 'schooling'? Publicly funded schools and compulsory education laws is a rather late invention in human history. Despite this, the educational authority today is typically divided between the parents and the state (Reich, 2009 and Barrow, 2014), and "schools appear as natural, self-evident and unavoidable" (Papastephanou, 2014, p. 3). Philip Coombs argues that "[t]he most serious misconceptions about nonformal education result from the great difficulty people have liberating their minds from the school-concept of education and all of the forms, rituals, doctrines, and terminology associated with it" (1976, p. 284). And he is probably right to state that the conventional, or paradigmatic, view on education in most modern societies is to equate education with schooling. However, there is also, in some contexts, an apparent tendency to equate education with learning.[65] I will argue

[65] In 1971, Ivan Illich released *Deschooling Society* where he argued that the school is criminal in its institutional logic and based on a false belief that one actually needs the school to truly learn. The school is seen as an outdated institution in an age of lifelong learning. The fact that true learning, and also more effective learning, can occur outside schools is quite obvious, and one could make an argument that also formal education could occur outside

that in both the first case, the notion of education—education = schooling—as well as in the second case—education = learning—the notion of education is both too broad and too narrow. If we want to make any sense of existing terms such as “formal”, “non-formal” and “informal” education the narrow notion of education has to be abandoned. However, we also have to refrain from equating education with learning if we want to be able to make a somewhat clear distinction between ‘education’, ‘learning’ and ‘schooling’. I basically agree with what I think is Peters’ (2012 [1967]) general view on education, that it involves a process of initiation which is usually a moral relation between a learner and a teacher and that it involves an achievement that has to do with knowledge and understanding. However, I also depart a bit from his view in that I believe that we ought to make an even clearer distinction between learning and education. Education, in my view is *always* a *normative* relation between a teacher and a learner. The normativity concerns the *cooperation in the strong sense* by way of a collective recognition of these social positions and the collective intention to further increase mutual understanding. However, this intention is not always satisfied. And while being ‘educated’, in the past tense, involves an achievement, the process of education only entails the collective intention. Learning however, always entails an achievement. And additionally, learning is not always education.

1. Education and Learning

Learning can obviously occur outside of educational activities. I learn things all the time and everywhere, without necessarily being engaged in education. I would venture to say that most of the time I am not even aware of the fact that I learn things. I can, however, become aware of the fact that I did learn something previously without knowing that I learned something in that particular moment in time. On the other hand, it also seems possible to hold that education can occur without learning taking place. Is it not the case that people are engaged in education without always learning what they were supposed to learn? It is not hard to think of a case were both the pupil and the teacher are fully aware of the intended aims of an educational process and where the “correct” learning fails. Does this necessarily mean that we cannot label the activity as education? It seems to me that it is still an activity that we would like to label as education. Conscious learning,

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schools, e.g. home education (see e.g. Charles L. Howell, 2007[2003]), as well as organized non-formal, and unorganized informal education.

therefore, is apparently not necessary for education.[66] Consider a case were a teacher and a group of students reflect on what they have learned earlier that day in class. It seems possible that they will come up with examples of things that they have learned and that they also had no conscious intention of learning those particular things when they were engaged in the educational process. Does this actually mean that they did not learn those things during class but actually learned it afterwards when they became aware of those things because they started to reflect upon it? It seems to me that it is fully correct to say that they later became aware of what they previously had learned. Another way to put it is to say that there are always a lot of both informal learning and informal education going on within formal education. Conscious learning, therefore, is not necessary for education. Collective intentionality, however, is.

It seems impossible for us to engage in an educational activity without our minds being collectively, or jointly, directed at objects and states of affairs in the world. Without collective intentionality there would be no communication at all.[67] Education implies collective intentionality and 'collective intentionality' is therefore an important concept for explaining what constitutes education. At the same time, learning does not necessarily imply collective intentionality, only intentionality; it does not require any joint attention or cooperation. However, very often we do acquire collective intentionality through learning, and a great deal of our learning is social learning (i.e. learning in relation). Both learning and education implies intentionality. In addition, *collective intentionality* seems to be a constitutive part of education. Education is thus a social activity, a relation, not only to the thing we intend to learn, but also to the people involved in this social activity. And this is also why I believe that a theory of social ontology is needed when we try to capture the "nature" of education. However, learning in relation is not necessarily education.

[66] Hence, I disagree with such views on the relation between learning and education that has been suggested by e.g. Alan Rogers (2005): "We can use the analogy of flour and bread. Bread is made from flour; but not all flour is bread, bread is processed flour. Similarly, all education is learning; but not all learning is education, education is processed, i.e. planned, learning. Learning is much wider than education" (Rogers, 2005, p.12). Although Peters (2012 [1967]) was right in stating that when we say that someone is 'educated' there is an implication of success, however, education as a process rather involves the intention of the success, not the actual success as in "I taught him Latin for years, but he learnt nothing" (p. 2). Thus, education is not necessarily "processed learning".

[67] From Latin *commūnicāre*, meaning "to share".

(a) Learning in Relation

As I am writing this, I have already learned a lot of things today. Apart from the article I read this morning, I have also learned what spilled milk looks like after a few days when it has coagulated on top of marble. I have probably also learned a lot of other stuff that I cannot recall at this very moment, but which could be important or valuable knowledge for me some other day. And if I wish to learn how many books there are in my bookshelf, I could start counting them right now in order to acquire this knowledge. As it happens, I am not that interested in acquiring this knowledge, i.e. I do not think that it is worthwhile. It is not always useful to know the truth, in the sense that all truth is worth knowing, even if it is quite useful to know what is false, in the sense that it is useful to learn that something is false if I believed it to be true.

In contrast to the spilled milk or counting the books in my bookshelf, what I learned from the article I read was learned in relation to some other person. I focused my attention on the words, questions, propositions and arguments that someone else has produced with the (presumable) intention that someone like me would read it. In this sense there is a shared attention directed at the same words, propositions and arguments, stretched through time by putting the text down on paper so that someone else can read it at some other time. Even though this is a case of social learning it is not strictly speaking education. I do not recognize the author of the article as my educator or teacher. I do, however, recognize the author as the producer of a piece of information that I have been trying to study and understand. What is lacking here is cooperation in the strong sense. I do not view *us* as a causal agent being in a we-mode. And I presume that no one else does either.

Again, consider the ape using a stick to gather ants. It may be that the ape learned all by herself to use the stick as an ant-gatherer. This is individual learning, similar to me learning about the appearance of coagulated milk on the marble. If some other ape is watching the first ape gathering ants there is a case of collective intentionality, as in joint attention. If the other ape gets the idea of how to use the stick, she could try to imitate the behaviour of the first ape. Imitating is one type of social learning. It is to learn in relation. And imitation often occurs within educational contexts.[68] However, imitation is not the same as education. There is still no cooperation in the strong sense. The first ape using the stick may be totally unaware of the second ape watching and imitating. Another scenario could be that the ape is aware of being watched by several other apes. Some of the apes

[68] See Peters (2020 [1966]) and Warnick (2011).

do not show any interest at all in what the ant-gathering ape is doing, even if they see the ape using the stick. Others may pick up sticks and try to imitate the first ape. The first ape notices this. We could say that the first ape is aware of being imitated. And we can recognize this as social learning with mutual knowledge of how to use the stick. Still, it is not education. The first ape has no intention of showing the others how to use a stick to gather ants. She is just going about doing her own thing. It is very different from a situation where the first ape is showing the other ape how to use the stick to gather ants with the intention to teach the other ape how to use the stick. And still, it could be the case that the other ape does not recognize the first ape as being a teacher. The point I want to make with these examples is that learning, and even social learning, is not necessarily education. Education involves normative commitment, a relation between people, and a joint recognition of the other, or to borrow a term from Margaret Gilbert, a "joint commitment". I will therefore try to give a formal account of how to understand the relation between learning and education.

(b) A Taxonomy of Education and Learning

What are the most proper ways of understanding formal, informal and non-formal education and their respective relation to learning? When I sit at home and read a book, listen to a new piece of music, renovate my home or just take a walk and observe the surroundings, I usually learn things. However, it is not usually education. It can be part of education if these activities are an assignment from a teacher. It can be part of *formal education* if it is an assignment from a schoolteacher working from a specific curriculum. If, on the other hand, it is an assignment from some other association that I am involved with, it is rather a kind of *non-formal education*, and if it is not an assignment at all but more loosely initiated by another person than myself, we could call it *informal education*. In other words: if I was the only person left in the world, I could still learn a lot, but I would not be involved in education.

According to the Council of Europe (2010) *Charter on Education for Democratic Citizenship and Human Rights Education*, education can be classified as tripartite:

> 1) "Formal education" means the structured education and training system that runs from pre-primary and primary through secondary school and on to university. It takes place, as a rule, at general or vocational educational institutions and leads to certification.

2) “Non-formal education” means any planned programme of education designed to improve a range of skills and competences, outside the formal educational setting.

3) “Informal education” means the lifelong process whereby every individual acquires attitudes, values, skills and knowledge from the educational influences and resources in his or her own environment and from daily experience (family, peer group, neighbours, encounters, library, mass media, work, play, etc.).

This classification is roughly in line with the conceptual framework of P. H. Coombs and M. Ahmed (1974), as well as the framework of La Belle (1982). Usually though, when attention is being placed on non-formal and informal education, the concern is mainly directed at youth and adults. However, as pointed out by La Belle (1982), non-formal education ought to be assessed throughout the lifespan, because both children and elders are often engaged in activities that match the characteristics of non-formal education. Coombs and Ahmed, as well as La Belle, equate education with learning. Alan Rogers (2005) points out that the language of non-formal education has been taken up again in recent years by policymakers and practitioners, and adds that the language being used “sounds unsure of itself” (p. 2). Influences from lifelong learning has resulted in the use of *non-formal learning* rather than non-formal education (ibid.). However, often when the term life-long learning is used there is also talk of non-formal learning being “provided” as well as talk about “non-formal learning settings”. Rogers points out that this makes it clear that what they are actually talking about is “what earlier writers called ‘non-formal education’” (ibid.). Another ground for confusion is, according to Rogers, the focus on education for young student-learners, resulting from programs such as the Education for All (EFA). This has “led to an increased focus on primary education. ‘Non-formal education’ often means ‘alternative primary or basic schooling for out-of-school youth’” (p. 3) rather than adult education. I think that we can agree at least that a more increased focus on primary education for children runs the risk of distorting the original definition from Coombs and Ahmed (1974), where non-formal education was defined as “any organized, systematic educational activity carried on outside the framework of the formal system to provide selected types of learning to particular subgroups in the population, adults as well as children” (p. 8). However, as I will argue, we ought to make a clear distinction between learning and education when we talk about non-formal education.

In a more recent article, Alina Gîmbuţă (2011) presents a logical analysis of the term *non-formal education*. She starts out with a distinction between "*learning* as a natural result of the human interactions with the environment", and "*education* as intentional learning which is shaping by someone for another one". Gîmbuţă also states that the works of David R. Evans (1981) and Alan Rogers (2005) has drawn attention towards new aspects concerning non-formal education.

It is useful to have as clear a conception as possible of the difference between learning and education before we engage in the analysis of non-formal education. My main objections to the analysis presented by Gîmbuţă are first, that she uses a more colloquial conception of *intentional* than the more formal conception used in philosophy and cognitive research,[69] and second, that she introduces new terms from Evans and Rogers that aggravate rather than facilitate a more clear and simple distinction between informal, non-formal and formal education and learning. I share the intention of making more fine-grained definitions, but I suggest that we can do this without introducing a number of new terms.

Towards More Fine-Grained Definitions

Evans (1981) makes a distinction between *incidental education*, "resulting from all accidental situations when there is no consciousness or intention for learning", and *informal education*, "resulting from conscious efforts of the person who wants to learn but the learning context is not designed to promote learning *or* from learning contexts that are intentionally designed to produce learning but the possible learner does not have learning intentions" (Gîmbuţă, 2011, p. 270). Non-formal education is labeled *out of school education* where the persons involved have the desire to promote and encourage learning, but the control is decentralized and is not guided by compulsory standards. Finally, formal education "takes place in the school, is conducted by a fixed and valid curriculum for all and uses specific teaching methods and also performance standards. It has many compulsory aspects which are determined for all, by a central institution" (ibid.). Thus, with this distinction between *incidental* and *informal education* we get a more fine-grained definition of these different activities than merely using the term *informal education*. Instead of a tripartite we now have a quad of education: *Incidental*, *informal*, *non-formal* and *formal education*.

Rogers (2005) notes that non-formal education can be divided into two types: *Flexible schooling* is defined as a "hybrid form" between formal

[69] E.g. Searle (2010) and Tuomela (2014).

education (i.e. school education) and non-formal education that is partly adapted to a specific learning context but which is still limited to the needs and options of the participants. *Participatory education* is defined as a decentralized and horizontal system with horizontal relationships where the teacher functions as a facilitator and where all the participators are encouraged to take control of the learning process. With Rogers' distinction between *flexible* and *participatory* education in place, we now have five different forms of education: *Incidental*, *informal* and *participatory education* as well as *flexible schooling* and *formal education*.

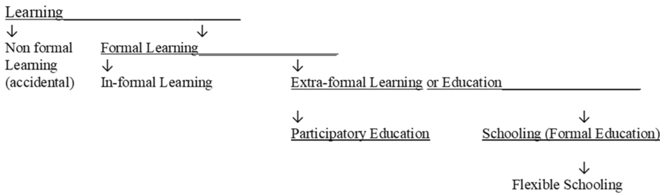
Gîmbuţă (2011) begins with a distinction between learning and education, where the latter term is defined as "intentional learning which is shaping by someone for another one" and the former is defined as "a natural result of the human interactions with the environment". She then argues that *formal learning* is learning that has "form, intention, is organized, planned and involves specific strategies" (p. 273) that has specified purposes. In contrast, "*non-formal learning* shows the lack of shapes, intention, organization, planning and strategy", and she adds that, "in this case non formal learning is even *incidental learning*, without intention and strategy" (ibid.). The prefix "non" here indicates, according to Gîmbuţă, that non-formal learning is *accidental* rather than *anticipated*. Learning is thus *accidental* when the individual interacts with an unorganized learning context. This can be separated from *formal learning* which is anticipated and involves "intention, planning and controlled environment" (ibid.). *In-formal learning* is, according to Gîmbuţă, "a manifestation of the self-conscious intention for learning". However, it is also a "personal and spontaneous form resulted from humans' interactions with a selected context" (ibid.). She suggests that in-formal learning can be "a species of formal learning". Another sub-species of formal learning is, according to Gîmbuţă, *extra-formal learning*, "where the persons already assumes (sic!) the role of self-educated and puts themselves in the intentional, controlled, planned and conducted learning context, already configured from outside, through the intervention and vision of others" (p. 274). Extra-formal learning is, according to Gîmbuţă, synonymous with *education*.

Because Gîmbuţă regards non-formal to be the opposite of form and structure, she finds non-formal education to be a contradiction in terms:

> If every type of education has more or less open form, then it is not possible to use the non-formal education term because [it] has an internal and logical contradiction into its component terms; education can not be without form

> and organisation... the non-formal term is correctly compatible with learning, not with education. (p. 274)

Instead, she suggests that what she initially labelled "non-formal education" actually denotes the same activity as the one Rogers labelled participatory education, and she decides to opt for this term. *Participatory education* is considered to be a subspecies of *education* together with *schooling*, and schooling is defined in a similar way as formal education in Rogers' terminology. *Flexible schooling* can thus be viewed as a subspecies of schooling. In this way, Gîmbuţă gets a neatly branched system of species and subspecies:



Gîmbuţă's interpretation of non-formal as accidental and informal as anticipated is almost opposite to how the terms are used by Coombs and Ahmed (1974), as well as La Belle (1982). This, together with the new terms from Evans and Rogers, aggravates rather than facilitates a more clear and simple distinction between informal, non-formal and formal education and learning. I will argue for a terminology that is much more in line with the traditional definition (e.g. Coombs) and the Council of Europe Charter on *Education for Democratic Citizenship*. However, the definition will neither equate education with learning nor treat education as merely a subspecies of learning. Education is not just a learning activity; it is the recognition of a social activity as educational. In such a taxonomy of learning and education *collective intentionality* is a useful concept.

Formal, Non-Formal and Informal Education and Learning

Returning to the question "What are the most proper ways of understanding formal, informal and non-formal education and their relation to learning?",

I suggest that we should start with a distinction between learning and education. Both imply intentionality in the sense that we learn things by directing our minds towards the world. Education implies collective intentionality in the sense that two or more people collectively direct their minds to the same state of affairs in the world, and also consists of social positions in the sense that an educational activity involves a student and a teacher.[70]

A conscious intention to learn is not necessary for education. Collective intentionality, however, is. Therefore, as a response to Gîmbuţă, education can be without form in the sense that the form is not recognized during the actual activity, but only afterwards when the activity is being reflected upon.

What separates human cooperation from other animals' cooperation is our capacity "to change the practices, and to design them for conscious ends" (Haslanger, 2012, p. 20). So, when does social learning as a natural capacity become education? The answer would seem to be that social learning becomes education when we recognize an activity as "educational". Human beings have the capacity, not only for social learning, but also for reflecting on the activity and for valuing its meaningfulness and effectiveness in relation to certain preferences, aims and purposes.

The prefix "non-" in "non-formal" should be understood as a negation of "formal" as in formalized and official, not as a negation of "form" as in shape, structure etc. The prefix "in", which is the proper negation prefix for "formal" in the English language, should be understood as the negation of "formal" in both senses and thus negating the full meaning of the word "formal". If we apply these two prefixes to both formal education and formal learning, we get six different terms: Formal learning, formal education, non-formal learning, non-formal education, informal learning and informal education:

> **Formal learning** is an activity that necessarily involves a learning agent with intentionality and the conscious intention to learn, and has a curriculum (aims, content and sometimes also specified methods) that is officially (publicly) recognized outside of the specific context. E.g. studying for an exam without the help from a teacher.
>
> **Formal education** is an activity that necessarily involves a group (at least

[70] "Teacher" should be understood in a weak sense here, not necessarily as a teacher in the formal sense. A social position in this weak sense can sometimes be opaque. I will use the term *status function*, borrowed from John Searle (2010), when I mean a more formal and publicly recognized social position.

two people) with conscious collective intentionality and the collectively conscious intention to further increase collective intentionality. The group consist of at least two different social positions (teacher-student relation), which are consciously and officially (publicly) recognized status functions that are recognized outside of the specific context. The activity has a curriculum (aims, content and sometimes also specified methods) that is officially (publicly) recognized outside of the specific local context. E.g. schooling or home schooling. Thus, formal education entails cooperation in the strong sense.

Non-formal learning is an activity that necessarily involves a learning agent with intentionality and the conscious intention to learn, but lacks any officially (publicly) recognized curricula (aims, content and methods). E.g. frequent practice on a particular skill or studying something purely out of one's own interest.

Non-formal Education is an activity that necessarily involves a group (at least two people) with collective intentionality and the collectively conscious intention to further increase collective intentionality. The group consists of at least two different social positions (teacher-student relation), which are consciously recognized flexible status functions within that specific context. They are flexible because the group members can shift roles from being a teacher to being a student or from being a student to being a teacher. The activity lacks any officially (publicly) recognized curricula (aims, content and methods) outside of the specific context. E.g. swimming sessions for toddlers, sports or fitness-programs, programs developed by organizations such as the Boy Scouts, non-credit adult education etc Thus, non-formal education entails cooperation in the strong sense.

Informal learning is an activity that necessarily involves a learning agent with intentionality, but who lacks the conscious intention to learn. It happens all the time and everywhere and is therefore a lifelong process for every human being.

Informal education is an activity that necessarily involves a group (at least two people) with collective intentionality holding different non-fixed social positions, which are not consciously recognized status functions. It happens

> all the time and everywhere when there are at least two people in communication. This happens for most people all through life. Thus, informal education does not necessarily entail cooperation in the strong sense. It is rather a consequence of cooperation in Nash equilibria.

The above definitions match with the traditional definitions offered by Coombs and Ahmed (1974). In their work they define *formal education* as the "institutionalized, chronologically graded and hierarchically structured educational system, spanning lower primary school and the upper reaches of the university" (p. 8), which fits well with my definition of formal education if there is a teacher-learner relation with collective intentionality. If it is without the help of a teacher, it is rather formal learning. *Non-formal education* is defined by Coombs and Ahmed as "any organized, systematic, educational activity carried on outside the framework of the formal system to provide selected types of learning to particular subgroups in the population, adults as well as children" (ibid.). This is captured by my definition of non-formal education if there is a teacher-learner relation with collective intentionality. If it is without the help of a teacher, it is rather non-formal learning. Finally, *informal education* is defined as "the lifelong process by which every person acquires and accumulates knowledge, skills, attitudes and insights from daily experiences and exposure to the environment" (ibid.). Again, if this is happening in a relation that could loosely be described as a teacher-learner relation, it falls under my definition of informal education. If it is an activity of a single learner, it is rather informal learning.

How much of the contribution to more fine-grained definitions of informal and non-formal education done by Evans, Rogers and Gîmbuţă can we capture with the above definitions? Beginning with Evans concept of *incidental education*, this falls under my definition of informal learning, and additionally if it was recognized as an "accidental situation" consisting of a teacher-learner pair with collective intentionality, it rather falls under informal education. What Evans labels *informal education* is actually two very different situations "resulting from conscious efforts of the person who wants to learn but the learning context is not designed to promote learning *or* from learning contexts that are intentionally designed to produce learning but the possible learner does not have learning intentions" (Gîmbuţă, 2011, p. 270). Because the first situation describes "conscious efforts of the person who wants to learn" (ibid.) but no learner-teacher relation, I would label it non-formal learning. In the second situation there is neither conscious collective intention to learn nor does the learner have

learning intentions. Therefore, it is not education. Should the learning context succeed in producing learning it would fall under my definition of informal learning (because the learner does not have the conscious intention to learn), and if there is a teacher that consciously intends to "educate" the learner without the learner's intention to learn, it would be a clear case of *manipulation* (i.e. consciously making someone do what he or she does not have the conscious intention to do).[71]

Schooling as well as home schooling are subspecies of formal education in my definition, and I think that Rogers' description of *flexible schooling* fits here as well. When it comes to his description of *participatory education*, I have to confess that I am sceptical of the possibility of a purely "horizontal" relationship in any educational activity. However, even in a formal educational setting, a teacher can work as a facilitator and encourage the participants to take control of the learning process. And in a non-formal educational setting the relationship between the participants can be very hierarchical. Thus, it would be wrong to equate participatory education with non-formal education (or informal education in Gîmbuţă's terms). Participatory education is therefore best viewed as a method that can be applied to formal as well as non-formal education. If it really is a "horizontal" relation, which I would call a symmetric power-relation, it is a collective investigation, i.e. a type of social study, or learning, rather than education.

With the definitions I have proposed, we can maintain the original descriptions of informal, non-formal and formal education and at the same time give more nuance by distinguishing between learning and education and add informal, non-formal and formal learning as separate activities. I also believe that we can capture most of the aspects that have been put forward by Evans, Rogers and Gîmbuţă.

To conclude: even if learning is often socially situated, it does not have to be. Education, on the other hand, is always social. In fact, socialization is a prerequisite for any educational activity. Before I try to give a more substantial account of this social aspect of education, we need to make a clearer distinction between education and the more formalized form of education that we call "schooling".

2. Education and Schooling

While education is an institution understood as the rules of the game, a school is an actor, i.e. a player of the game. Additionally, a school is also

[71] See chapter 5 and chapter 11.

an institution with its own set of rules within an institution such as a larger school system.[72] And an educational system is an institution within an even larger abstract idea of what education *is*. However, schooling is not just a subcategory, such as formal education, within a more abstract category such as education. As an institution, a school also has other functions besides educating. McCowan (2013) argues that there are obvious limitations to equating education with schooling:

> If we imagine the two in a Venn diagram, there is a significant amount of each that lies outside the realm of the other. There is much that goes on in schools that is not education (e.g. child minding, provision of food, health care, and some less savoury aspects such as social control and indoctrination, not to mention Dore's (1976: xi) 'mere qualification earnings'); and much education that does not occur in schools or universities (in families, community groups, religious institutions, libraries, political movements, etc. (p. 69)

First of all, a lot of education goes on outside of schools. And second, schools as formal institutions within a society have functions that go well beyond education. There are, in other words, lots of functions of schooling that justify its existence, such as child minding, provision of food and health care, that are valuable even if schools would fail to supply proper education (ibid.). Another way to put it is to say that if schooling as we know it would not exist, a society would probably have to find other ways of securing these other valuable aspects of schooling.

Schools definitely have advantages for a society in creating a sense of common citizenship. Further, in a democratic society, a unified compulsory school-system is a good way of creating a space for diversity. A school is a place where children and adolescents from different backgrounds can meet and, as such, schools as institutions of a society have definitely, at least in theory, a potential for promoting equality.[73] Additionally, schools

[72] We should hold on to the conceptual distinction made by North (1990) between institutions as constraints ("the rules of the game") and organizations as agents ("players of the game"). However, in practice institutions and organizations are not always easily separated. Still, not all institutions are organizations, and not all organizations are institutions.

[73] The idea that schools and education is a qualification-system that promotes equal opportunities in society has been questioned. Thomas F. Green (2007 [1980]), quite convincingly, shows that there is a certain level where the correlation between educational attainment and relevant attributes of educational attainment (alt. "the distribution of non-educational social goods that are ordinarily associated with educational attainment") no longer holds. Green calls this "the law of zero-correlation" (p. 230). When only a few people finish high school

have the potential for promoting liberty and autonomy. Hanna Arendt (2007 [1958]) argues that schools represent the public world and introduce children to it, and that adults have responsibility for the world into which they have brought the children. Arendt points out that parents have not only brought their children to life through conception and birth; they have also introduced them into a world. The school is, for Arendt, "the institution we interpose between the private domain of home and the world in order to make the transition from the family to the world possible at all" (p. 191). And as suggested by Robin Barrow (2014), the two main arguments for common schooling are first of all to give common knowledge that is "fit for purpose" as citizens, and second, to provide a way of promoting autonomy. There are thus "some things that all should know and understand" and at the same time there are also "some understandings that are necessary to developing one's autonomy" (p. 23).

However, a school system can also be very different in different societies. Historically, there have been very different ideas about schooling. Plato argues for compulsory education in both the *Republic* and in *Laws*, but the idea was not some common schooling for all. Plato's suggestion was rather to sort out children as early as possible, depending on their nature and inclinations, and give them the most fitting education for what the republic needed. In contrast, Aristotle suggested in *Politics* that education should be the same for all because "the whole city has one end" (Book Eight, Part I). Other known historical proponents for a compulsory education system include Luther, John Stuart Mill and John Dewey (Papastephanou, 2014). This, however, does not mean that they argued that such a common compulsory schooling should be provided by the state. As pointed out by Barrow, even such thinkers as Ivan Illich, "who regarded the very institutionalization of schooling as objectionable", still supports the basic idea of education for all (2014, p. 26). Illich's critique in *Deschooling Society* is rather a broad critique against formal institutions. The main idea of

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it becomes nearly impossible for a society to hold completion of high school as a demand for job entrance. When many finishes high school and we approach the zero-correlation level, having a high school-diploma becomes something that is more or less taken for granted. When nearly all have it, and it is taken for granted, this demand for job entrance becomes a disaster for those that do not have a high school-diploma: "When there are lots of drop-outs, being one is no problem. When there are few, being one can be a disaster. The reason we have a drop-out *problem* is not that we have too many drop-outs, but that we have too few" (p. 235) And for those who do have a diploma, when almost everyone else has it too, it ceases to have any particular advantage. Another way to put it is to say that the instrumental value of education at a particular level, as a means for employment and/or economic or social status, becomes inflated if almost everyone has this education. If we infer grades, though, it becomes easier to select the ones who are more employable. But viewing the function or instrumental value of education in this way is to view education as a means for differentiation and selection rather than as a means for promoting equality.

Illich (2019 [1970]) can be summarized as stating that despite whatever good intentions that lie behind the creation of institutions in modern societies so as to justify them being set up, they end up undermining the very idea that they were initially intended to support, and they become rigid and de-humanized.

And similar critique against the contemporary school system has been put forward, not only by critical theorists such as Thomas S. Popkewitz (2008) and Alexander M. Sidorkin (2002), but also by economists such as Philip H. Coombs (1976).

A common idea of the critique of the contemporary school system seems to be that compulsory education tends to govern us and infringe on our individual freedom, and this kind of instrumental moulding aspect of education was also criticized by Peters (2007 [1965]). However, while some may criticize the very idea of common compulsory education because they believe that a parent, or perhaps also the child, should be able to freely choose the provider of education and the type of education that they want, some conservatives instead feel that they need to remove their children from school because the current curriculum is too liberal and "godless". Yet, another reason could be that parents feel that the education provided by the common school system does not live up to a certain quality (Barrow, 2014). However, the real big problem, according to Barrow, is that the idea of what is "good" for the individual and "good" for society is not as clear and agreed upon by all as it was thought to be by e.g. Plato and Aristotle. Different societies and different people within societies often have radically different ideas about the good. This means that they also have different ideas about the instrumental value of both education and schooling.

There is no question that common compulsory schooling can have great instrumental value for a particular society or for individuals. The problem is rather to agree on what the instrumental values of such a system are. When we consider education as a human right, we should be careful first of all not to reduce education to schooling, or for that matter any kind of formal education. Second, we should also try to avoid justifying education as a human right through particular instrumental values, besides the abstract value for individuals and society. The idea that it is possible to agree on the instrumental value of education for every individual, every society and every context, seems to me to be merely a pipe dream. Therefore, we should now, after having shown that education can neither be reduced to schooling nor to learning, move on to try to capture the nature of education and its more substantial constitutive parts.

3. Socialization as a Constitutive Part of Education

Education as growth, according to Dewey, is social as well as personal, and "the continuity of any experience through renewing of the social group, is a literal fact. Education, in its broadest sense, is the means of this social continuity of life" (Dewey, 1916, p. 3). Education, for Dewey, is therefore not only "child centred growth", it is also initiation:

> there is the necessity that these immature members be not merely physically preserved in adequate numbers, but that they be initiated into the interests, purposes, information, skill, and practices of the mature members: otherwise the group will cease its characteristic life. (Dewey, 1916, p. 3)

Initiation as part of education is thus for Dewey of instrumental value for the survival of society. Peters (2007) on the other hand, argues that initiation is an *intrinsic standard of education*. The word "education", according to Peters, imply certain standards that are acquired through contact with those who already have acquired them: "all education can be regarded as a form of 'socialization' in so far as it involves initiation into public traditions which are articulated in language and forms of thoughts" (p. 56). But this specific social aspect of education has to be distinguished from other forms of socialization. It does not mean that the teacher is a form of social worker whose task it is to help students "to get on with others and to settle down contentedly to a simple job, healthy hobbies and a happy home life" (p. 57). To apply these kinds of extrinsic aims, or any other extrinsic aims (e.g. economic or utilitarian) to education, Peters calls the "instrumental" or "moulding" model of education. At the same time, Peters also points out that many "growth" theorists have avoided the fact that education involves the intentional transmission of worthwhile content (p. 60). But transmission of worthwhile knowledge or content does not reduce education to 'training' or 'instruction'. Even though Peters admits that both training and instruction are important to education, these processes are not equivalent to education (p. 62). According to Peters, the most apt description of education is initiation (p. 65), and in this sense there is, for Peters, a special social aspect that should not be confused with the more general notion of a socialization process.

We should therefore recognize, as stated by Dewey, that education as such has no aims: "Only persons, parents and teachers etc., have aims". To be educated is therefore, to quote Peters, "not to have arrived at a destination; it is to travel with a different view" i.e. to allow for a more complex

picture of “things that lie to hand” in relation to our individual and social aims as persons.

Paulo Freire was (2007 [1970]) sceptical of education as “transmission of knowledge” and “initiation”, which he labelled as the “banking model”. In this model, education functions by depositing, “in which the students are the depositories and the teacher is the depositor” (p. 68). In the banking model, students are trained in passive, unthinking acceptance of their subordinated position; individuals are seen as adaptable and manageable beings (p. 69). This model of education is constituted by the teacher’s view of the world; it is monological rather than dialogical. Man is viewed as “in the world, not with the world or with others; man is a spectator, not a recreator” (p. 70). According to Freire, oppressors use the banking concept of education to marginalize the oppressed. They are regarded as the pathology of the healthy society who needs to be integrated. But the truth, says Freire, is that

> they are not “marginals’ […] “outside” society. They have always been “inside” […] the structure which made them “beings for others.” The solution is not to “integrate” them into the structure of oppression, but to transform that structure so that they can become “beings for themselves”. (p. 69)

Here it seems obvious that Freire’s view is in direct opposition to the initiation-view that is presented by both Peters and Dewey. In fact, it is hard not to view Freire’s rather metaphorical description of the oppressors as “inside” and the oppressed as “outside” as a direct criticism of Peters’ similar picture of the uneducated, or non-initiated, barbarian outside the walls of the civilization (see Peters, 2007 [1965], p. 65). However, if we follow Freire and deem Peters’ metaphor as rather inadequate, to be initiated could very well be interpreted as a way of de-mythologizing and presenting the structure in which the oppressed is already inside.

A true and genuinely liberating education, according to Freire, is constituted by the students’ view of the world; it is dialogical and problem-posing: “Solidarity requires true communication” and “one must seek to live *with* others in solidarity” (p. 70). Freire does not mention “socialization”, but my guess is that he would find the notion negative if it denotes the process of being socialized into a given society. On the other hand: if there are no oppressors or oppressed; if we are all equal (as human beings) in a genuinely liberating educational process, socialization could mean seeking “to live *with* others”. This does not necessarily mean that we dismiss the fact that the teacher probably has a more complex view on the subject that

is being taught and the social world than the student (in this way the relation is an asymmetrical power relation). And it does not dismiss the fact that the student has much to teach the teacher.

According to Kelvin Becket (2018), Dewey, Peters and Freire arrive at "remarkably similar accounts of the concept of education" (p. 383), even though they "begin their analyses of the concept of education from markedly different personal perspectives" (p. 385). Peters emphasizes *initiation* into established customs and public traditions, while Freire emphasizes *liberation* through the elimination of socially structural evils and myths. Dewey's *progressivist* perspective emphasizes the *improvement of society* through "renewing of the social group" (Ibid.). Becket concludes that "Peters and Freire would agree with Dewey that society must be renewed" and that education "is the means of social renewal" (p. 386). What I want to highlight is that all three present a view on the socialization aspect of education as an activity in which teachers and students participate together; an activity that will influence both teachers and students, and an activity that will have an impact on who they become and what they will do in the future. In this sense, socialization is not only a possible purpose or aim of education: *Socialization is a constitutive part of education*, because education means to stand in a relation to someone.

4. Education as Relation

> [A] learner is 'initiated' by another into something which he has to master, know or remember. 'Education' picks out processes by means of which people get started on the road to such achievements. (Peters, 2012 [1967], p. 3)

> [A]ll education can be regarded as a form of 'socialization' in so far as it involves initiation into public traditions which are articulated in language and forms of thoughts. (Peters, 2007 [1965], p. 56)

The core idea of socialization as a constitutive part of education is captured in the abstract notion of education as a *specific deontic relation involving asymmetric social positions (such as a teacher and a pupil) taking part in a study or collective investigation with the intention to increase understanding*. To increase understanding is not necessarily to agree on a common view or reaching the "right" understanding of things. It is to come closer together by a better understanding of different views and perspectives; it is *communication*, i.e. to share.

The Latin word "educare" means 'to bring up', and "educere" means 'to bring forth' or to 'lead out'. In *Ethics and Education,* Peters (2020 [1966]) points out that adherents of the "child-centered ideology" often make the point that 'education' is connected to "educere" rather than "educare". The idea is to focus on what is within rather than the imposition without. Peters reminds us, with reference to Stevenson, that this kind of arguing from etymology is a kind of *persuasive definition*.[74] Further, neither communication nor upbringing implies education. Someone can bring up a child by providing it with proper nutrition, nurturing, training of "important" skills, instructions on "right" and "wrong" behavior, and even by manipulation and indoctrination, without really engaging in proper education. Also, adults can engage in educational activities that we would not call "upbringing". Being a student at a university is not generally what we count as part of our upbringing.

It is fair to say, though, that a proper upbringing ought to include education. And education means to stand in a relation to another, either as a teacher or as a learner, and to recognize these different social positions as an asymmetrical relation. Being a teacher means to stand in a relation to another such that one has the capacity, i.e. the power, to initiate the other. This in turn means that there is a correlation such that there is a learner that is liable to this initiation. Teaching cannot happen without this power and liability correlation. Entering such a relation also implies a responsibility of both parties to uphold this initiation process. It gives the learner the right to ask questions and demand answers to these questions and the teacher a duty to give answers and to initiate. Because to have the power to initiate means that you are already initiated yourself. A teacher has knowledge and understanding of the subject that is being taught.

For the learner to enter into initiation means to recognize that there are certain standards that are acquired through contact with those who have already acquired them. It is to engage in cooperation in the strong sense, i.e. to recognize this relation and the joint attention towards an object of study from a we-mode perspective. Initiation has a directedness. However, it is not mere knowledge transmission in a one-directional sense. It involves the collective intention to understand the underlying principles and justifications of this "knowledge" of the object being studied. The directedness is thus the process to further increase mutual understanding of the object placed on the table. Both the teacher and the learner bring in new

[74] See Barrow (2020) for a more recent criticism on using etymology as a starting point for an argument.

perspectives of the object being studied, however with different prerequisites, and the teacher as someone who is already initiated often has a more complex understanding of the object being studied.

Therefore, education is *always* a *normative* relation between a teacher and a learner. The normativity concerns the *cooperation in the strong sense* by way of a collective recognition of these social positions and the collective intention to further increase mutual understanding. However, this intention is not always satisfied, and we are never 'educated' in the sense that our mutual understanding of the world is fully exhausted, and therefore our knowledge of the world is always fallible and incomplete. That is why we engage in education all through life. Education is thus a vital part of what it means to be human.

What, then, does it mean to be initiated and to travel with a different view? Peters suggests that "'Education' picks out processes by means of which people get started on the road to such achievements" (Peters, 2012 [1967], p. 3), and also that education is "initiation into public traditions which are articulated in language and forms of thought" (2007 [1965], p. 56), which is also described as "worthwhile knowledge". I interpret this reference to "worthwhile knowledge" as gaining an increasingly better map of the terrain, a better understanding. And insofar as we fine-tune this map, we can travel better in so many new ways and directions. Because we all have slightly different directions. None of us travel on exactly the same path. We do not really take the exact same steps even if we go down the same road; a road that is constructed by previous generations. Tara Westover would have travelled on without her formal education, however with a different kind of view, in a different kind of terrain, and with a different kind of map, that would not have been as fine grained and complex as it became for her in the end. It is fair to say that it would have been both smaller and more distorted. And the changing of the map was not done by her in isolation; it was done through her meetings with both the inside and the outside.

Maybe we should reverse Peters' analogy of the barbarians outside the gates? Maybe to be initiated is not to be let into the fly-bottle, to use a metaphor from Ian Hacking (2006a); maybe it is to map the fly-bottle so as to mark the way out of it. The uneducated are not the barbarians outside, they are "already inside", quoting Freire, and education is to get to know the surroundings from the inside and maybe a way to step up in the watchtower and get to view the inside from above and the terrain outside: to view both the inside and the outside from above, and to view it in a more fine-grained sense. Education is rather *initiation to navigation*. What small corners can I find on the inside and what paths can I take if I choose to go

outside? I can take the main road, the road that has been explicitly mapped out by others, but I can also take those less or never before travelled roads. I can travel on a different road. Not only different from the roads that have been travelled before, but I can even travel off-road once I become aware of where the roads go. I can construct my own road. To travel with a *different* view is not only to travel with a different view from the one I have previously had myself; it is to travel with a unique view. My view. We do not come from exactly the same place, we do not choose the exact same direction, and we are not necessarily heading towards the exact same place. However, we are of course discursively shaped as individuals, and we need a teacher of navigation to fully understand the fly-bottle and to make a choice regarding if we want to try to make our way out of the fly-bottle. This is, to my understanding, what is meant by being educated.

In the implementation and enforcement of education we should be responsive to local, social and individual needs. Education can take many different forms and have very different aims. Viewing education as a human right is most properly to hold the view that we have the right to this specified relation between a teacher and a pupil. Such a relation involves initiation, aiming at the transmission of worthwhile knowledge, with the shared we-intention to increase mutual understanding. Education involves cooperation. And non-formal as well as formal education involve conscious cooperation in the strong sense.

5. Education and Normativity

All agents, or players of the game, have aims and ideals that are shaped by the background and the network. Because education is a relation between agents, education is always normative, not only in a deontic sense, but also in a telic sense. *There is always a direction*. And there are always ideals held by the agents involved; agents always exist within a background and a network. We should, however, be careful not to conclude from this that education itself has a specific aim besides the intention of those engaged in education to further increase collective intentionality in the sense of mutual understanding. There are thus no aims of education other than the aims that the players bring with them into the game. And these aims can, and will, differ depending on context. Therefore, specified aims are never constitutive parts of an educational relation. They can never be necessary for recognizing a relation as being educational. What is necessary for education is a deontic asymmetry. Education means to stand in an asymmetric

relation to someone else. Therefore, one can never educate oneself.[75] And a symmetrical power relation of mutual investigation, if such a relation can exist at all in real life, is not educational. When it comes to other kinds of social learning relations, they do not need to involve asymmetry or cooperation. The normativity in such cases does not need to be social in the sense of cooperation. If we take a case of imitation as an example of social learning, some person A can imitate the actions of another person B with an exclusively private normative reason in the shape of a hypothetical imperative: “If I want to do x, I ought to do action y, based on what I have observed B doing”. This does not imply cooperation. At least not in the strong sense of a recognized “we-mode”.

Conclusion

Given that the teacher is someone who has already acquired certain standards which gives the teacher a power over the learner to teach and initiate through giving testimony of the world, education as a deontic asymmetrical power-relation sets the stage for both indoctrination and manipulation. But what exactly is the relation between education and indoctrination and manipulation?

[75] I will come back to what I think is a useful distinction between ”self-education”/”self-teaching” and learning by yourself in Chapter 13.

CHAPTER 11. INDOCTRINATION AND MANIPULATION

Introduction

As we have just seen, a commonly held assumption concerning education is that education involves some kind of initiation. And as pointed out by Peters (2007 [1965]) initiation is a form of socialization. According to Peters, education is to be initiated (in a meaningful way) into public tradition and forms of knowledge. John Dewey (2011 [1916]) argued in a more pragmatic and instrumental way that the "immature members" are to be "initiated into the interests, purposes, information, skill, and practices of the mature members: otherwise the group will cease its characteristic life" (p. 3). Besides the traditional sceptical arguments concerning knowledge and more technical problematisations of the definition of knowledge, such as the Gettier problem, the growing field of social epistemology poses further problems for epistemology. Forms of knowledge as well as the "growth of knowledge" are often, if not always, dependent on social factors and our social institutions (Kotzee, 2014). Few of us would argue that the solitary armchair philosophizing method of Descartes is the best way to acquire truth. And in an educational setting, knowledge is more often acquired through putting trust in the teacher's testimony rather than actually understanding the underlying principles and the justifications of the truth of our beliefs. This obviously poses problems for viewing education as *knowledge transmission* and some, such as Randall Curren (2009), have instead suggested that education can be characterized as "*initiation into practices that express human flourishing*" (p. 52).

In 1958, Hannah Arendt spoke of a "crisis in education" where the authority of the educator was put into question. She argued that the child, not yet acquainted with the world, must be gradually introduced to it, and that the educator stands in relation to the child as a representative of the world.

Upholding authority, for Arendt, is a matter of taking responsibility for the world. However, "[t]he function of the school is to teach children what the world is like and not to instruct them in the art of living" (p. 192), argued Arendt. Even Rousseau, who was an early advocator of what has later become known as *progressive child-centered education*, argued that the educator should choose what objects the child should be acquainted with:

> If we intend rightly to cultivate this chief faculty of the mind, we must choose these objects carefully, constantly acquainting him with such as he ought to understand, and keeping back those he ought not to know. In this way we should endeavor to make his mind a storehouse of knowledge, to aid in his education in youth, and to direct him at all times. (Rousseau, (1889) p.84)

Despite the differences and variations concerning views on the nature and purpose of education and schooling, initiation of some sort seems to be a common feature in many educational theories. The educator should initiate, present and direct attention to certain phenomena or objects. In other words, borrowing an expression from Masschelein and Simons (2013), *the teacher brings a subject matter to the table*. This seems to suggest that the educator i) has some kind of knowledge that could be taught (i.e. knowledge transmission); ii) makes a *selection* of an example to bring to the table; iii) has an idea of why it is better to bring one thing to the table instead of something else; and iv) is able to separate between facts, beliefs, opinions and values concerning the thing placed on the table.

The questions I am concerned with in this chapter are first, how *indoctrination* and *manipulation* are related to education, and second, if indoctrination and manipulation are necessary parts of education or if they can be avoided. I will define indoctrination in the following way: A has the intention to teach B a belief or set of beliefs without justification, and B accepts the belief or set of beliefs uncritically. In dealing with the question of manipulation I will follow the definition suggested by Åsa Burman, barrowed from David Easton: "When B is *not* aware of A's intention to influence him but A does in fact manage to get B to follow his wishes, we can say that we have an instance of *manipulation*" (Andersson [now Burman], 2007, p. 152). This means that what matters for both indoctrination and manipulation is the intention and the satisfaction of that intention rather than the content.

Although neither indoctrination nor manipulation are constitutive parts of education, both of them are quite common within education and can also

be methodologically quite effective in pedagogical relations. To memorize the multiplication table by heart can be a quite effective educational strategy even if no explanation or justification is given for the truth of the multiplication table. And manipulation in the sense of making someone do something without that person being aware of the intentions is also quite common in education. A teacher, to use an example from Peters (2012 [1967]), "might try to condition children to 'pick up' certain things without their realizing that they were picking anything up" (p. 3).

1. Indoctrination

In Plato's *Meno* it is concluded that virtue cannot be taught. There are no teachers of virtue because no one, not even those who are virtuous themselves, *knows* what virtue is. The conclusion is based on the premise that you cannot teach what you do not know, and has been labelled by Catherine Z. Elgin (1999) as Plato's Teaching Assumption (PTA). Additionally, to teach something as true, without giving justification or without knowing that it is true (i.e. without having any proper justification for it being true) seems to be what we generally label indoctrination, i.e. *the process of teaching a person or group to accept a set of beliefs uncritically*. To teach something uncritically is to teach something without proper justification. Therefore, if we want to avoid indoctrination, it seems that we ought to teach only *what we know is true*, i.e. what we can justify as true. I will argue that this an unreasonable position. Because when do we really know that what we think we know is actually true? Consider the following statement from the antique Greek philosopher Xenophanes:

> But as for certain truth, no man has known it, Nor will he know it; neither of the gods, Nor yet of all the things of which I speak. And even if by chance he were to utter The perfect truth, he would himself not know it; For all is but a woven web of guesses. (Xenophanes, quoted in Popper, 2010 [1963], p. 34)

The quote appears several times, in whole or in part, in Karl Popper´s work *Conjectures and Refutations* (2010 [1963]). According to Popper, knowledge and scientific theories always involve *doxa*, i.e. they are always *fallible*, and therefore the proper method is to try to present our most convincing guesses, or conjectures, and examine them critically. For a theory to be scientific, according to Popper, it has to include propositions that could be falsified, without the possibility to be infinitely saved by ad hoc-arguments. We can thus never be *completely sure* that a theory is true.

An obvious dilemma has now appeared concerning education and teaching if teaching the truth is considered to be a necessary condition for avoiding indoctrination. The dilemma could be presented as based on the following premises:

1. Knowledge necessarily requires justified true belief (JTB).
2. If fallibilism is true, we can never be sure that what we think is true could not turn out to be false.
3. Fallibilism is true.
4. We can never be sure that we have knowledge.
5. We cannot teach what we do not know (PTA).
6. Teaching without justified true belief is indoctrination.
7. All teaching is indoctrination.
8. Indoctrination is bad.
9. All teaching is bad.
10. Teaching is impossible

Premise 10 seems empirically false. Surely there is an activity in practice that we label teaching. On the other hand, the same premise seems to follow logically from premises 1-5, which means that if we accept premises 1-5, we also have to accept premise 10. If we reject premise 5, or premises 1 and 4, or alternatively 2 and 3, teaching is possible. Still, even if we reject some or all of the premises 1-5, we could still accept premise 6. If we accept premises 2, 3 and 6, then premise 7 seems to follow. And if we accept both premise 7 and premise 8, then we also have to accept premise 9. However, premise 9 seems absurd. What I want to suggest is that we reject, or at least modify, premises 5 and 6 which in turn allows us to also reject premises 7, 9 and 10.

To remain open to new ideas, evidence and arguments, and at the same time being critical of what we believe is true, seems like a sound anti-dogmatic attitude. To aim for the truth involves the process of critical examination of conjectures and beliefs and to abandon what turns out to be false. However, where should we draw the line between what we know for sure and what we believe is true but that could turn out to be false? Consider a teacher's actual knowledge of one's own subject and how much of that "knowledge" that could turn out to be false e.g. because of new discoveries. It seems fair to assume that there is and has been through history, plenty of good teachers who has taught false beliefs, with the good intention of teaching the truth, i.e. beliefs that they were convinced was true facts of the world. Some of these beliefs are plainly wrong such as teaching that

the earth is flat when it is not. Others are a matter of contingent conceptions and definitions such as teaching that Pluto is a planet. In 2006, researchers at the International Astronomical Union redefined the definition of a planet making Pluto a dwarf planet rather than a planet. In other words, before 2006 Pluto was in fact a planet. Since 2006, Pluto is in fact not a proper planet. Another way to articulate this is to say that Pluto has never been a planet, but before 2006 it was a commonly held (false) belief that Pluto was in fact a planet, and pupils were accordingly taught (with good intention of teaching the truth) that Pluto was a planet. However, it is the definition of the word "planet" that has changed, not the planet (Pluto) itself. Thus, if we examine Pluto and accept the 2006 definition of a planet it seems reasonable to hold the belief that Pluto is not a planet. It is reasonable to hold the belief given the definition. We do not have to concern ourselves with the "actual truth". And we can prepare ourselves for the possibility that it may become less reasonable if new discoveries are made or new definitions are stipulated.

Now, some will probably object here and argue that there are facts that certainly are true, and that never will turn out to be false, such as Archimedes' principle or the fact that 7+5 = 12. However, a sceptic could invoke Descartes' method of doubt, arguing that everything could be doubted except, perhaps, the fact that I am doubting. Thus, it turns out that everything seems fallible except the experience that I am doubting. The sceptic David Hume settled with an idealist epistemology arguing that we can only know what we experience. I can know that I am experiencing pain or that I am experiencing the sun going down, but I cannot know that the sun is in fact going down or that the world is spinning around its own axis. With Hume's scepticism in mind, Kant's solution was to separate between *the thing in itself* and *the thing for me/us*, arguing that we construct a priori synthetic truths that ground our experiences. This is one version of what has generally been labelled *cognitive constructivism* which holds that our cognitive apparatus sets limits to what we can experience. Every experience is filtered through our cognitive apparatus. Therefore, every experience is partly constructed by our minds and we can never have proper knowledge of things in themselves.

For Popper, every experience is theory laden and thus part of a theory of the world. Hence, we cannot experience any pure facts. Our "facts" are thus "doxastic". According to Popper, we advance towards the truth by falsifying bad theories until we are left with only good theories that coherently explain the world (and these theories are also fallible), but we can never now that we have reached the ultimate truth about anything.

If we accept any of these critical claims concerning truth and knowledge, we also have to accept fallibilism. And if we accept fallibilism it seems that we can never know that we are teaching *The Truth*. Thus, if we are unsure of the truth of what we teach, does this also imply that all teaching is indoctrination? In other words, is teaching without JTB indoctrination?

Eamonn Callan and Dylan Arena (2009) point out that indoctrination used to be synonymous with *instruction*. However, while instruction can have neutral, positive or negative connotations depending on the context, indoctrination today seems to generally have only negative connotations. And further, indoctrination seems to be an example of moral wrongdoing. A general definition holds that indoctrination is *the process of teaching a person or group to accept a set of beliefs uncritically*. But what are the constitutive criteria of indoctrination? Is it the methods that are used to impart beliefs, the propositional content of the beliefs, or the intention of the teacher doing the imparting? According to Callan and Arena (2009) too much of the discussion concerning indoctrination focuses on the internal activity of teaching rather than the effects on the students. It cannot be a specific method that constitutes indoctrination because it seems that dogmatic schools can indoctrinate certain religious and political views using exactly the same teaching methods as non-indoctrinating schools use. And the truth of the propositional content is not enough for avoiding indoctrination. Think of a teacher that has taught a student that a triangle is 180° without any explanation or intention to justify this proposition, and then the student subsequently comes to believe that a triangle is 180°, but cannot explain it and do not try to understand the reasoning behind this axiom. And when the student is being asked how he/she knows this fact, he/she only refers to the teacher's testimony and authority on the subject. Even if the propositional content and the student's belief happens to be true, it seems to be a case of indoctrination.

However, it is not enough that the teacher has an intention to indoctrinate his/her student. If the student does not believe what the teacher says, the instance of indoctrination simply fails. For indoctrination to actually work, the intention of the teacher to indoctrinate has to be satisfied. So, indoctrination is best understood as when the teacher has an intention of making the student believe a proposition as being true without proper justification and the intention is successful so that the student comes to believe the proposition without increased understanding concerning the subject in question.

(I) A has the intention to teach B a belief or set of beliefs without justification, and B accepts the belief or set of beliefs uncritically

If a teacher teaches that the proposition "steel is metal" is true without teaching any metallurgy and the student comes to believe that "steel is metal" is true uncritically without any justification, i.e. without any knowledge of metallurgy, this would amount to what we call indoctrination. Thus, truth is not what is required to avoid indoctrination.[76] And teaching is not equivalent to instructing. What is required is justification and truth-seeking that increases the students understanding of the subject. One way to do this is simply to bring something to the table for critical and collaborative investigation under supervision of a teacher with sufficient understanding of the subject. John Locke expressed a similar idea concerning the difference between teachers teaching doctrines and the teachers who "seek only the truth":

> This gives one reason to suspect that such teachers are conscious to themselves of the falsehood or weakness of the doctrines they teach, since they won't allow the grounds they are built on to be examined; whereas those who seek only the truth, and don't want to possess or propagate anything else, •freely expose their principles to the test, •are pleased to have them examined, •allow men to reject them if they can, and if there's anything weak and unsound in them •are willing to have it detected. They don't want any accepted proposition to get, from them or anyone else, more stress on it than is warranted by the evidence of its truth. (Locke, 2017 [1697] *Conduct* § 41)

Counting in fallibility while searching for the truth and increased understanding of the world is to adhere to a humble attitude to the world and accept that closed-mindedness and ignorance are rather our starting point when we engage in education and in joint investigations. As pointed out by Johan Dahlbeck (2021), we ought to recognize and assume that "closed-

[76] It may be objected here that this definition of indoctrination misses out on a more colloquial use of the word as when we, because of having been indoctrinated, afterwards are stuck in our outlook and unable to revise in response to reasons. And I thank John Tillson for this comment. However, I would say that this is hard to avoid in any kind of process of formation. A vital part of every process of formation is that we lose sight at the same moment as we gain sight. It is to quote Peters "to travel with a *different* view" (my emphasis). Westover's memoir is a good example here. Education is a kind of metamorphosis, or maybe more accurately in Peters' terms a transformation (see English, 2011), and can often give a sense of betrayal of yourself. We can evaluate if the new view is better or worse, but that is not the point. We always get stuck in our new outlooks. That is not necessarily a consequence of indoctrination, and it is definitely not a part of the definition according to me. Nor does it matter if what is taught through indoctrination is true or not. If John's mom is nice enough to tell him that Japan is a real country, but Never, Never Land is not, then what matters is not if the proposition is true or not. What matters is if she intends to persuade him without giving evidence or arguments and if John form this belief uncritically. If the pope says that God exists without persuasive (rational) arguments, and you come to believe this, it is indoctrination weather or not you go to heaven or just decompose in the ground.

mindedness is part and parcel of the human condition and that we are better off acknowledging this than we are pretending otherwise" (p. 18). The conclusion, then, is that it is far more dangerous to assume that we can educate without any indoctrination than accepting that indoctrination is likely a common, and perhaps unavoidable, element of education. The solution, as I take it, is to be aware in our search for truth and understanding that we can never be absolutely sure that we have exhaustive justifications for our beliefs. When teachers are educating people, they are committed to some "morally legitimate procedures" (Peters, 2012 [1967], p. 3). The teacher gives testimony about the world, and with this follows responsibility. To take responsibility for this testimony is to account for fallibility.

The antique pedagogue was usually a slave with the purpose of escorting the child from the home to the school, and the Greek word σχολή "scholē" means "free time". Following Arendt's idea that the school is "the institution that we interpose between the private domain of home and the world in order to make the transition from the family to the world possible at all" (Arendt, 2007 [1958] p. 191), Masschelein and Simons suggest that forming and educating a child is not about socialization and ensuring that the child adopts the values of the family, culture or society. It is not even to adopt certain skills. It is rather to pick out examples from the world and bring them to the table for joint examination. This "post-critical" view on education share similarities with the view that I am advocating. There is, however, a tendency to disregard the fact that education, even when it is not directed at socialization as an extrinsic aim, involves socialization. In other words, engaging in an educational process is to *socialize*. And in a general sense, social relations involve power relations and normative commitment. Therefore, the questions concerning the asymmetric deontic relation between the teacher and the student, including indoctrination and manipulation, needs to be addressed. However, this "post-critical" view on education also brings forth an important aspect of the nature of teaching. The educational method here is to reason about the thing on the table. To explain what we see and how it seems to work. To try to understand the thing placed on the table. For this to work the teacher does not have to state propositions as being absolutely true, only to guide the students by asking questions and state hypotheses concerning the object that could then be examined critically. The goal is to increase a collective understanding of the thing through teaching and collaborative investigation. This reminds us of the *Socratic method* used in Plato's *Meno*. However, with the important

difference that there is no absolute truth to be reached; it is only truth-seeking and an expansion of our understanding.[77] A further consideration concerning placing something on the table is that in doing so the teacher has to select what is to be placed on the table and also has to have an idea of why the particular example is selected. Can this be done without manipulation? The next thing to consider is thus what place, if any, manipulation has in education.

2. Manipulation

Nothing rules out the possibility of the pupil selecting a study object in an educational relation. However, it is primarily the teacher's job to choose what object of study that should be placed on the table, to do a selection and to initiate. As stated by Rousseau: "we must choose these objects carefully, constantly acquainting him with such as he ought to understand, and keeping back those he ought not to know" (1889 p. 84). The teacher is someone who is already initiated into a subject matter. A teacher is an authority and the power-relation between a teacher and a pupil is in this sense always asymmetrical. And as stated by Peters (2012 [1967]), "a teacher might condition children to 'pick up' certain things without their realizing that they were picking anything up" (p. 3). Thus, having the status function of being a teacher sets the stage for manipulation. Following Burman and Easton (Andersson [now Burman], 2007), I will define manipulation in the following way:

(M) B is not aware of A's intention to influence B but A does in fact manage to get B to follow A's wishes.

One could object here by arguing that what matters in trying to avoid manipulation is the content rather than the intention. As long as we are given the relevant reasons for our actions, we are not being manipulated. Suppose I state all the arguments in favour of and against X. The arguments in favour of X are compelling. I intend for you to be persuaded of this. You are not aware. You come away believing X for the relevant reasons. Some would hold that this is not a case of manipulation because you have been given the "right" reasons for action.[78] In response to this, I believe it is

[77] Hence, this is not a denial of objective truth, it is only to accept the assumption of fallibilism stating that our beliefs can turn out to be false. Thus, the idea of objective truth is necessary for a fallibilistic approach. In other words, if there is no objective truth, we cannot have false beliefs.

[78] Again, I thank John Tillson for this remark. See also Tillson (forthcoming).

necessary to separate between the messenger (A), the message (X) and the receiver (B). I do think that the important part is that the manipulation is intended, not the intellectual argument. Another example would be how a news reporter can report something objectively and still be very selective concerning what pieces of information to report. The information given is (objectively) true, yet it is however a selection. And even if the information is totally exhaustive (which I think it never is as we have to count in fallibility) it is the intention to manipulate, and that this intention is satisfied that matters, i.e. A intends that B does X, and B does X without knowing A's intentions. And although sometimes we become aware of the fact that we have been manipulated, what matters for manipulation is that we are not aware of the manipulation when it happens. So, we should also separate between time T1 and T2. Because I agree that we can come to be aware that we have previously been manipulated, as we can become aware of hidden agentic power relations and power structures. However, this is not part of what constitutes these power relations and power structures. So, the fact that B, later on (T2), becomes aware of A's manipulation (including the intention to do so) is not a part of the definition of manipulation. On the contrary, a necessary part of the definition is that you do not know about the manipulation at time T1.

Finally, manipulation should be separated from how we sometimes unconsciously influence other peoples' behaviour. If my mere presence, behaviour or utterances affect you in such a way that you act in ways that you otherwise would not, I should not be accused of manipulation if I am unconscious of this effect. Thus, the proper meaning of manipulation is that I have a conscious intention to manipulate you and that the manipulation is satisfied.

Conclusion

I have argued that education is constituted by an asymmetrical relation between a teacher and a student, where the educator is someone who has already acquired certain standards. The task of the teacher is to initiate, present and direct attention to certain phenomena or objects. Such a task could be executed through indoctrination and manipulation. However, indoctrination and manipulation are neither necessary nor sufficient for something to be education. What needs to be added is that the agents involved in education have a collective intention to increase mutual understanding of the *subject matter that is brought to the table*. This is not to deny that both indoctrination and manipulation are quite common within education, and

sometimes maybe even unavoidable. Apart from the fact that indoctrination and manipulation can be quite useful and effective methods in education, some educational situations involve agents that are mentally impaired in some way or of very young children that are unable to fully recognize the educational situation. This suggests for instance that the amount of indoctrination and manipulation will probably be higher in preschool education than in high school- and university-education. Finally, I have suggested that what matters most in indoctrination and manipulation is the presence of the intention to indoctrinate or manipulate together with the satisfaction of this intention. We should therefore focus our attention on the (collective) beliefs, intentions and aims of the agents rather than the practice or the subject being taught.

CHAPTER 12. THE PURPOSE AND AIMS OF EDUCATION

While we can try to give a general and abstract formal account of the nature of education, the content, purposes and aims of education are always contextual and dependent on the intentions of both the student and the educator. Once education is actualized in a specific time or place with specific agents in relation, it becomes a specific type of education, an instance of education. And quite often such an instance of education takes place within a formally institutionalized educational system with an external curriculum.

There are no extrinsic aims that work as constitutive parts of education. However, education is a social act with the function of collective study. This implies *collective attention*, *communication* and *collective intention*, and quite often *conscious cooperation in the strong sense*. In this relation, *language* and *concepts* are important tools:

> [W]hatever private forms of awareness there may be, it is by way of symbols, particularly in language, that conceptual articulation becomes objectified, for the symbols give public embodiment to the concepts. The result of this is that men are able to come to understand both the external world and their own private states of mind in common ways, sharing the same conceptual schemata by learning to use symbols in the same manner. The objectification of understanding is possible because commonly accepted criteria for using the terms are recognized even if these are never explicitly expressed. (Hirst, 1974, p. 39)

Therefore, education is constituted by a purpose: the purpose of initiation and increasing mutual understanding. If we view education as an institution, we could apply North's idea of institutions as the rules of the game. It is a space in which the players of the game (i.e. teachers and pupils) can

operate. The players add another feature to the game, namely *preferences*, bringing about additional purposes and aims:

> Agents not only observe the world or act in it. While these describe mere kinematics of a game, agents also evaluate current state and various possible futures. Being driven by preferences, it is such evaluations that are the moving force behind player's choices. Preference, hence, take a prominent explanatory role for true game dynamics. (Benthem and Klein, 2020)

Depending on the context there are usually several other players involved in the game that add additional regulative rules to the game besides teachers and pupils. The game is situated in a historical and political context and parents, communities, municipalities, schools, a board of education, a government and international organizations are usually a part of the game too.

The game itself, however, does not have preferences, and therefore no aims; it has no intentionality and therefore no intentions. A competitive game such as baseball or chess has an inherent purpose stating that someone should win the game. Other kinds of games such as dancing tango or a classroom situation does not necessarily include such a competitive element. While both kinds of games involve cooperation, only the former needs to include competition. However, the game itself has no aims as in preferences or intentions. Likewise, education has the purpose of initiation and increasing mutual understanding, as constitutive rules, but education itself has no necessary regulative rules or aims. Recall Dewey's sentiment: "Only persons, parents and teachers etc., have aims, not an abstract idea like education" (Dewey, 1916, p. 107).

Moving away from the "nature" of education to the questions of the purposes and aims of education is to move from merely talking about the abstract right to education towards the specific right to education within certain particular social contexts. And here is where the really tricky bit starts. Can we take this step in a piecemeal way so that we can say anything about the necessary and sufficient content of education and its purpose and aims, without making any contestable assumptions concerning metaphysics, ethics, religion or political ideals in the desire to deliver a specific ideal version of education? We are moving here from a rather empty conceptual analysis of what we in a broad and abstract sense mean by education to more substantial statements concerning curricula.

We are very much shaped by our own contextual upbringing and the paradigm and hegemony of the educational system that we ourselves have spent time in and grown up with. This makes it hard to think beyond the

fact that schooling as we know it is only one of the possible forms of education: "All too often, education is taken to be synonymous with schooling, and even then without an acknowledgement of the complexities of the school experience" (McCowan, 2013, p. 67). It is therefore easy to jump to conclusions concerning the universal right to education as the right to specific kinds of knowledge or initiation into certain subjects or skills, as well as the forms and premises of that right. Consider the right to education as stated in UDHR:

> (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
>
> (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
>
> (3) Parents have a prior right to choose the kind of education that shall be given to their children. (UN, UDHR, Article 26)

We do not have to make a thorough discourse analysis to see that there are quite a lot of things in this description that are rather contextual and specific. There is something called "elementary education" that shall be "compulsory" and "free" for "everyone". There is a distinction between "technical" and "professional" education as well as the distinction between "elementary" and "higher" education. There is also talk of specific aims such as "full development of human personality" and "respect for human rights" and "fundamental freedoms". It suggests a world of "nations", "race" and "religious groups" and the UN as the organization for "maintenance of peace". Finally, it suggests that "[p]arents have a prior right to choose what kind of education that shall be given to their children". None of these statements are universal in the sense that they accord with a universal and timeless human practice. Throughout history, there have been conceptions of education that are very different from our contemporary ideas of education, and we also know that contemporary ideas differ in relation to culture, religion and political ideals.

As pointed out by McCowan (2013), even if Article 26 mentions technical, professional and higher education, it is only primary education that is seen as "an absolute right for all" (p. 71). Even though there are obvious practical reasons for limiting the right to education to primary education, McCowan holds that if there is such a thing as a human right to education, it is something that applies to all humans all through life. The most fundamental question to ask when moving forward towards a more substantial account concerning education as a universal right is to ask what forms of education might correspond to such a right.

The Process Model

McCowan refers to Stenhouse's categorization of three models for curriculum design: *content*, *product* and *process*. The content model refers to an idea of education as a certain body of knowledge, skills and/or values (e.g. academic disciplines, cultural traditions). The product (or sometimes 'objectives') approach is closely connected to the behaviouristic and pragmatist movements and concentrates on specific predefined outcomes which will govern the content and method. Finally, the process model is often connected to the progressive movement which instead focuses on the joint processes of enquiry.

In a political approach to human rights all three curriculum models are possible alternatives, and each model seems, *prima facie*, to fit better with certain political ideologies. From a conservative political approach, the content model seems to be the most likely choice, building upon established traditions of culture, values and academic disciplines. The product model seems to fit with various political ideologies that value education as a means for developing good citizens through deliberate civic education. Thus, not only totalitarian states but also democratic and liberal states can choose the product model, although shaping the democratic citizen presumably involves a more complex process. The process model seems to be the most likely choice for a liberal state aiming at emancipation. There are, of course, no necessary connections between political ideals and curriculum models. A conservative curriculum theorist could hold that the product model is the best model for preserving status q and/or only moderate change, and a liberal curriculum theorist could argue for the content model as the best ground for true emancipation.

In a more orthodox or humanist approach to human rights, the content model and the product model seems too specific for an abstract idea of education as a universal human right. The selection of content and product goals has to be context dependent. However, one could argue that educa-

tion is primarily intended to present a specific set of content, or that education serves as a means for attaining specific goals, where the selection of content or goals are contextual even though the abstract idea of education is not. There are however other objections to the content model and the product model. The latter model emerged as a criticism of the former, arguing that the content model lacks clear aims and has to appeal to the intrinsic worth of the chosen content. Thus, a more instrumental approach to education, such as the product model, provides a rational direction and structure to the school system by pointing out valuable learning outcomes. The methods and content of education can thus be adjusted to fit with the demands of society. However, the rationality and efficiency of the product model easily leads to a rather mechanical view on education that seems detrimental for the creativity and openness that we usually associate with educational practice (McCowan, 2013).

Both Stenhouse and McCowan prefer the process model, and McCowan's main argument builds upon the *proximity* of ends and means. The causal relation between ends and means has a relationship of *separation* if the focus lies on picking out the means that have the best chance of bringing about the ends. This way of viewing the relation between ends and means has, according to McCowan, been criticized by Dewey for being artificial. Often, we seem to have concerns about the nature of the means despite their ability to bring about the ends. And in some cases, argues McCowan, "the ends will actually be embodied in the means" (2013, p. 76). This relationship between ends and means is, according to McCowan, a relationship of *harmony*. The third mode of relationship is an elaboration of the harmony mode, when ends and means join completely. McCowan describes this as a relation of *unification*: "the educational experience is in fact the end, or the end is an educational experience" (ibid.). According to McCowan, the process approach is the only model that can capture the complex proximity of ends and means and "shows harmony, since the ends are not external to the educational experience engaged in" (p. 77). While the product model is a clear example of separation, the content model could first appear as unification between means and ends where the intrinsic value of the content is taken to be the ends in themselves. However, McCowan points out that the acquisition of knowledge could, and have historically, taken such morally questionable forms as learning through fear and punishment. The point is that it is the acquisition in itself, not the process of acquisition, that is in focus of the content model.

Hence, for McCowan, "the right to education is a right to engagement in educational processes" (p. 82). The subheading of McCowan's book reads *Principles for a Universal Entitlement to Learning*, and it becomes quite

evident in the book that McCowan has a rather difficult relationship to the concept of learning. He is sceptical towards replacing "Education for all" with "Learning for all" as formulated by The World Bank's *Education Strategy 2000*:

> The overarching goal is not just schooling, but learning. Getting millions more children into school has been a great achievement … The driver of development will, however, ultimately be what individuals *learn*, both in and out of school, from preschool through the labour market. (World Bank, 2006)

What he is sceptical about is the focus on learning outcomes as a basis for a right. He agrees that attendance in school does not necessarily guarantee meaningful educational activity, but he highlights that meaningful education has more to do with the quality of the education than with learning outcomes. Further, quality is not guaranteed by inputs such as e.g. textbooks, facilities and teacher qualifications; it is rather what is done with the inputs: "Quality resides in the educational processes provided and the educational experiences had by the learners" (p. 87). Now, a new formulation emerges of the right to education as "meaningful *processes* of learning" (ibid.) and for this, says McCowan, certain prerequisites must be in place, such as adequate nutrition and a place to study.

A Revised Process Model

While McCowan's definition of education is wide enough not to equate education with formal education (i.e. schooling) it is unclear if it is narrow enough not to equate education with learning. My suggestion is that educational process ought to be narrowed down to a specific deontic relation involving asymmetric social positions (such as a teacher and a pupil) taking part in a study or collective investigation with the intention to increase understanding. This definition has two main advantages over McCowan's definition. First, the intended learning outcome(s) does not have to be satisfied (i.e. the intended learning does not have to happen) and second, education is an asymmetric relation (i.e. learning on your own is not the same as education, because education involves teaching and being taught). Additionally, a third consequence of describing education as an asymmetric power relation is that it brings forth the moral aspect of education. McCowan refers to Peters' suggestion that education must be 'witting' and 'voluntary'. This seems to suggest that there needs to be some collective agreement on the asymmetric relation and joint commitment to engage in

educational activity; education cannot solely consist of mindless drill, indoctrination and/or manipulation. Thus, as a fourth consequence of the right to education, it is not just the student's right (and duty) to this specific relation; it is also the teacher's right (and duty) to this relation, i.e. the teacher's right (and duty) to teach.

McCowan rightly points out that education is dependent upon what individuals and groups in a specific context find meaningful, and educational activities will therefore "vary in accordance with interests and needs. Education will also express itself in different ways within different cultures and languages" (p. 94). With this general, abstract and open notion of education, the question arises if we can state anything about 'good' or 'bad' education without appealing to specific ideal goals and extrinsic aims. Following Peters, I think we can suggest that 'bad' education would be an educational activity with a low level of 'wit' that fails to increase understanding and a high level of mindless drill, indoctrination and manipulation.[79] When it comes to 'good' education maybe this formulation by McCowan can show us the way:

> …education at best involves an opening of the mind towards the world, as well as enhanced capacities for acting. The educator, therefore, provides learners with opportunities to reflect on themselves and the outside world, to act within it, and in turn to reflect on that action. (p. 95)

As I see it, taking part in a study or collective investigation with the intention to increase understanding is to open our minds towards both each other and towards the world. This, in turn, is in line with, or at least echoes, the ideas of Dewey, Peters and Freire, as well as Hannah Arendt's view that adults have a responsibility to "present the world". When the world is presented through collective investigation, the pupils as well as the teacher are all involved in education; and to be educated is, as stated by Peters, "to travel with a different view".

McCowan aims to show that if education is considered a human right, then it cannot be justified through instrumental value alone, but needs to be recognized as having intrinsic value. He rightly points out that most

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[79] It seems right to say that education can entail mindless drill, indoctrination and manipulation, and it is also debatable if education can happen without indoctrination and manipulation and no mindless drill what so ever. Michael Hand (2018), as one example, has suggested that indoctrination is unavoidable in moral education and "a lesser evil than amorality" (p. 11) See also my discussion concerning indoctrination and manipulation in chapter 11.

discussions of the right to education justifies the right as something that supports other aspects of well-being such as e.g. health and employment. By describing the right to education as the right to educational processes, rather than inputs and outputs, he stresses the need to focus on the educational activity as such, rather than school access and learning outcomes. Another important contribution is that he also points out that if education is a *human* right, then "the right includes all levels of education and has a lifelong application" (p. 172). For even if childhood is of critical importance for educational activity, we ought to have the opportunity to educate ourselves our whole life. Otherwise, it is not a human right that applies to all people.

Even though the focus here has been on the justification of the intrinsic value of education, the instrumental value of education is of great importance as well; accepting that education as such has no aims is not to deny that persons, such as students, teachers and parents, as well as organizations and governments have aims for which education is instrumentally valuable. However, to define education as a learning process fails to capture the socialization aspect of education as a constitutive element. It is true that a person who prevents someone from seeking knowledge, or engaging in the process of learning and inquiry, violates that person's right to both learning and education. However, a person who has the freedom to seek knowledge, or engaging in learning and inquiry does not thereby, per se, have a right to education. For to have a right to education is to have a right to a special kind of social relation with another person.

Human Rights Education

McCowan summarizes the right to education in the following way:

> All people have a right throughout life to engage in educational processes that are intrinsically as well as instrumentally valuable, and that embody respect for human rights. (2013, p. 173)

Thus, we ought to take a closer look at the statement that an educational process ought to "embody respect for human rights". Is HRE necessary to fulfil the right to education? This is what McCowan seems to suggest. He refers to Freire's idea that there is no educational practice completely neutral in *zero space-time*, and to suggest that this is what educational practice should be is, in itself, a political project. General education will in this sense, according to McCowan, "always involve reflection on society and the individual" and "move learners (and teachers) towards or away from

the human rights culture aspired for by advocates" (p. 164). Education, argues McCowan, is characterized by 1) "collective reflection, in observing, considering and trying to understand the nature of the universe through communication" and 2) "is inherently moral" (ibid.). And this suggests something more than the definition of the right to education as the right to "meaningful *processes* of learning" (p. 87, 168 & 172). However, to get the argument of rights *within* education, and not just *through* education, in place, McCowan needs to describe education as a relation. He uses his notion of the proximity of ends and means as a proximity in *harmony* rather than a relationship of *separation*. In this way he holds that HRE can be justified not only as a learning-goal to be reached through education, but as a necessary and integral part within education, where "the means must conform to the principles of value contained in the ends" (p. 165). In other words, if education ought to foster the understanding of human rights, the educational activity itself must "be imbued with the principles of human rights" (ibid.). If we settle with a proximity of separation between ends and means one could use corporal punishment, to evoke fear, "as a means of motivating students to more effectively memorize the articles of the Convention on the Rights of the Child" (ibid.).

However, we could also ask the question if education necessarily ought to foster the understanding of human rights. Rebecca Adami (2016) considers Hannah Arendt's critique of the visionary progressivist view on education as a means for creating a better democratic society by making the school a democratic space as a kind of miniature society. For Arendt this is to deny the responsibility for the political and the world and it undermines the authority of adults. A paradox appears from the core idea of the progressive view that we learn through practice, by the fact that "students, as minors, lack the actual political rights and freedoms they are supposed to enact" (Adami, 2016, p. 40). Adults put a lot of moral pressure and faith on the new generation to solve the problems that the adults are responsible for and at the same time children are treated as non-equals. According to Arendt (2007 [1958]) the child, not yet acquainted with the world, must be gradually introduced to it, and the educator stands in relation to the child as a representative of the world. Upholding authority is a matter of taking responsibility for the world. However, the function of the school is to teach children what the world is like and not to instruct them in the art of living. Adami suggests a revoking of Dewey's understanding of "education as conversation on experience" by way of Arendt's critique of progressivism and her notion of narrativity. By doing this, argues Adami, "there emerges a new conceptualization of Human Rights Learning and the potential for change in narrativity as the sharing of experience across cultural and social

difference" (2016, p. 44). Adami states that according to Arendt we are in constant narrativity and in this process we learn to become human. And according to Adami:

> This is not a process of learning about another (as Martha Nussbaum 1998 has explored), or learning from another (as in writings by Sharon Todd 2003) but learning in relations; about who we are and who we become in the course of narration. (ibid.)

Teaching about the world and introducing students to the world is to enter into an asymmetric power relation with non-equals with the intention to increase understanding. In such a relation there need to be some kind of deontic rules in place to even communicate and set the stage for narrativity and educational activity.[80] Such a rule governed activity will shape and make the parties both submit and react to each other, their social positions and the system of rules. A formal educational system must relate to both juridical laws as well as to declarations of human rights in one way or another, and it seems reasonable when introducing students to the world that they are introduced to these laws and declarations. However, this does not seem to apply to any educational activity understood in the broad sense as "meaningful *processes* of learning", "learning in relations" or as "a social relation with the shared intention to increase understanding". It seems hard to lay down the fostering of the understanding of human rights as a necessary criterion for *any educational activity*. Even though such an activity necessarily involves a normative, and perhaps even a moral relation, it does not have to be a good one that is in line with our idea of human rights. If we are going to be able to make sense of the distinction between "good" and "bad" education, and the difference between formal, non-formal and informal education, the right through and within education cannot be a constitutive element of all education all through life in any human society through time, independently of human context, and cultural, religious and political differences. The question if good education ought to involve the fostering of the understanding of human rights is an important question. However, it is a different question. In the same way, to ask the question if education is a human right is not necessarily to ask the question if the right to a specific kind of education is a human right. The right to a specific kind of education will always be context dependent.

[80] E.g. we need some common rules of language to communicate at all.

PART FOUR: WHAT THE RIGHT TO EDUCATION OUGHT TO BE

CHAPTER 13. THE AMELIORATIVE PROJECT

Introduction

I have argued that if we are going to make sense of the statement "education is a human right", we need to have some idea of what is meant by "education" and "human right" in this statement. And a way forward is to apply Haslanger's idea of ameliorative conceptual analysis. We should therefore start by asking if education and human rights are valuable and comprehensible concepts before we ask the question if the idea of education as a human right is comprehensible at all. And this has been the ambition in Part Two and Three.

In this chapter, I will consider not only how the concepts of human rights and education are valuable, but also how they are related to other valuable concepts such as 'schooling' and 'learning'. The point I have already made, that education should not be reduced to or equated with either learning or schooling, does not imply that learning and schooling are not valuable.

The Value of Human Rights

In Part Two, I argued for an orthodox view on human rights, i.e. that human rights is only valuable as a concept on its own if it is understood as a set of rights that we have simply in virtue of being humans. This does not mean that we need to treat them as natural rights with an ontologically objective existence. Neither does it mean that they should be reduced to products of international political conventions between states. It is an institution, understood as the rules of the game, where the players, as well as the rules, can be questioned and changed. 'Human rights' is a concept created by humans for humans, and so are the phenomena that this concept is denoting. The ontology is thus subjective and relative, even though there is a

higher ambition for epistemic objectivity. We should therefore treat human rights as a set of fundamental moral standards that apply to all human beings. It is not the term "human rights" that we are investigating here. It is the notion of having rights simply in virtue of being human. And what better name can we give such a notion than the name "human rights"? Such a set of fundamental moral standards of what it means to be human is not merely a product of western liberal politics; it is to recognize that all humans in virtue of being humans are entitled to these rights, despite citizenship in a state.

This is a bottom-up approach to human rights. Human rights are created and maintained by human individuals, as well as groups and organizations, in social relations. And being human is to be recognized as having the status function of being a human with some constitutive deontic rules and powers attached to this status function. No creature belonging to the human species possesses such rights in isolation, or any rights at all for that matter. And there exists no human rights without relations. Human rights are, to borrow a notion from Nussbaum, best understood as components of combined capabilities that we find valuable and necessary for being human in every possible human social context. And this idea, as a social construction, is worth fighting for.

The Value of Education

In Part Three, I addressed the question: "What valuable purpose does the concept of education serve that isn't captured in other similar concepts, such as for instance learning and schooling?" I concluded, in line with Dewey, Peters and more radical educational philosophers such as Freire and Illich, as well as economists such as Coombs and La Belle, that education should not be equated with formal education and schooling. This idea is also highlighted in more contemporary works by e.g. Tristan McCowan.

In addition, and maybe more importantly in the contemporary discussion, I concluded, in line with Biesta and the "post-critical" tradition within pedagogical theory, that we should not equate education with learning. Even though learning can be a very valuable social activity, education is distinguished by being an activity based on cooperation. There is nothing inherently bad about learning. What is wrong is, to borrow a term from Biesta, the "learnification" of education, i.e. to try to equate or reduce education to learning, or even worse, to learning outcomes. And as with "human rights", it is not the term "education" that is under investigation, it is the concept of education. We could try to seek the proper name for this

notion. In Swedish it is translated as "utbildning", in German "Ausbildung" and in French as "éducation". And if we want to make it even more difficult, we could add how this notion of education is related to the German notion of "Bildung", the Swedish term "bildning" and the English and French term "formation". It is obvious that these notions and these terms, and how they relate to one another, need further investigation. What I want to focus on here, however, is the concept education as has previously been addressed by Dewey, and maybe more detailed and thoroughly by Peters and others in the analytical tradition. In Part Three, I made a proposal for how this rather abstract idea of education would be most properly captured: education is a process that involves a specific deontic relation of asymmetric social positions (such as a teacher and a pupil) taking part in a study or collective investigation with the intention to increase understanding.

It could be argued that such a definition is too unsubstantial and that it does not give any practical directions or guidelines. I argue, however, that it is an amelioration of education as a valuable concept worth holding on to. It is a more general and abstract notion of education than the one that is given in e.g. UDHR where the description of education is discursively shaped in accordance with the school system such as it has evolved in the western liberal tradition. Education should not be reduced to a specific kind of formal education, especially not if it is considered as a universal human right. My suggestion is also both a broader and narrower definition than equating education to learning. Education involves cooperation in the strong sense. Joint attention or joint goals are not enough for education. Neither is imitation, instruction or training. There is no "self-educated" human. Education is a social process rather than a private or personal achievement. It is not enough that our private and personal aims of learning are socially situated. That would include too much of our everyday tasks, and also much of the social learning processes of non-human animals. Neither is it necessary that we reach the goals that we have as agents within an educational process. We could be involved in an educational process with the intention to increase our understanding and yet fail to reach our goals; the intention need not to be satisfied. One of the mistakes made by Peters is to focus too much on education as a "task achievement" (1966, p. 26). The focus shifts from education to what it means to be an "educated man", as if education could ever be completed and done with. Thus, education is not about reaching any final destination; it is to continue travelling with a different view. Education is to be involved with others in a joint study or investigation with the shared intention to increase understanding, not necessarily to reach specified learning outcomes.

The most obvious objection to what I have proposed is probably to point out that one can indeed be self-educated, because one can teach oneself various things. I must admit that we often say such things as "I taught myself to play the guitar" and in this sense I would be "self-educated" on guitar. But what do we actually mean by this? In "Thinking and Self-Teaching" (1971), Gilbert Ryle highlights that there is a connection between thinking and teaching, and that thinking is a way to try to make up for a gap in one's education.[81] However, in doing this, Ryle makes it clear that it is not really (self) teaching we are talking about here, it is rather a kind of learning or thinking (by yourself):

> I am going to argue that *Le Penseur* is not, of course, engaged in privily teaching himself whatever it is that he wants to know--he cannot teach it because he does not know it--but that he is experimentally plying himself with might-be cues, clues, reminders, snubs, exercises, spurs, etc., of types that are sometimes or often employed unexperimentally by teachers who are teaching what they do know. (p. 113)

When we engage in educational relations, we process what we are taught and we make various associations and draw conclusions, much in the same way as we do when we learn things by ourselves (as when I learn a new chord on my guitar) outside of educational relations. Ryle's point is that this kind of process is important in education and in teaching. To learn something through teaching is not just to memorize or to be able to recite back what you have been taught:

> Naturally, though horrifyingly, some of them [NCO's and educationalists] think well of the potential teaching-utility of subliminal gramophones. Tape recorders play back, but they do not learn. People who do learn do not just play back. Even to have learned something by heart is to have become able to do more than to parrot the piece. It is to be able to detect and correct erroneous recitations, to recite the piece and not some other piece when required to do so; to be able to deliver it fast or slowly, to start it or stop it at required places and so on. (ibid.)

So, I want to argue that when we say that we "educate" or "teach" ourselves, what we are really saying is that we learn things by ourselves. Again, it is not the terms "self-education" or "self-teaching" that I am after here, it is the difference between the concepts education and learning.[82] I

[81] I owe it to Ben Kotzee for pointing me towards this text.

[82] In the Swedish language we do not use terms such as "self-education" ("självutbildning") or "self-teaching" ("själv-undervisning"). Instead, we refer to self-educated and self-taught as "self-learned" ("självlärd").

think it is useful to be able to separate between me being taught to play the guitar and me learning how to play the guitar by myself. And similarly, it is useful to be able to separate between being taught to play the guitar from imitating someone else playing the guitar. While the latter situation indeed is social it is not education. And the former scenario is what is valuable and special with education, i.e. to be in a relation with someone else who teaches me, or someone whom I teach.

Another possible objection here would be to point out that the reason why we go through education and send our children to school is exactly because education has aims and that we want achievements; we want to be initiated, qualified, knowledgeable, liberated, socialized etc.[83] And this is mostly true. But it does not have to be. Some of us go through education and send our children to school because we are forced to do so. But when we do, it is because of the aims for which education is a means; it is the aims of agents involved in education, not the aims of education itself. Education only involves agents with the intentions to reach these goals, or as I have argued, with the intention to increase understanding of the world. What we can do is to ascribe a function to education, much in the same sense that we ascribe a function to the heart. The heart pumps blood. It is not an aim of the heart; it is an ascribed function of the heart. It is a special kind of process.

The process that we call education consists of agents with different social positions. Therefore, there is also an asymmetry of power. Such an asymmetrical power relation is neither good nor bad in itself. But it is a constitutive part of what education is and ought to be. The core point of education as a separate category is that it involves teachers and students. It can, and should, include training, formation, Bildung and learning. However, training, formation, Bildung, and learning can happen without this social power asymmetry and cooperation in the strong sense. And they are therefore not constitutive parts of education. This is why we can think of bad education as lacking these parts. Bad education is also a process that involves a specific deontic relation of asymmetric social positions (such as a teacher and a pupil) taking part in a study or collective investigation with the intention to increase understanding. However, such an educational relation can fail in relation to training, formation, Bildung and learning, and it can involve high levels of mindless drill, indoctrination and manipulation. Additionally, such an educational relation can also fail to acknowledge, respect and promote fundamental moral standards such as human rights.

[83] I thank Michael Hand for this comment.

The conclusion is that education is a valuable concept that should neither be equated with, nor reduced to, learning or schooling. However, it is also valuable to separate between good and bad education. Thus, education should not be reduced to good education, i.e. an ideal version of education. After making this effort to separate education from both learning and schooling, I will now take some time to promote both learning and schooling. Both are concepts that has been rejected as valuable.

The Value of Schooling

> What is incontestable is that any form of upbringing that puts the stress on leaving children alone to develop, by chance, in reaction to the stimuli of their particular environment must be disastrous in terms of radical objectives so long as environments are different, sometimes disparate and always anti-educational. A world without the sort of effort currently being made in schools – Emile's world, a world of Summerhills or a world without schools – would in practice be a world in which the individual's background determines his future, and, since we start with varying backgrounds, a world in which difference, envy and inequality are perpetuated. (Barrow, 2012 [1978], p. 179) [84]

Despite Barrow's "incontestable" point, several philosophers, sociologists and educational theorists have criticized the formal school system for being an institution that reproduces inequalities. Maybe one of the most radical versions is to be found in Ivan Illich's book *Deschooling Society* (1973) where he suggests, not that schools should be reformed, but completely abolished. Schools, as formal institutions, not only works against the less privileged and reproduces inequalities, but also degrades learning:

> The pupil is thereby 'schooled' to confuse teaching with learning, grade advancement with education, a diploma with competence, and fluency with the ability to say something new. (p. 1)

While the radical anarchistic ideas of Illich focus on values of equality, the intrinsic value of learning and the avoidance of de-humanization, others have criticised the narrow notion of formal education on other grounds. In the United States, home-schooling has increased in popularity for families worried about the lack of quality and/or the promotion of secular and liberal values in public schools (McCowan, 2013; Barrow, 2014). Education

[84] "Summerhills" is a reference to the Summerhill school founded by A. S. Neill in the 1920's and the main idea can be summarized as the construction of a school where children can learn best being free from coercion.

is also recognized as being vital for economic growth and some have argued that non-formal education often can be more effective in reaching necessary goals for individuals as well as this economic growth (Coombs, 1976; LaBelle, 1982). Tristan McCowan (2013) points out that "[i]n many cases non-formal education is culturally sensitive, educationally relevant and politically engaged – providing a more meaningful experience than that available in formal institutions" (p. 90). We should therefore acknowledge the value of both non-formal and informal education besides the value of formal education.

Formal education, as pointed out by Barrow, has value, because "a world without schools" runs the risk of being a world in which "the individual's background determines his future". McCowan also recognizes that there are a number of reasons for not abandoning schools. First, he says, schools "enable instruction of large numbers of children, through a methodological curriculum and one that can be replicated for all and that lends itself to monitoring and regulation" (2013, p. 90). This is a pragmatic perspective; a formal and common school system is a practical and effective way of enforcing the right to education. Second, "the more ad hoc learning that would take place in the absence of school is likely to benefit the privileged" (Ibid.). This is in line with Barrow's argument above. Disadvantaged groups often lack both resources and education to properly organize learning opportunities for their children. So, schools are potentially valuable from an equality perspective. Third, "schools allow for sustained interaction between an individual and diverse others in society, in a way that may not happen if children are only learning within the family and with acquaintances" (Ibid.).

Besides these rather instrumental values of a formal (and compulsory) school-system, a fourth less instrumental reason for schooling has been put forward by Jan Masschelein and Maarten Simons (2013) in their work *In Defense of the School: A Public Issue*. In the introduction, they list some of the challenges against schools as necessary institutions in modern society:

> in today's era of lifelong learning and (electronic) learning environments, perhaps one is allowing the school to die a quiet death. One anticipates the school's disappearance on the grounds of its redundancy as a painfully outdated institution. The school, so the reasoning goes, no longer belongs to this day and age and must be thoroughly reformed. Every argument offered in defence of the school is discarded *a priori* as ineffective, redundant or mere conservative chatter. (p. 9)

In their defence of the school, Masschelein and Simons refer to the idea of the school as "free time".[85] They write:

> We believe that it is precisely today – at a time when many condemn the school as maladjusted to modern reality and others even seem to want to abandon it altogether – that what the school is and does becomes clear. We also hope to make clear that many of the allegations against the school are motivated by an age-old fear and even hatred toward one of its radical but essential characteristics: that the school provides 'free time' and transforms knowledge and skills into 'common goods', and therefore has the potential to give everyone, regardless of background, natural talent or aptitude, the time and space to leave their known environment, rise above themselves and renew (and thus change in unpredictable ways) the world. (pp. 9-10)

What makes this idea less instrumental, I think, is that even if Masschelein and Simons refer to similar arguments as Barrow and McCowan concerning the school's potential to give "everyone, regardless of background, natural talent or aptitude, the time and space to leave their known environment" and "rise above themselves", Masschelein and Simons' radical and non-instrumental idea of school as a *suspension* from the world and everyday life is rather presented as a deontic constitutive feature of the school. The suspension is what creates this potential. The idea is the direct opposite of the progressivist idea that the school should be adjusted in accordance with the demands of society, parents and even the pupils. I have labelled this post-critical defence of the school as "neo-Arendtian" because it builds upon a lot of the ideas that are put forward by Hannah Arendt in "The Crisis of Education" from 1958, which was also a critique of the progressivist and child-centred movement. According to Arendt, the school is the institution that we infer between the private family and the public world. Masschelein and Simons' idea was followed up in 2018, in a pamphlet by Naomi Hodgson, Joris Vlieghe and Piotr Zaojski called *Manifesto for a Post-Critical Pedagogy*, where the authors argue against education for citizenship. Instead, they argue that we should educate for the "love of the world":

> To formulate more positively the role of the pedagogue as initiating the new generation into a common world, we offer the idea of a post-critical pedagogy, which requires a love for the world. This is not an acceptance of how things are, but an affirmation of the value of what we do in the present and

[85] From the Greek word *scholé*.

> thus of things that we value as worth passing on. But not as they are: educational hope is about the possibility of a renewal of our common world. When we truly love the world, our world, we must be willing to pass it on to the new generation, on the assumption that they—the newcomers—can take it on, on their terms. (p. 18)

The proposals of conceiving schooling as suspension and as educating for the love of the world are interesting, and perhaps needed as a reaction against what Peters has labelled progressivist- or moulding-models of education. However, this post-critical idea is also rather idealistic and romantic. A cynic might wonder what society would fund a school with the main purpose of suspending pupils and students from the aims of the pupils, their parents and society as a whole, rather than educating for citizenship? A less idealistic view on the formal school-system of societies is, as proposed by McCowan, that schools are institutions that allow for sustained interaction between individuals and other kinds of agents in society. The school is potentially a place where people of different backgrounds can meet (even if, in reality, many of today's schools are highly segregated). It is a place of constant tension between agents with different aims, different intentions, different beliefs and different knowledge. And it is this tension and asymmetry that also makes it possible for the agents involved "to rise above themselves and renew (and thus change in unpredictable ways) the world" (Masschelein and Simons, 2013, p. 10). The renewal, then, is a product of communication between agents with contested beliefs.

The value of schooling as described so far has been concerned with the value of the thing, or rather the agent and/or institution, that is denoted by the term "school". From the point of view of ameliorative conceptual analysis and the purpose of this thesis, however, what we want to defend is the value of *the concept* of schooling. In Chapter 10 I suggested a taxonomy for both schooling and learning by separating between informal, non-formal and formal education. It has become evident that we need such a notion as formal education, i.e. schooling, in relation to non-formal and informal education. We need to make this separation in order to be able to handle such discussions as the value of schooling in relation to other alternative and non-formal educational institutions. Again, schooling cannot and should not be equated with education. The question remains, however, what value the concept of learning has in this discussion. I should therefore try to defend the value of learning.

The Value of Learning

> Lifelong education relies on teaching, typified forms and bodies of knowledge as well as specific recipients of diverse yet formally organized educational acts. Socially and politically, this notion is popularized, prominent, systemically favoured and managerially valued. Lifelong learning is more indeterminate and informal. It involves learning to learn through critical reflection on culture, history, nature and interaction in daily life. Thus, against current and popular tendencies to reify both education and learning by seeing them as secure paths to getting a good job, we may think of lifelong learning beyond collecting degrees and increasing one's employability. (Papastephanou, 2021, p. 13)

In her article "Reclaiming Learning", Marianna Papastephanou argues for a more qualified and diversified sense of the concept of learning than the one that has been prominent in recent years, when "lifelong learning no longer seems innocent" (p. 14). Why, then, is it not so innocent?

In his book, *Non-Formal Education: Flexible Schooling or Participatory Education* (2005), Alan Rogers points out that the language of non-formal education has been taken up again in recent years by policymakers and practitioners, and adds that the language being used "sounds unsure of itself" (p. 2). Influences from lifelong learning has resulted in the use of *non-formal learning* rather than non-formal education (ibid.). However, often when the term life-long learning is used there is also talk of non-formal learning being "provided" as well as talk about "non-formal learning settings". Rogers points out that this makes it clear that what they are actually talking about is "what earlier writers called 'non-formal education'" (ibid.). As I have discussed previously in Chapter 10, Rogers sets out to explain non-formal education as either "flexible schooling" or "participatory education". However, he is also worried by how the term "learning" is being used more and more in relation to education. For Rogers, education is a subcategory of learning, i.e. what he describes as "processed learning". I have rejected this idea because I believe that we can engage in education without learning what we intend to learn.

Many educational theorists have criticized how this idea of lifelong learning has influenced our view on education and the shift from lifelong education to lifelong learning. Gert Biesta (e.g. 2005; and 2015) has criticized the "learnification" aspect of education, which is described as a "pernicious politics at the expense of relational educational experiences". Marianna Papastephanou (2020) summarizes Biesta's critique in the following way:

> Gert Biesta pertinently critiques how learning has become a tool for a hegemonic 'learnification' of schooling, society and life. In contrasting the paradigms of lifelong education and of lifelong learning, he uncovers a dangerous shift of epistemic obligation from the state to the individual. In lifelong education, individuals had a right to learn 'and the state a duty to provide resources and opportunities'. But now, as lifelong learners, 'individuals have ended up with the duty to learn', while the state claims 'the right to demand of all its citizens that they learn throughout their lives'. (p. 1)

Biesta's idea seems to be that learning and lifelong learning has become politicized through the construction of "learning societies" where "lifelong learning" has transformed into a duty for the individual to learn rather than being a right where the state has a duty towards individuals to provide resources and opportunities. He also believes that we can emancipate ourselves from such politics through education "beyond learning".

I share the basic point from Biesta that it is indeed problematic if education is equated with or reduced to specified learning outcomes. However, first of all this does not imply that the state should be considered to be the sole duty bearer when it comes to providing resources and opportunities for education. We should not rule out the responsibility and duty of the family, friends and others in the nearby community. Non-formal education is important and, as pointed out by McCowan, sometimes more culturally sensitive, educationally relevant and politically engaged than formal education, providing a more meaningful experience.

Second, it does not mean that 'learning', as a concept, is itself necessarily dangerous or bad. Neither does it imply that learning processes or learning outcomes are necessarily dangerous or bad. Quite the opposite, learning is a wonderful thing and not only valuable as some kind of luxury or indulgence. *It is necessary for every individual*, and in fact, I dare say, unavoidable. We learn things all the time and everywhere and we often do it passively. This ought not be a controversial point to make. Papastephanou states, with reference to Castoriadis, that persons "become[s] constructed by all that surrounds them" (2021, p. 19). And she continues: "Such construction is a political event, and not the result of either formal education or naturalized processes of maturation" (ibid.). And without saying anything about what is political and what is not, I would hold that, at least, such constructions are almost always *socially situated*, and they are also necessary for preserving social cohesion. This means, which is also pointed out by Papastephanou, that not all (passive) learning is good. Biesta is right in his worry, says Papastephanou, that social cohesion and the construction of the self "is not always compatible and reconcilable with

democracy or with the independence and subjective autonomy that precondition change" (ibid.).

This insight should, however, not generate the conclusion that we ought to incriminate learning altogether. Papastephanou's critique of Biesta is thus that "Biesta wants to free teaching from learning but he does not want (or does not consider it possible) to free learning from learnification" (Papastephanou, 2020, p. 8). In fact, lifelong learning is of great importance:

> [S]ometimes, some learning(s) effect not just any transformation but the kind of transformation that draws the human world into something better. Such has, for instance, been the case of learning to question patriarchy and empire, to contest the supposed naturalness of slavery, superiority of the white, rich and educated, etc., and to reject the assumption that the human rightfully rules over the environment. Such is also the case of learning to turn a more discerning eye to reality, not to stay content with the feats stated in the previous sentence, namely, feats of learning to combat blatant and glaring pathologies. Valuable and lifelong then is also to learn how to detect and combat subtler pathologies. Of importance is also to learn more positive and affirmative tasks, going beyond the diagnostic logic of spotting evils to eradicate them with no attention to whether the new that aspires (supposedly or truly) to draw us into something better is truly worthy. (Papastephanou, 2021, p. 23)

Thus, learning also means learning to think critically, turning "a more discerning eye to reality", especially our socially constructed reality and the discursively shaped concepts that surround us, and this means both that we have something to learn from Biesta's critical articles on "learnification", as well as reading them critically to avoid losing such valuable concepts as learning and lifelong learning to contingent politically shaped understandings.

Conclusion

In this chapter I have argued that even though education should not be equated or reduced to either learning or schooling, both schooling and learning are valuable in our discussion concerning the right to education. They are not only valuable as concepts that help us make the distinction between learning and education and between formal education and other kinds of education, but also different kinds of things or activities that are valuable. While education is valuable as a special kind of social relation, learning is valuable because it is necessary for our survival and it is something that we do almost constantly, every day, all through our lives. We experience the world, we process things, we make associations, we draw

conclusions, we question things, we abandon things, and we create new things. This is the point made by both Ryle and Papastephanou. However, learning as well as education is also important for cooperation and social cohesion. And cooperation and social cohesion are also valuable as long as they are accompanied with critical thinking. Cooperation and social cohesion are in fact necessary for upholding our social world.

CHAPTER 14. THE RIGHT TO EDUCATION – THE RIGHT TO WHAT?

The Instrumental Values of Education as a Human Right

As already discussed, Nussbaum's CAHR gives justification for treating education as a human right because it is a means for enabling the advancement of the exercise of the capability of e.g. practical reasoning and imagination, or to use Nussbaum's terminology, an external component for combined capabilities. From a more naturalistic view, James Griffin (2008) has argued that a child's human right to education applies against both government and parents to protect the development of autonomy, freedom and minimal wellbeing, i.e. "normative agency". A more political approach to the justification of education as a social right has been put forward by Randall Curren (2009). To treat education as a social right is, according to Curren, "to assign society and its government an obligation to provide the child with an education" (2009, p. 48), and education is defined here as *initiation into practices that express human flourishing* (p. 52). This is not, according to Curren, "to deny that parents too have educational responsibility". So, it seems that Curren leaves open the possibility that there is another responsibility, i.e. a duty, and thus another claim for education, besides what he calls the "social right" to education. If we want to capture education as a *human right*, i.e. a right that we have simply in virtue of being humans, all such responsibilities and claims should be included.

Sharon E. Lee (2013) argues that it is not enough to focus on school access. We need to defend the child's right to education, and education is, according to Lee, necessary for both "individual initiative" and "social effectiveness":

> The challenge for the 21st century is to establish a new human rights perspective from outside of the bowels of international law and governance— a perspective

> that takes education to be a vital human rights object that is as significant to an individual as is food or freedom but that is also significant to society as an indispensable means of realizing sustainable development, prosperity, and permanence. (p. 8)

The question remains, however, what exactly we have a right to if we have a right to education. The focus here tends to shift from school access to learning outcomes. Paul Tarc (2013) is critical of this instrumentalist view on education. Claiming education as a human right, says Tarc, “tends to dissolve to a claim for Western schooling in developing nations and the more idealist (Western) aims become empty rhetoric or become reconstituted by neoliberal market logics” (p. 4). There is a risk that the instrumentalist view combined with western liberal ideals tend to “circumvent the normative motivations and commitments” (ibid.) that ground the idea of education as a human right.

McCowan (2013) aims to avoid an instrumentalist justification of education as a human right. He addresses the question of education as a human right and the entitlement to learning and relates the discussion to several philosophical human rights-theories, but McCowan does not offer any real philosophical justifications of education as a human right, or at least not for the non-instrumental “rights-based approach” that he advocates. McCowan notes that

> A right, most simply put, is a justified claim on others. A human right is a right that pertains to all human beings and only to human beings, and so is distinct from the rights that might be held by virtue of citizenship of a particular territory. (p. 11f.)

The reasons for adhering to a rights-based approach, according to McCowan, is 1) the “unconditionality of access to education”; 2) viewing “people as agents rather than beneficiaries”; 3) being “attentive to process as well as outcomes” and; 4) to highlight

> the importance and urgency of the task: universal access is not an aspiration that we can fit in where possible if time and resources permit. It is an absolute requirement of justice, an immediate obligation, and one that implicates all human beings, directly or indirectly. (p. 12f.)

These are all strong claims. And such claims need stronger philosophical justifications than they get from theories that value education as a means for developing e.g. “capabilities that can be of central importance in any

human life" (Nussbaum, 2001 [1997]), "flourishing" (Curren, 2009) or "normative agency" (Griffin, 2008).

In this chapter, I will try to give some reasons for why I believe that education is and ought to be a human right. Before I do this, however, I will give my reasons for why neither learning nor schooling qualifies as human rights. Additionally, I will also give reasons for why informal education, even if it qualifies as education, is not enough for the right to education.

Why Learning Cannot, and Should Not, be a Human Right

It may seem odd to deny that we have the right to learning. Would such a statement imply that we do not have the right to seek the truth, gain knowledge, seek information, develop skills, or even to develop and grow as individual persons? I think not. What I mean by saying that learning cannot and should not be a human right is instead that, first, it is not a special necessity only for humans. Learning is something that we share with lots of other animals. Why, then, should it be a right that applies to all humans and only to humans? When we say that humans have the right to life, we do not mean that they have the right to be born. We generally mean that they have the right not to be killed (without consent). It is questionable if we want this right to apply to other animals. It is less questionable if we want this right to apply for all humans. Second, if we accept that learning is something that happens all the time all through life, and as previously stated, quite often both unconsciously and passively, then it is really hard to deny an individual the right to learn without putting the individual to sleep. And putting someone to sleep without consent, or even kill someone, would fall under other violations of human rights. Learning is not first and foremost a claim on others (as the right not to be killed). It is rather, in Nussbaum's terms, a basic capability, and it is a basic capability that we share with most other animals, and a capability that is really hard to avoid, even in isolation.

There are many different forms of learning and there are also many different theories and perspectives on what learning is:

> Consider the following possibilities: If one were to focus on how a child learns that flames are hot and take this to be a typical case of learning, a particular (and probably narrow) experimental learning theory most likely would result. But such a theory probably would be different from one that would result from starting with a different case – say, how a child learns to count to ten. Neither of these theories, however, would be likely to be formulated by someone who had selected

> as a typical case of learning more complicated things like how people learn to drive a car or how high school students learn history. Thus, a psychologist or educational researcher who starts with the insight that humans are part-and-parcel of the animal kingdom may try to explain human learning in the same way that animal learning is explained (say, the learning processes in pigeons or rats). On the other hand, a researcher that regards the human brain as a type of computer, differing from the popular brands largely in that it is made out of protoplasm instead of silicon chips, may try to explain as much learning as possible in data-processing terms. (Phillips & Soltis, 2009, p. 4)

Third, it also seems hard to describe what the right to learning would be without talking about what should be learned and how it should be learned. It is likely that different researchers and different teachers will focus on different things, depending both on different ideals of what is valuable to learn and from different perspectives on what learning is and how we learn.

Fourth, it follows from this that learning is very hard to separate from the idea of achievement. And it seems hard to specify a list of what we have the right to learn that applies to all humans. Every one of us have different aims, and every one of us have some individual limitations for learning. Some humans have severe handicaps that make them unable to learn certain things. On the other hand, it would be odd to hold the view that the right to learning means that you have the right to learn everything you can and desire to learn, and nothing else. We give people the right, as a human right, to things because we think that they are valuable for human life (i.e. because they are considered as *interests* for a valuable human life), and there are lots of things that we can learn, and do learn, that are not considered valuable for human life. Thus, learning is not valuable in itself, it is only valuable for what we achieve through learning, and our desires and intentions for what to learn will be dependent on our aims.

Finally, having a right is to stand in a particular relation to someone else. And since learning can be quite individual and private, even if it is almost always socially situated, learning does not necessarily imply standing in a particular relation to someone else. It is true that someone who is denied the right to seek knowledge and understanding is denied both learning and education, but someone who is denied education is not necessarily denied seeking knowledge and understanding. Learning is thus, in Nussbaum's terms, a basic capability rather than a combined capability. And rights are best understood as combined capabilities. Learning should therefore not be understood as a claim-right that someone has in relation to someone else's duty.

Why Schooling Cannot, and Should Not, be a Human Right

Masschelein and Simons suggests that we should acknowledge the scholastic idea of *scholé* as free time and suspension. But the right to free time and suspension is not about having the right to privacy, quite the opposite. Masschelein and Simons are rather highlighting the suspension from instrumentally conceived demands of society. It is to focus our attention collectively to the object placed on the table in the classroom. The school as a formal institution and as compulsory and free for all is an effective way to make this educational, collective and relational activity happen. And yet, contrary to Masschelein and Simons, the school as a formal institution is justified mainly through its instrumental value for society. Indeed, the formal compulsory school system has the potential to make people rise above themselves and promote opportunity and equality. However, the school functions just as much as a qualification and classification system that distributes competences for different kinds of labour. It is therefore also a system of segregation. The society wants different people with different levels of education and different competences. And at the same time, the society wants social cohesion and citizens that are socially adjusted to live in the society.

The school is, and ought to be, as stated by Arendt, “the institution we interpose between the private domain of home and the world in order to make the transition from the family to the world possible at all” (2007 [1958] p. 191). And as suggested by Robin Barrow (2014), the two main arguments for common schooling are, first of all, to give common knowledge that is “fit for purpose” as citizens, and second, to provide a way to promote autonomy. There are thus “some things that all should know and understand” and at the same time, there are also “some understandings that are necessary to developing one’s autonomy” (p. 23). However, a school system can also be very different in different societies, and a school system ought to be adjusted in such a way that it is culturally sensitive, educationally relevant and politically engaged. However, as pointed out by McCowan, this is often easier to achieve in non-formal education.

The point I want to make is that the school can therefore never be freed from politics and the demands of society. A formal compulsory school system is valuable for any society, and it is an effective means for securing the right to education. But being enrolled and going through school is not in itself enough to secure the right to education as an abstract human right.

It is what happens in school that matters. The schools need to offer educational relations in order to qualify as educational institutions. They need to offer asymmetrical social power-relations where the persons involved have different social positions, such as being a teacher and a student, and the shared intention to increase mutual understanding. Leaving a student alone in front of a computer is not good education. It is in fact not, in itself, education at all, even if it is done in school. At most it can be part of education. And exams and grades can never be guarantees for education having taken place. Education amounts to collectively focusing the attention towards an object of study and it should include both a teacher and a student.

Therefore, education as a human right should not be reduced to the right to go to school as a citizen of a particular state. Education as a human right is better understood as having the right to an educational process despite having citizenship in any state. It is to have the right to education simply in virtue of being a human. It is to have the right to a specific social relation. However, we should be careful not to settle with any educational relation as the fulfilment of education as a human right.

Why Informal Education Is Not Enough

I have previously argued that there is a sense in which we can formally create a school-system and also a sense in which we can "discover" informal educational activity both inside and outside this school-system. In a paradigmatic educational situation, such as a classroom situation, there are explicitly stated asymmetrical power relations, such as e.g. between a teacher and a student. While this asymmetrical relation is a constitutive part of an educational process, such a relation also consists of informal learning and education. We constantly learn things and are taught things by others. A person "becomes constructed by all that surrounds them" and "[s]uch construction is [...] not the result of either formal education or naturalized processes of maturation" (Papastephanou, 2021, p. 19). We are constantly constructed by our social environment. Both individually and collectively, we experience the world, we process things, we make associations, we draw conclusions, we question things, we abandon things, and we create new things. And quite often, we are not consciously aware of these processes. Quite often, we discover afterwards that some previous situation, event or activity was educational. Both informal learning and informal education can be very valuable, and they are necessary for social cohesion. They are also more or less unavoidable. There is a sense in which

this inevitable informal education and learning of premises (facts, sanctions, taboos, customs, traditions, codes of conduct, as well as abilities and opportunities) proceeds and are included in any non-formal and formal education. Hence, there is always a lot of both informal learning and informal education going on within formal education. And, as I have previously argued, while conscious learning is not necessary for education, collective intentionality is. And collective intentionality can be both conscious and unconscious. In other words, it is impossible for us to engage in an educational activity without our minds being collectively, or jointly, directed at objects and states of affairs in the world.

I have previously made the following distinction between informal learning and education:

> **Informal learning** is an activity that necessarily involves a learning agent with intentionality, but who lacks the conscious intention to learn. It happens all the time and everywhere and is therefore a lifelong process for every human being.
>
> **Informal education** is an activity that necessarily involves a group (at least two people) with collective intentionality holding different non-fixed social positions, which are not consciously recognized status functions. It happens all the time and everywhere when there are at least two people in communication. This happens for most people all through life. Thus, informal education does not necessarily entail cooperation in the strong sense. It is rather a consequence of cooperation in Nash equilibria.

Because informal education happens unconsciously and is impossible to avoid in any social relation, informal education cannot be a claim right. It is indeed a kind of combined capability, but it is a combined capability that is part of our collective behaviour rather than our conscious collective actions. It seems, then, that when we say that we have a right to education, we mean that we have the right to either non-formal or formal education.

Towards a Non-Instrumental View on Education as a Human Right

The hegemonic notion of education as a human right is truly in need of an amelioration. But such an amelioration cannot be brought about by trying to settle some specified learning outcomes. Neither can it be brought about through looking at enrolment in school. An amelioration of the concept of

education should instead focus on the educational process and education as a relation, both to others and to the world.

Griffin, Nussbaum, Curren and McCowan, as well as Lee, resort to an instrumental justification of education as a human right. For Griffin (2008), education is a derived right that functions as a means for developing normative agency; for Nussbaum (1997), education is a means for developing certain capabilities; for Curren (2009), education is a means for human flourishing and for McCowan (2013) education is treated as a means for developing the ability to exercise and defend one's rights.[86] The problem, as I see it, is first that a universal demand-right is a right that one has despite the outcome of practicing (or not practicing) that right.[87] It seems hard e.g. for Griffin to necessarily derive education as a human right if one could develop normative agency somehow without the help of education. Second, philosophers of education seem to disagree concerning the purpose and aims of education (and some, e.g. Tarc (2013), are sceptical of the concept of normative agency as a justificatory aim of education).

What all five have in common is that something has to be learnt or developed or acquired as a means for being able to reach the specified goal. However, learning, developing and acquiring are not the same as education, even though they are often connected as goals entailed by the idea of education. The abstract right to education is not a right to a thing such as the right to specific information or certain knowledge, the right to a specific skill, the right to go to school or the right to get a specific degree; it is not a matter of a distribution of things or capacities. It is rather a right to a specific relation, i.e. a right to a social activity[88] that we label education and which commonly involves specifically defined rules that specify what people can do in relation to one another. I am therefore suggesting an alternative definition of education that I think has some advantages over the above-mentioned suggestions for the justification of education as a human right. In its most general and abstract form, one that could presumably qualify as a universal human right independent of citizenship, the right to education is better described as the right to a specific deontic relation involving asymmetric social positions (such as a teacher and a pupil) taking

[86] However, McCowan (2013) also states that "it is clearly not enough to state this as an aim and imagine that problems of the content of education has been resolved. It is not clear if this goal can be achieved through education at all, and if it is, how it can be achieved" (p. 73).

[87] Take, for instance, the right to free speech. It is not a right that is dependent on the consequences of the right. It is (as I see it) something that we value in itself, no matter the consequences.

[88] The right to free speech can be described in a similar way as a right, not only to speak your mind but also to be listened to, i.e. as a right to a specific relation or social activity.

part in a study or collective investigation with the intention to increase understanding. And this activity seems to be something that we, as humans, value universally, or at least in every possible context.

It seems fair to say that educational practice is a universal practice found in any human society throughout history, and as such it is ubiquitous and omnipresent as it cuts across every human context, despite cultural, religious and political differences. In this sense, the abstract idea of education as a universal human right is in perfect accord with a universally existing human practice. This fact on its own does not justify us viewing education as a human right. There are lots of universally existing human practices, in the sense that they can be found in every single human culture and society, that are rather obnoxious. The point then is that education, understood as this kind of specified relation, is also something that seems to be valued in every human context. Education is a vital part of what it means to be human. In fact, I think that we could turn the question around and ask if anyone who were denied at least some kind of education would be recognized as a human at all. Is it possible to exist as a human without education? I think it is at least fair to say that without education, human life is not complete or properly human. Additionally, educational relations seem crucial for social cohesion and for preserving our social world. From an evolutionary perspective, the evolvement of the practice could probably be explained partly by the weakness and dependences of the human child relative to other animals; the human child needs guidance and support to stay alive and function. And partly it can be explained by human language, being a unique tool to give this activity relevant support and guidance in a rather effective way. Education is, in this sense and from an evolutionary perspective, an activity that partly explains why humans have an amazing capacity both to cooperate and to adapt to new circumstances. Now, there is a big step from being able to function biologically (i.e. staying alive) and existing as a human being to what we could call proper social functioning in a particular modern society. In case of the latter, we need to be sensitive to ideals and goals, apart from the implicit goal to exist at all, i.e. to the goals of staying alive and trying to understand the world. However, these individual, as well as collective, ideals and goals, should never be mixed up with the constitutive parts of education, even though education is rather effective as a means for reaching those goals.

Conclusion

One could easily object to my proposal in this thesis for how we ought to understand education as a human right as too empty or too thin. It is really

more of a formal definition than a substantial definition. I hardly say anything about how to justify universal human rights or the content of education. And the reason for this is that I believe that education can be filled with almost any content and that a human right can be justified in many different ways. What matters for education as a human right is the relation between a teacher and a student and the cooperation (in the strong sense) to increase mutual understanding. So, yes, it is a thin definition. And because it is a thin definition it can hopefully work as a right that is valued in every context. At the same time, it is a definition of the right to education that does not recognize the right to learning as a right to education. It is also a definition that does not per se recognize the right to school enrolment as the right to education. Further, it is a definition that does not recognize a relation without collective intentionality as an educational relation. So, in that sense it is a definition that is ameliorative in relation to contemporary ideas, such as e.g. described in the UDHR, of the right to education. The implication of viewing the right to education as a right to a specific relation is that it is harder to measure if a group of friends, a family, a community or a nation state live up to the right to education than it is to measure how many that are enrolled to school or how many that can pass the PISA-test with good result. However, this is an empirical problem rather than a conceptual problem. I do believe that we should get clear on what we mean by education before we start measuring if the right to education is properly enforced. In other words, we should try to be more clear on what we mean by "education" and "human rights" when we investigate the enforcement of education as a human right. We should also recognize that there are other agents in play than merely individuals and nation states. Families, friends, communities, a neighbourhood, a classroom setting, a school etc. are all important for enforcing the right to education. The right to education is not merely a subject for ethical theory for individual actions or political theories of society. It is a subject of the social world, and the social world consist of other agents than individuals and nation states.

For something to be a human right, it must be recognized as a human right. And human rights are most properly understood as rights that we have simply in virtue of being human, despite citizenship as individuals within a nation state. However, to recognize someone as being a human is always done within a social and cultural context. The idea is thus to treat something as being a human right, as well as being a human, as being recognized as having the status of a human right or as being a human being. This idea is captured in Searle's formula X counts as Y in C, where the Y term is "human right" or "human being". If some X counts as a human right in context C and some S counts as being a human in context C, then

S is entitled to this human right in virtue of being human. Thus, this is to adhere to the view that not only human rights, but also human beings are socially constructed.

For something to be education, it must be recognized as education. I have argued that the abstract right to education is not a right to a thing such as the right to specific information or certain knowledge, the right to a specific skill, the right to go to school, or the right to get a specific degree; it is not a matter of distribution of things or capacities. It is rather a right to a specific relation, i.e. a right to a social activity. This relation is best described as a relation between agents with different social positions or status functions, i.e. a teacher and a student with the collective intention to increase a mutual understanding of the world. In this sense, education is cooperation in the strong sense. It is not merely a matter of cooperation in a Nash equilibrium. Such a relation needs to be recognized. However, it can also be discovered. Sometimes we realize that a previous situation, an event or activity was an educational relation. This is best understood as informal education. However, informal education cannot be enough for having the right to education. To have the right to education means to have a claim-right, either as a student or as a teacher, to be in such a relation. If informal education would be recognized as sufficient for the right to education, then this would mean that we would leave this right to chance. Either way, recognizing something as education is to recognize a group agent (consisting of a teacher and a student) as a causal agent where the whole is more than the sum of its parts.

If we recognize that education is, and ought to be, a human right, then a compulsory formal school-system seems to be a good way of enforcing this right, at least for children and adolescents. However, school access can never be the proper measurement. A lot of people are enrolled in school without getting education in the sense of being in an asymmetrical relation with a shared intention of increasing collective intentionality and mutual understanding. Neither is the measurement of learning outcomes a good way of securing such a right. People have different backgrounds and different abilities to acquire learning outcomes. And will we ever settle the question of which learning outcomes are most ideal, or even the lowest threshold, for securing the right to education?

I will summarize my conclusions of education as a human right in the following way:

1. *Human Rights is best understood as rights that pertain to all human beings.*

   First of all, we can ask the question if we need such a concept as human rights at all. Maybe we could just settle with formal rights within a legal

system? This legal system could be national as well as transnational. However, there is also some merit to the idea that there are some moral truths that cannot be avoided by those engaged in justified political resistance. Human rights is the best way of capturing this idea by serving to protect all people everywhere from severe political, legal and social abuse.

2. *Education is not equal to learning.*
   As humans, we learn tings all the time without education. To have the right to seek information, understanding and knowledge is not the same as having the right to education. Education captures something that cannot be captured through the concept learning.
3. *Education is not equal to schooling (e.g. formal education).*
   There are many things that go on in schools that are not educational, such as child minding, food provision and health care. One can be enrolled in school without getting an education. And education is not confined to either a certain place or a particular period of life. Education happens in many different places all through life. Education captures something that cannot be captured through the concept 'schooling'.
4. *The right to education is not the right to a thing; it is the right to a specific deontic and asymmetrical relation.*
   Education is constituted by a relation between a teacher and a pupil with collective intentionality. This means that the relation is asymmetrical in the sense that the teacher and the pupil hold different social positions with different functions, i.e. this relation creates a specific kind of deontic relation.
5. *Socialization is not merely a possible aim of education; socialization is a constitutive element of education.*
   Education is social in the sense that a teacher and a pupil are engaged in communication. Communication is a form of socialization. Education is initiation, and initiation is constituted by collective intentionality and cooperation, i.e. in jointly turning the attention towards an object of study with the collective intention to increase mutual understanding of the world. Thus, studying in "solitary confinement" or mere imitation is not education.
6. *The human right to education should not be understood as the right to a specific kind of a narrowly contextualized education with articulated content, aims or learning outcomes; it should be understood as the right to a*

specific deontic and asymmetrical relation that is in accord with universal human practice.

If human rights are best understood as rights that we have simply in virtue of being human, education as a human right ought not to be narrowed down to the contemporary formal school-system. We should acknowledge the various forms of non-formal education that happen in families, communities and among friends, and be open to various different specific kinds and forms of educational relations that take place among indigenous groups and nomadic people outside of the contemporary western, liberal lifestyle.

7. *To be denied the human right to education is to be denied this specific kind of deontic and asymmetrical relation.*

   Many people around the world are denied proper education. The failure to secure the right to education is not proven by the fact that 120 million children and adolescents are missing classes or by failures in relation to certain specified learning outcomes. Neither is the right to education secured simply because there is access to schooling. A school can fail to uphold the right to education by reducing their teachers to mere facilitators or by denying their pupils, or students, a teacher-relation.

8. *The right to education therefore, ought to be a right to this specific asymmetrical relation, and a right that we have simply in virtue of being humans.*

   Education as a human right is most properly understood as having the right to stand in an asymmetrical relation with others with the collective intention to increase mutual understanding of the world. And this right is a moral claim that we have simply in virtue of being humans. In fact, part of what it means to be recognized as a human being at all is to have such a moral claim. In other words, without education, we would not be fully human.

The concept education captures something that cannot be captured by either "schooling" or "learning". Thus, when we want to examine if anyone have the right to education, we ought to examine that someone's relation to other people. It may be more difficult to measure, and this is certainly a problem for those who do empirical research, but it would be more correct, and also, the most proper way to measure the right to education.

We ought to view education as a fundamental human right (i.e. a right that pertains to all human beings despite its potential contextual or personal

instrumental value), because to be denied this kind of deontic asymmetric relation is to be denied a vital part of what it means to exist as a human.

The right to education is not a matter of proposing that education should focus more, or less, on subjectification than socialization or qualification. Neither is it a matter of suggesting an ideal school-system as a suspension rather than progressive civic education. On the other hand, the solution is not de-schooling and/or to put emphasis on learning (outcomes). All of these suggestions hinges upon different ideals. We need to focus on the process and the relation of the right to education. And in doing this, we should ask ourselves if meaningful processes of educational relations and the right to education ever can be reduced to school-access or meaningful processes of learning.

Engaging in an ameliorative conceptual analysis of education as a human right means to take a stance and position oneself. In doing so we will exclude certain aspects of education as a human right and what such a claim or statement is denoting, i.e. what socially constructed facts it is trying to track. An amelioration of a statement such as "education is a human right" is not to try to capture how the statement is being used in everyday life or politically constructed declarations. Neither should we argue from a tailored paradigmatic example of the right to education. Instead, we need to look around and ask ourselves if the right to education is present in our social world. There is no ideal example to be found as a useful template. We can only observe our complex social world and ask ourselves if we take part in education. Because the social world, the world that *we* live in, is complex. This common world will always challenge our convictions. And this is part of what it means to be a human trying to understand the world. Therefore, I will end this thesis with an example that is not tailored. It is a complex example from real life. Thus, it will not necessarily work as a strengthening of my thesis. Instead, I hope that it can work as a challenge for *us* when we consider what it means for education to be a human right.

CHAPTER 15. *EDUCATED* – TARA WESTOVER'S "EDUCATION"

In 1966, R. S. Peters wrote about the "educated man". An educated man, according to Peters is someone who has a broad liberal education. It becomes quite clear in *Etihcs and Education* that the paradigmatic version of education that Peters is advocating for is the kind of formal education that he himself had already acquired. He does spend one page of the book addressing informal education, stating that "education is not confined to the classroom and study" (2020 [1966] p. 87). However, rather quickly it becomes evident that he addresses the kind of informal education that happens in youth clubs, boarding schools and universities. His outlook is rather different from the outlook of e.g. people growing up in rural communities. Peters does not make the distinction between informal, non-formal and formal education, only the distinction between informal and formal education. And his idea of informal education comes closer to some kind of symmetric power relation rather than a student/teacher-relation:

> In a conversation, lecturing to others is bad form; so is using the remarks of others as spring-boards of self-display. The point is to create a common world to which all bring their distinctive contributions. By participating in such a shared experience much is learnt, though no one sets out to teach anyone anything. And one of the things that is learnt is to see the world from the perspective of another (p. 88).

Thus, in my terms, what Peters are talking about is rather the kind of social learning that happens almost everywhere in every social situation, but a social learning, judging by his examples, that already presupposes that formal institutions are in place. And even if we might aim at it, it is questionable if we are ever fully able to learn to see the world from the perspective of another. For Peters this is an achievement which "is not possible without knowledge, understanding, objectivity and sensitivity to others" (ibid.).

One of the main hallmarks of the educated man is according to Peters "to be able to listen to what another says irrespective of the use which can be made of it or him" (ibid).

In 2018, Tara Westover released her autobiography *Educated*. The memoir describes Tara's journey from a rural, conservative, Mormon family and community in USA, through college and higher education all the way up to postgraduate examination. In Hannah Arendt's terms it could be described as a journey from the private domains of the family to the world. In Peters's terms it seems to be a case that fulfils his requirements of reform and task achievement, as well as cognitive development. Westover's book is divided into three parts: While the first part mainly focuses on the lives of Tara and her family in the rural community, the second part describes the tension between her family and college and Tara's own transmission from the family to the world. In the third part we follow how this transmission leads to a break with many of her family members, and the book ends with her description of her education as a metamorphosis: "You could call this selfhood many things. Transformation. Metamorphosis. Falsity. Betrayal. I call it education" (p. 329). It is fair to say that Tara now travels with a different view; Tara is now *educated*.

Still, there seems to be something wrong with this picture. Tara was not registered with a birth certificate as a child until she was nine and was never sent to primary school or high school. Her parents thought she was better off without, and her dad refers to the public school as "one of Satan's deceptions". However, there was not any regular home-schooling going on either. It was her brother Tyler who encouraged her to study for the American College Test (ACT) and telling her what books to study so as to be able to pass the test. In relation to such documents as the UDHR and the CRC, as well as other similar documents, Tara's right to education was undoubtedly violated. Both the UDHR and the CRC states that primary education shall be compulsory and available free to all. And in the UDHR it is also stated 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. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (Article 26)

Besides the fact that the "education" Tara got from her family was lacking with regards to these high aspirations in the UDHR, she was subjected to

constant manipulation and indoctrination, and also to various other kinds of physical and mental abuse in her home.

From a school-access-perspective, Tara's right to education was violated because she was denied access to both primary school and high school. However, from a learning-outcomes-perspective it is hard to argue that someone who not only passes the ACT but also receives a doctoral degree, has been deprived of her right to education. What, then, can be said concerning Tara's right to education from the abstract definition of education as a social relation between a teacher and a student with the collective intention to further increase understanding?

First of all, in one sense Tara did get education from her family. She clearly recognized the other family members as having the roles of being her teachers. In one passage, Tara describes her mother's educative role as a midwife in the rural community:

> She [Tara's mother] became our teacher in a way that, because we rarely held school at home, she'd never been before. She explained every remedy and palliative. If So-and-so's blood pressure was high, she should be given hawthorn to stabilize the collagen and dilate the coronary blood vessels. If Mrs. Someone-or-other was having premature contractions, she needed a bath in ginger to increase the supply for oxygen to the uterus. (p. 17)

Although her mother practiced a form of controversial and unscientific alternative medicine, this was for Tara, at the time, clearly "initiation into worthwhile knowledges". In another passage, her father recognizes the success of the family's home-schooling of Tara. Tara has just received a letter saying that she has been admitted to college:

> Mother hugged me. Dad tried to be cheerful. "It proves one thing at least," he said. "Our home-school is as good as any public education." (p. 149)

Besides initiation to alternative midwife skills and knowledges, Tara learned to drive a car (without a driver's license), martial arts and how to ride horses from her brother Shawn. And she learned how to demolish cars for the junkyard from her father. However, when it came to traditional school subjects, Tara was left on her own and was constantly counteracted by her father:

> I made some effort to keep up my schooling in the free time I had between scrapping and helping Mother make tinctures and blend oils. Mother had

> given up homeschooling by then, but still had a computer, and there were books in the basement. I found the science book, with its colorful illustrations, and the math book I remembered from years before. I even located a faded green book of history. But when I sat down to study I nearly always fell asleep. The pages were glossy and soft, made softer by the hours I'd spent hauling crap.
>
> When Dad saw me with one of those books, he'd try to get me away from them. Perhaps he was remembering Tyler [Tara's brother]. Perhaps he thought if he could just distract me for a few years, the danger would pass. So he made up jobs for me to do, whether they needed doing or not. One afternoon, after he'd caught me looking at the math book, he and I spent an hour hauling buckets of water across the field to his fruit trees, which wouldn't be at all unusual except it was during a rainstorm. (p. 61)

Initially, Tara's notion of education was more or less equivalent with the education she got within the family, and she had no other vision for the future than to continue in this tradition. However, in addition to the inspiration and guidance offered by her brother Tyler and the books she read, Tara was also taught more traditional school subjects by others in her community. While working as a babysitter for a woman named Mary, who sometimes played the piano in church, Tara requested piano lessons instead of money. Mary also introduced Tara to Mary's sister Caroline who was a dance teacher and with whom Tara started taking dance lessons. Tara's father, however, did not approve of the dancing:

> The rest of the night was taken up by my father's lecture. He said Caroline's class was one of Satan's deceptions, like the public school, because it claimed to do one thing when really it was another. It *claimed* to teach dance, but instead it taught immodesty, promiscuity. Satan was shrewd, Dad said. By calling it "dance," he had convinced good Mormons to accept the sight of their daughters jumping about like whores in the Lord's house. That fact offended Dad more than anything else: that such a lewd display had taken place in a church. (p. 81)

Tara writes that her mother must have felt guilty over her father's reaction to the dancing when she suggested that they should go to a voice teacher to decide if Tara could join the church choir instead. As it turned out, Tara,

who had spent hours in front of Tyler's old boom box, listening to the Mormon Tabernacle Choir, had a wonderful voice. After her first performance in the church her father says: "Yes, God has blessed us, we're very blessed" (p. 83).

Tara's world had gradually become bigger. But the most important step out in the world was probably when she started college at Brigham Young University (BYU). A key person for Tara during her studies at BYU was the church bishop. He plays a major role in convincing Tara to continue her studies. Another important person is Dr. Kerry who helps her secure an opportunity to visit Cambridge University as an undergraduate. While in Cambridge, Dr. Steinberg helps her attend the university for graduate school on a Gates Fellowship.

During college, Tara becomes aware of how much basic knowledge and understanding of the world she lacks. Until college she had never thought of slavery as unjust, and she had never heard of the civil rights movement. One day during class she asks the teacher what is meant by the word "Holocaust". It is fair to say that before college, Tara's view of the world consisted mainly of conspiracy theories. Her parents did not only fail in their duty as parents to push Tara out into the world, but they also actively tried to stop her from going out in the world. And even if Tara did get both informal and non-formal education from her home most of the education was not only bad, but dangerous. As previously stated, Tara Westover would have travelled even without her formal education, however with a different kind of view, in a different kind of terrain, and with a different kind of map; one that would not have been as fine grained and complex as it became for her in the end. It is fair to say that it would have been both smaller and more distorted. And the main point to make is that the changing of the map was not done by her in isolation; it was done through her meetings with both the inside and the outside, from her education in relation with others. It is true that her mental strength, her strong ambitions and persistence had a lot to do with the fact that she made it all the way to university and to becoming a best-selling author. But she would never have made this journey without those educational relations with people who challenged her and encouraged her to widen her horizon.

Even though Tara Westover was educated by her family, the education was poor, distorted and even dangerous. She was constantly kept away from other educational relations outside of the family and both her father and her older brother Shawn actively tried to stop her from seeking out other relations. Her mother did not actively try to stop her, but often failed to support Tara's curiosity and eagerness to understand the world. A concrete example is when Tara struggles with a math book and asks her mother

for help. After a brief attempt her mother gives up and Tara is left on her own. It is never suggested that Tara could seek out help elsewhere. Tara is never sent to either primary or secondary school, and this brings out the question of the duty bearers that correlates to Tara's right to education. In the last paragraph of the UDHR from 1948, Article 26, it is stated that "[p]arents have a prior right to choose the kind of education that shall be given to their children". However, this statement is absent in the CRC from 1989:

> 1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
>
> (a) Make primary education compulsory and available free to all;
>
> (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
>
> (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
>
> (d) Make educational and vocational information and guidance available and accessible to all children;
>
> (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
>
> 2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
>
> 3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries. (CRC, Article 28)

Article 28 in the CRC is instead directed at the “State parties”. A compulsory school system, where primary education is “available and free to all”, and where the state also will “[t]ake measures to encourage regular attendance at schools and the reduction of drop-out rates”, is an effective way of securing the right to education and avoiding situations like that of Tara. In this way, such a compulsory school system also works as both a right and a duty for the child to be sent to school, or at least to be given a more proper home-schooling, against the parents’ possibilities to violate such a right. Both the CRC and the UDHR are political instruments. And adopting compulsory education, and e.g the CRC as part of Swedish law, is an expression of the state’s power over its citizens which is correlated to its citizens liability.[89] But would it be correct to say that the only duty-bearer of the human right to education is the state? It is true, as highlighted by more politically oriented human rights theorists such as Charles Bietz and Laura Valentini (2017), that declarations such as the UDHR were created with the purpose of constraining the conduct of states and state-like entities, where the central concern is to protect individuals from their governments. Thus, this is why, according to Bietz and Valentini, e.g. the right to life and liberty is first and foremost correlated to the states’ duty to protect the life and liberty of its citizens. And this leads Valentini to argue that “private murders are not human rights violations, while state executions of political opponents are” (Valentini, 2017 p. 874). I have previously argued that even private murders are human rights violations. They are what Griffin (2008) has called “doubly universal”; i.e. both the right not to be killed as well as the duty not to commit murder applies to *all* humans in virtue of being humans.

However, when it comes to rights that are generally considered as welfare rights, such as for instance the right to healthcare or the right to education, this argument from political human rights-theorists also seems a bit strange. In what way is the state’s duty to provide healthcare to its citizens a protection against the state? And in what way is the state’s duty to offer compulsory education a protection against the state? Maybe one could argue that education is a means for equality, autonomy and liberty, and therefore that state-governed education is a way to protect the rights to equality, autonomy and liberty. I am quite sure, however, that radical “de-schoolers” such as Illich would not go along with this line of thought. It is just as true that a school system works as an institution in a society with the purpose of upholding social cohesion and qualification, and as a sorting system. A

[89] It is also an expression of the UN’s power over the UN-member state, correlated to the liability of the UN-member state.

compulsory school-system can never be more than an instrument by which to enforce and secure the right to education; it is not in itself a guarantee that the right to education is in place. The right to school access is not equal to the right to education.

Even from a political approach, where "human rights violations can only be perpetrated by sovereign and authorative entities" (Valentini, 2017 p. 874), we ought to recognize the duty of the parents to secure the right to education for their children. It is not only a duty of the state. In the case of Tara Westover, it is not first and foremost the state that has failed in its duty, it is first and foremost Tara's parents that have failed in their duty. In choosing not to send Tara to school, Tara was limited to the education they could offer within the family, and when she had the chance, the education that was offered within the community outside of formal education. Now, would we want to say that this failure of duty, in relation to Tara's right to education, i.e. her right to increase mutual understanding of the world in relations with others, is merely a failure of a political duty in relation to such documents as e.g. the UDHR and the CRC? Or would we want to say that this failure of parental duty is a failure of a moral duty? I hold that the failure of duty here is a moral failure, and not necessarily just a failure of parental duty, but of human duty.

Would it, then, be possible to argue that the right to education is doubly universal? Would it be possible to argue that the right to education is a fundamental moral right rather than a political instrument or a political right? Griffin (2008) argues that we seem to accept a general obligation to help those in distress, especially if the cost for helping is small in relation to the benefits of helping.

> If I see a child fall into a pond, and I can save it just by wading in, and no one else is about, why must *I* do it? The right to rescue is doubly universal; it is a claim that all of us make upon all the rest of us. Why then should it fall upon *me* in particular? Well, obviously because I happen to be the only one on the scene (2008, p. 102)

The right to rescue, says Griffin, is doubly universal; "it is a claim that all of us make on all the rest of us" (ibid.). And this is also, according to Griffin, something that is almost universally agreed upon.

> Accidental facts such as being in a position to help can impose moral responsibilities–and nothing more special to the situation than that may bring the responsibility. Of course, in many cases of need, it is one's own family,

> or local community, or central government that has the ability to help (ibid).

Thus, at the same time, it is contextual. It is to be in a certain position, at a certain place in a certain time, and [a]t different periods in history, different agents have had different abilities to help.

John Searle (2010), who is sceptical in general towards viewing positive welfare rights as universal human rights, expresses a similar idea as Griffin:

> The only examples of absolute, universal human positive rights I can think of would involve situations in which the humans in question are unable to fend for themselves. Thus infants and small children have a right to care, feeding, housing, and so on, and similarly, people who are incapacitated due to injury, senility, illness, or other causes, also have absolute rights to care (p. 193).

The reason for this is, according to Searle, is that "the right in question is necessary for the maintenance of any form of human life at all, unlike the right to higher education or decent living accommodations" (ibid).

Now, what happens if we replace "the right to rescue" in Griffin's example with the right to education? Say that if I, when I saw the child falling into the pond, for some reason was unable to wade out in the water myself, but instead was able to call for help. This would, by the same argument, result in a duty to call for help. Thus, if we are unable to help directly, we can still be under a moral obligation to help indirectly. When Tara's mother was unable to teach Tara math, would this not result in a moral obligation, being the only one on the scene, to suggest others who might help Tara understand the math? Metaphorically, we could say that what happened to Tara eventually was that she was rescued from a pond of ignorance by people that recognized it as a duty to help her. And this was done through education.

I believe that education is and ought to be a human right. Education as a human right is most properly understood as having the right to stand in an asymmetrical relation with others with the collective intention to increase mutual understanding of the world. And this right is a moral claim that we have simply in virtue of being humans. It is not only a moral claim to receive education, it is also a moral duty and claim to educate. In fact, part of what it means to be recognized as a human being at all is to have such a moral claim. In other words, without education, we would not be properly

human. Thus, education is, and ought to be, a constitutive part of being human; education is, and ought to be, a human right.

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The education-as-a-human right-project of the 20th century could be viewed as a good intention of global inclusion in recognizing that all individuals have a right to education in virtue of being humans, and the idea of education as a human right thus has tremendous global significance. However, if we look at this more critically, the education-as-a-human right-project, may not only be grounded in altruistic good intensions for the disadvantaged.

The term "elementary education", or sometimes "primary education", which is used in several human rights-documents seems to suggest some sort of formalized education. It would be useful however to make a distinction between formal and informal education, as well as between teaching, learning, education and schooling, in the discussion of the right to education and specifically in the discussion concerning education as a "human right". How are these rights related to one another?

By addressing these questions within a theoretical framework of social ontology and ameliorative conceptual analysis I believe that we can find new ways of dealing with fundamental problems within philosophy of education such as the nature, purpose and aims of education as well as the right to education.

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