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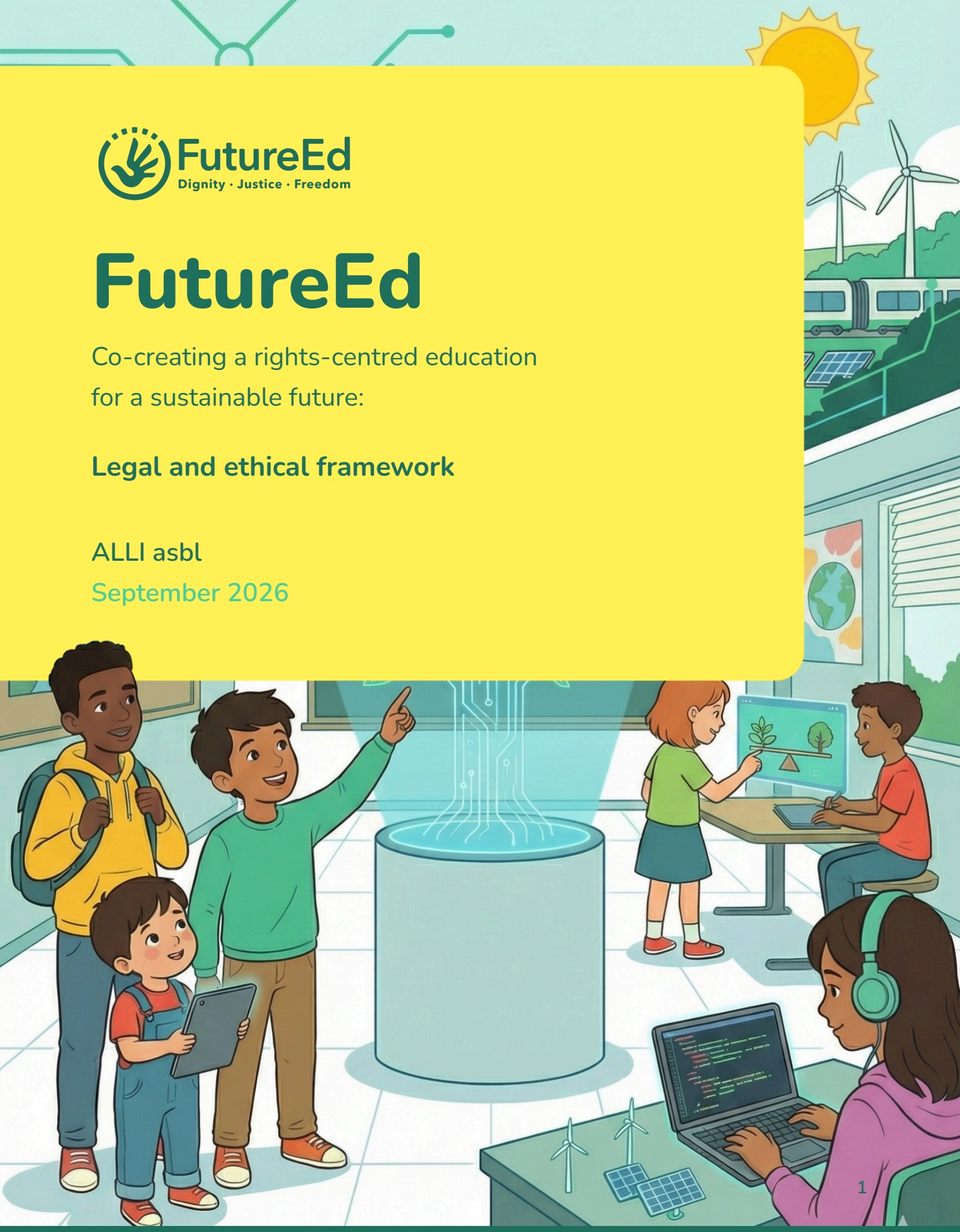
FutureEd

Co-creating a rights-centred education for a sustainable future:

Legal and ethical framework

ALLI asbl

September 2026



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Legal and ethical framework

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Based on an average reading speed of 200–250 words per minute (WPM) for adults, reading this section will take approximately 1 hour and 15 minutes to 1 hour and 35 minutes.

Here is a breakdown of estimated reading times based on different speeds:

- Fast reader (300 WPM): ~63 minutes (1 hour, 3 minutes).
- Average reader (250 WPM): ~76 minutes (1 hour, 16 minutes).
- Slow reader (150 WPM): ~126 minutes (2 hours, 6 minutes)

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How to use this guide

This guide is a didactic resource designed primarily for teachers, but it is also suitable for facilitators, educators, and self-directed learners. Its content forms part of moral and civic education. You may therefore include it in your lesson plans, workshops, or discussions, while respecting the curriculum requirements or your own learning objectives.

This book does not assert any absolute truths or dogmas. Its composition and structure have been carefully designed to make it easy to use. You may choose to read it in full or select individual chapters. Likewise, you may ask all learners or participants to read the same sections, or assign different parts to small teams or reading groups who will then share their reflections with the whole class or learning community.

However, we recommend that all learners and participants carry out the reflection activities, ideally in small groups. The diversity of opinions expressed in an atmosphere of listening and tolerance creates a space for rich and meaningful discussion.

Finally, thanks to the very practical knowledge acquired through the study of this guide, you will help to (re)ignite civic reflection, strengthen the capacity to act, and nurture the hope of contributing to the building of a better world.

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Introduction

You are about to begin a reading that we hope will profoundly change the way you view your role as a citizen, wherever you live. It will also change your perception of institutions, and even of legal texts.

Indeed, we have written this guide for all citizens, regardless of their country of residence, the government that governs them, their political convictions, beliefs and way of life. For, beyond our languages and cultures, we all share the duty to protect children, whether they are our own, biologically or not.

Children all over the world have the right to an education. Education does not necessarily mean formal schooling, let alone state indoctrination. Have you ever considered these distinctions? What are you exposing your children to? What has your own educational experience been like?

If, for you, education boils down to exercises, marks, exams and, in between, holidays, then you are about to discover another side to this field. Education is also about human dignity, about how laws complement one another, about human rights, about democracy and about ideals.

What is your ideal in education?
Make a note of your answer – you'll come back to it! And enjoy the read.

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Human Dignity: The Fundament



Human Dignity: A Multiculturally Rooted Concept United by a Shared Aspiration

Drawing: Instagram @jean.f.pierra

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1. From a shared heritage of wisdom to contemporary laws

In this first chapter, we begin a moral reflection on a crucial right: human dignity. We then supplement this with a presentation of a legal concept: the hierarchy of norms in Europe. Armed with this knowledge, you will be able to analyse several concrete cases, all of which relate to real-life situations.

1.1. Moral reflection 1: human dignity

Human dignity is enshrined in the very first article of the Charter of Fundamental Rights of the European Union, not as just one right among others, but as the cornerstone of all rights. It affirms that every individual possesses intrinsic value and that all laws and policies must defend and respect this value. Without dignity, no other right can truly have meaning.

However, this concept did not emerge overnight; it has developed gradually and has now become a central element of our shared multicultural heritage.

Human dignity serves as a meeting point for various philosophical, cultural and religious traditions. Different communities – Christian, Muslim, secular and others – each ground dignity in their deepest convictions, yet converge on the recognition of universal dignity. This convergence does not erase differences. Rather, it leads to a common consensus strong enough to underpin universal human rights.[1]

It is important to note that there is no single definition of human dignity shared by all. On the contrary, human dignity functions as a flexible concept that draws its strength precisely from its multicultural foundations. Whilst each tradition may justify it differently, the interweaving of these justifications creates a more solid basis for human rights than a single foundation could. This means that we do not need to agree on 'why' human rights are important in order to live together with dignity.

[1] Jack O'Donelly (2013) - *How does human dignity underpin human rights?* https://www.youtube.com/watch?v=HeX7LL0SK1w

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As the French philosopher Jacques Maritain (1882–1973), who played a major role in the discourse on human rights, wrote:

> **We all agree on human rights**
> **as long as no one asks us why.**

It is enough to agree on the outcome, the protection of human rights as a condition for a dignified life, even if the reasons differ.

Human rights aim to transform human dignity from an abstract principle into a lived reality. They establish the political and social frameworks designed to enable everyone, everywhere in the world, to lead a dignified life. Their universality does not rest on uniformity of belief, but on the shared recognition that every person deserves living conditions that respect and nurture their humanity.

Across cultures and nations, human beings share a common sense of right and wrong.

> **Freedoms and restrictions vary from one era to another.**
> **Human rights therefore lie somewhere in the middle,**
> **impossible to define precisely, but not impossible to discern**.[2]

Throughout history, and across cultures, the concept of human dignity has evolved, shifting from a notion linked to social rank or divine order to a broader conception based on reciprocity, recognition and balance.

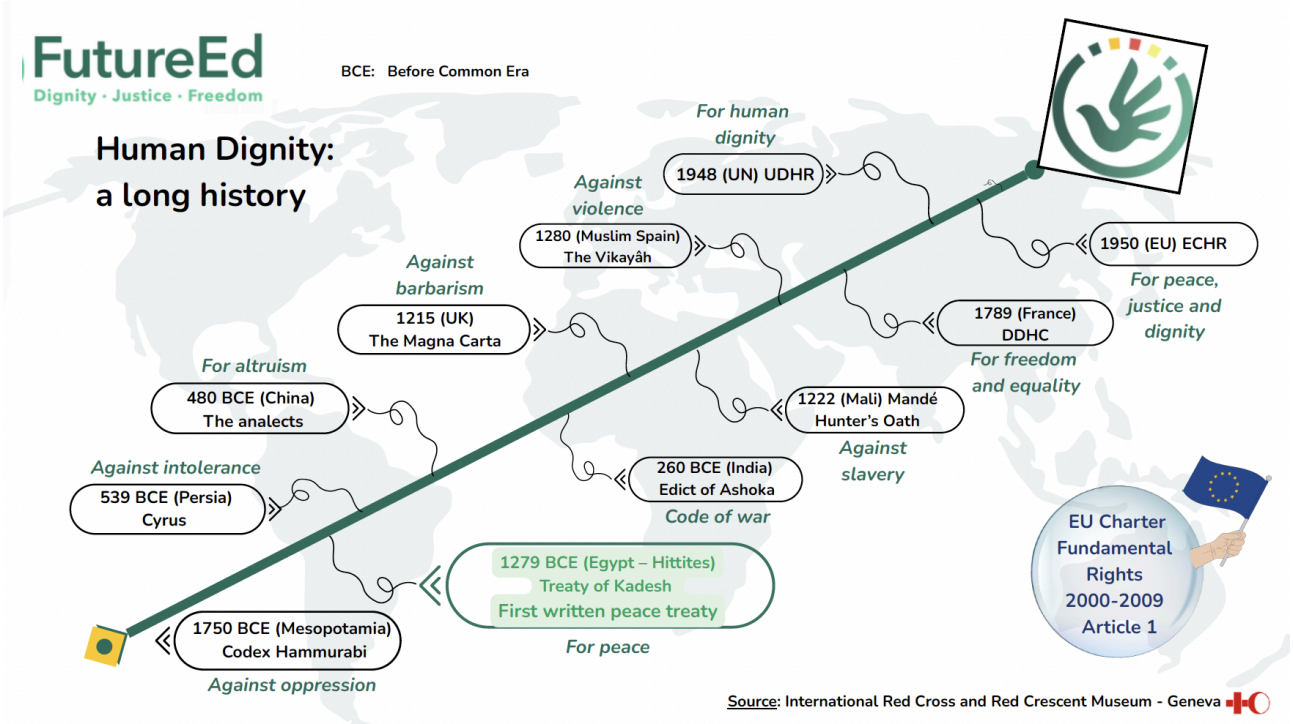
Whether expressed through the African principle of *Ubuntu*, the Andean vision of *Buen Vivir*, indigenous traditions of sacred reciprocity with nature, or universal declarations of human rights, human dignity emerges as a shared human aspiration: to live well together, honouring both the individual and the community, and maintaining harmony with the natural world.

[2] A phrase inspired by Edmund Burke (1790), quoted in Texts selected and presented by Worms F. (1993), *Human Rights and Philosophy: An Anthology (1789–1914)*, Press Pocket.

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*We invite you on a journey through time and space exploring this concept of human dignity. As you can see in Figure 1 – **Human Dignity: A Long History**, the development of this idea has unfolded over a long period, in different places and around various principles.*

Reflection activity

What definition of human dignity do the members of your discussion group give?
Are these definitions identical, or in what ways do they differ?
Do each person's age, background and life experiences influence these definitions?
Write down either a collective definition or individual definitions, but above all, keep these definitions safe.

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We'd like to share a few of these historical and cultural references with you.



The concept of human dignity has evolved over time and across cultures.
*Figure 2 – **Human Dignity: the multicultural roots of a universal concept**, provides some examples of these multicultural roots.*

In ancient Europe, human dignity was often linked to rank, family or honour. Only certain people were considered 'worthy', which shows that ideas about human worth have evolved over time.

Around 400 BCE, Sophocles demonstrated that true human dignity stems from moral conscience and a sense of duty towards higher laws – even when this means defying the authority of the state. The intrinsic value of a human being takes precedence over their social status.

Around 500 BCE, according to the Indian tradition of the Upanishads, human beings and all living creatures possess a divine inner essence. Every person deserves respect, for life itself has intrinsic value. Dignity is linked to spiritual awareness and moral conduct.

At the same time, the Hebrew Bible affirmed the universal dignity of human beings, describing humanity as created "in the image of God", a principle that Christian theology later adopted and systematised - particularly from the 5th century CE - into a foundational doctrine of intrinsic human worth. Human dignity is universal, it is not limited by social class, wealth or power.

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Two centuries BCE, in China, Confucianism taught that human dignity stems from a benevolent and respectful attitude in relationships. Value is measured by moral behaviour and social harmony.

In the 7th century CE, the Qur'an emphasises that all human beings are created by Allah with dignity. Respect, justice and moral behaviour towards others are essential expressions of this human dignity.

In 1272, the theologian Thomas Aquinas, author of the Summa Theologica, combined Christian theology with Aristotelian philosophy. He argued that human dignity stems from reason and free will. Everyone possesses dignity because they are capable of seeking truth and goodness, in accordance with natural law and the divine order.

We have already mentioned non-European cultural references; let us continue, this time with Africa and the Americas.

In Africa, the concept of '*Ubuntu*' prevails: '*I am because we are*'. Indeed, in many African cultures, human dignity is both individual and collective. A person's worth is realised through the community, respect and mutual support. All of humanity is interconnected, and treating others well preserves everyone's dignity.

In South America, '*Buen* Vivir' – living well in harmony – stems from Quechua and Aymara traditions. Buen Vivir regards human dignity not only as an individual right, but also as a collective well-being. True human dignity stems from harmony with the community, nature and future generations, challenging Western notions of progress by placing balance and sustainability at the centre of life.

In North America, Indigenous nations have developed the concept of sacred reciprocity with nature. According to many Indigenous traditions, dignity is rooted in respect for all beings, whether human, animal or spiritual. The principle of reciprocity emphasises that human dignity is inseparable from respect for the earth and a life in balance with creation.

Reflection activity

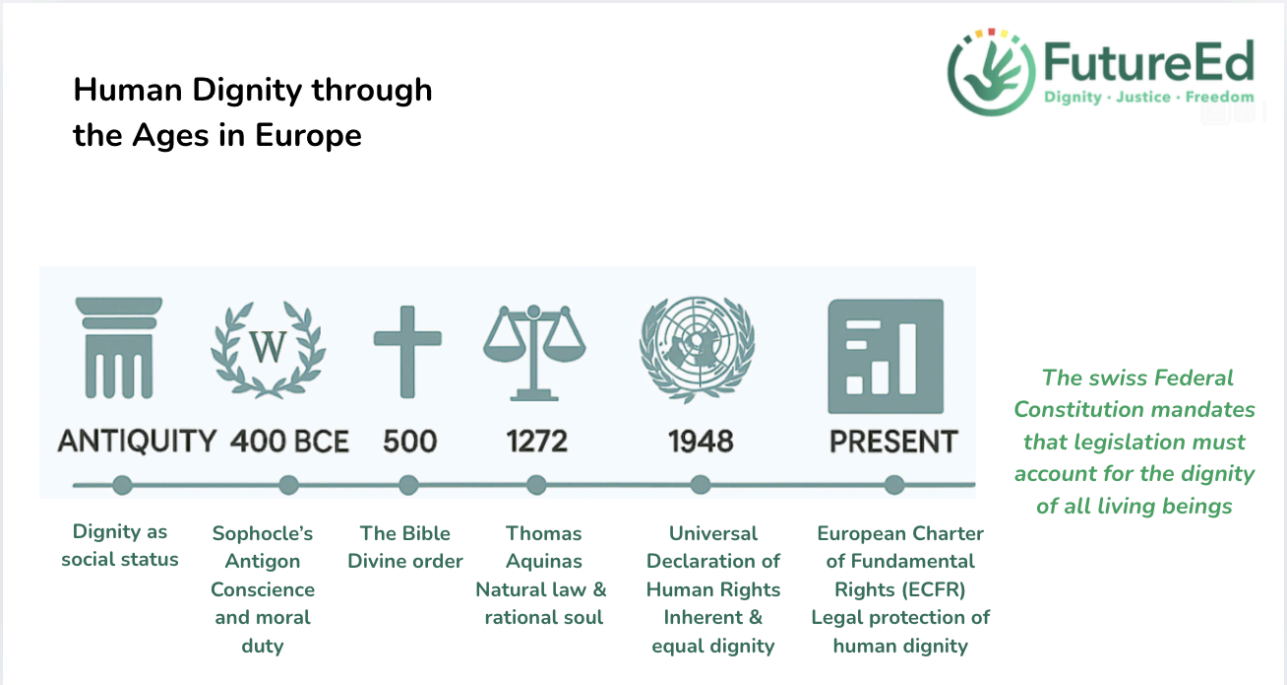
It is now up to you to continue and expand this journey through time and space.
Choose a period or a region, as you wish, and explore how the concept of human dignity developed there, and how it has evolved over time.
What factors – religious, spiritual, economic, moral or others – have shaped this concept?
What remains of it today? If you choose several different geographical areas, or several eras, what conclusions do you draw from comparing them?

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After this interlude, let us resume our journey through the concept of human dignity. Our next stop is the modern era.



*In Figure 3 – **Human Dignity through the Ages in Europe**,*
key moments in the evolution of this concept in Europe are summarised.

We arrive in 1948. The UN – United Nations – drafts the Universal Declaration of Human Rights. A key idea is set out therein: inherent and equal dignity as the founding principle of human rights, stipulating that every individual possesses an intrinsic, inalienable and identical value, regardless of their characteristics.

This document was drafted, amongst other things, as a moral response to the horrors committed during the Second World War. Thus, Article 1 of this Universal Declaration of Human Rights states that:

> **All human beings are born**
> **free and equal in dignity and rights**.

This assertion marks a true turning point: human dignity becomes universal, non-negotiable and fundamental to all human rights. In the same spirit, in Germany, the Grundgesetz, the Basic Law (1949), made human dignity inviolable, establishing it as the supreme principle of democratic life.

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Let us move forward in time. We arrive in the year 2000. The European Union drafts the Charter of Fundamental Rights. The key concept of this text is the legal protection of human dignity. Article 1 of this Charter states that: 'Human dignity is inviolable. It must be respected and protected.' This provision demonstrates a legally binding recognition of human dignity in European law, emphasising both protection and respect in public policy, the justice system, healthcare, education and beyond.

Reflection exercise

Have you ever read the UN Declaration of Human Rights and the Charter of Fundamental Rights of the European Union in full? Take the time to read these two texts within your discussion group.
What are your initial impressions?
Do you see any similarities or differences between these two texts?
Do you feel they are being applied in the country where you live?

At this stage, with so much information to take in, we thought it would be useful to share a summary table of the points we have covered so far.

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Images of human dignity around the world

Concept	Cultural origin	Main basis	Nature of dignity	Relationships with others, to society	Vision of the world
Karama (الكرامة)	Arab/Islamic world	Divine will: humanity honoured by God	Value accorded to every human being, to be preserved through moral conduct	Yes, dignity is expressed through respect, modesty, loyalty	Theocentric and community-oriented
Ijji (意地)	Japan	Ethical behaviour, inner pride, self-control	Personal value based on restraint and moral strength	Yes, respect of the group and preservation of social harmony	Interpersonal and harmonious
Ren (仁)	Confucian China	Moral humanism: benevolence and righteousness	A relational virtue based on mutual humanity	Yes, dignity is found in the quality of human relationships	Humanist, hierarchical, harmonious
Dignity (European, modern)	Europe (Kant, human rights)	Reason, freedom, equal rights	Intrinsic, unconditional, universal value	Yes, recognition of abstract equality	Anthropo-centrism and individualism
Ubuntu (“Umuntu ngumuntu ngabantu”)	Sub- (Bantu philosophies)	Shared humanity, interdependence of people	Relational dignity: one becomes fully human through others	Yes, central: solidarity, reciprocity, mutual responsibility	Community-based, relational, holistic
Buen Vivir (Sumak Kawsay, Quechua / Andean America)	Andes (Ecuador, Bolivia, indigenous peoples)	Harmony with the community, nature and the cosmos	The collective and ecological value of “living well together”	Yes, balance between humans, nature and spirituality	Eco-community and the cosmos

Table 1: Images of human dignity through the ages

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After this in-depth look back at the past, what can we say about human dignity today? Let us continue to examine this concept closely; we can now identify several of its specific features: autonomy, heteronomy and recognition.

Traditionally, two conceptions of human dignity stand in opposition:

Heteronomy: human dignity stems from obedience to an external order: divine, moral or social. And autonomy: human dignity is based on individual self-determination and free will.

Philosophy has enriched this debate by highlighting a third dimension: human dignity as mutual recognition. We affirm our own human dignity only by recognising others as our equals. Thus, human dignity is both personal, expressed through authenticity and free will, and relational, as it is manifested through reciprocity and social respect.

Reflection activity

Within your discussion group, identify everyday situations that correspond to these three aspects. What do they make you think of?

Human dignity is not confined to morality and philosophy; it has also found its place in law and jurisprudence.[3]

Human dignity functions both as a shield and a foundation in law. As a shield, it prohibits degrading treatment: torture, slavery, exploitation. German case law emphasises that human dignity is absolute and non-negotiable.

As a foundation, it underpins individual freedom, allowing for choices in private life, including end-of-life decisions. In some countries, however, the state sometimes invokes an objective notion of human dignity to restrict individual autonomy, such as through bioethical prohibitions. This duality makes human dignity a dynamic principle, serving as a mediator between protection against harm and the right to self-determination.

Reflection exercise

What examples of legislation can you give where human dignity acts as a safeguard?
What abuses are thus prevented?
What examples of legislation can you find that treat human dignity as a foundation?
What does this foundation contribute to the law you cite?

[3] Jurisprudence is the body of legal principles developed through judicial decisions, which serve as precedents to guide future decisions in similar cases.

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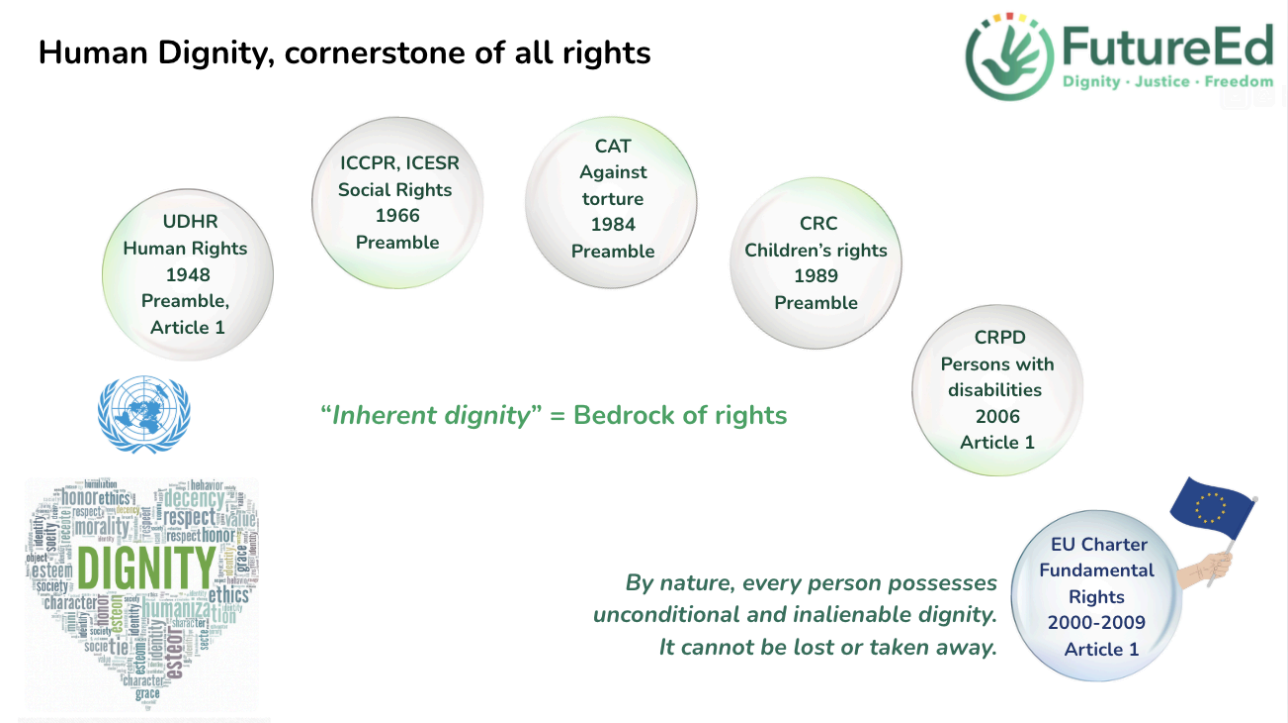
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Let us continue to explore this concept, which is decidedly rich. Human dignity does indeed have a dual nature; it is both inherent and acquired.

Human dignity is said to be inherent when it is unconditional, universal, equal and inalienable. It belongs to every human being simply by virtue of being human.

Human dignity is said to be acquired when it is relative, based on roles, achievements or social esteem, arising from a position such as that of a judge or an athlete. It can therefore be acquired, but also lost.



*In Figure 4 – **Human Dignity, the cornerstone of all rights***
Human dignity serves as the foundation for most texts relating to human rights.

International human rights law and the EU Charter of fundamental rights consistently affirm that inherent dignity is the foundation of rights.

Reflection activity

What examples of human dignity acquired and retained, or acquired and lost, can you find?
Do you notice any recurring elements in the process of acquiring and/or losing human dignity?
Do these elements characterise a situation according to its time, place or other factors?
Did all members of your discussion group agree on the choice of situations involving the acquisition and/or loss of human dignity? What conclusions do you draw from this?

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It is possible to further develop the concept of human dignity. Through the theory of recognition, the theory of identity, and a procedural approach.

According to the theory of recognition, human dignity stems from mutual recognition; violations result from exclusion and humiliation.

According to identity theory, human dignity is linked to authenticity. Consequently, forcing individuals to live in a way that goes against their identity – for example, through cultural erasure or the suppression of self-expression – constitutes a violation.

Finally, the procedural approach states that human dignity is best understood through its violations: torture, degrading punishment and discrimination.

These nuances owe much to the work of Paul Tiedemann and to recognition theorists, particularly Axel Honneth, who are part of the Hegelian tradition. Together, these perspectives show that human dignity is at once individual, relational and practical.[4]

Currently, new challenges are linked to human dignity. These relate to vulnerability, technology and ecology.

In the realm of vulnerability, human dignity implies not only autonomy but also protection in times of weakness: for the elderly, the disabled and the terminally ill. This underpins the rights to care and palliative protection.

In the technological sphere, in the digital age, human dignity protects against dehumanisation through artificial intelligence and guarantees respect for informational self-determination and digital identity.

On an ecological level, certain legal systems extend dignity to non-human life, such as, for example, the Swiss Constitution on the dignity of creatures. Debates on transhumanism further test the limits of dignity in relation to the modification of the body and the genome.

[4] Tiedemann P. (2014), *Was ist Menschenwürde? Eine Einführung*, Ed. wbg-Darmstadt. http://www.dr-tiedemann.de

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Reflection activity

What measures or laws are you aware of that protect individuals in terms of vulnerability and technology? Why were these laws passed? In your opinion, are they sufficient?
Conversely, can you name a country where such laws, which you consider necessary, do not yet exist? To improve the situation of its inhabitants, what bill would you like to propose?
From an ecological perspective, which non-human entity – a river, a mountain or something else – do you know of that has a voice? Can you give some examples?

Human beings are full of paradoxes, and this characteristic is evident when considering human dignity and the tensions between freedom and responsibility.

Science highlights the evolutionary paradox of Homo sapiens: we are capable of both extreme violence and unprecedented cooperation between groups.[5]

Conflict and cooperation have co-evolved through cultural and biological processes, making human social life profoundly variable. This dual capacity reinforces the importance of human dignity as a stabilising principle for peaceful coexistence.

In conclusion, human dignity is now regarded as the foundation of human rights, which are both inherent and universal, yet constantly reinterpreted through law, education and social practices.

Modern conceptions emphasise:

- ➔ autonomy and authenticity;
- ➔ protection against exploitation;
- ➔ equality of rights and inclusion;
- ➔ mutual recognition;
- ➔ respect for vulnerability;
- ➔ adapting to technological and ecological challenges.

[5] Meijer, H. (2026), *The origins of war and peace in the human species*, Cambridge University Press https://onlinelibrary.wiley.com/doi/epdf/10.1002/evan.22027. Lecture at the Collège de France: On the origins of war and peace in the human species https://youtu.be/UWW9aMu9mzI.

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Protecting dignity therefore means:

- ➔ never treating people as objects,
- ➔ guaranteeing their freedom to live authentically, and
- ➔ cultivating mutual recognition as the cornerstone of democratic coexistence.

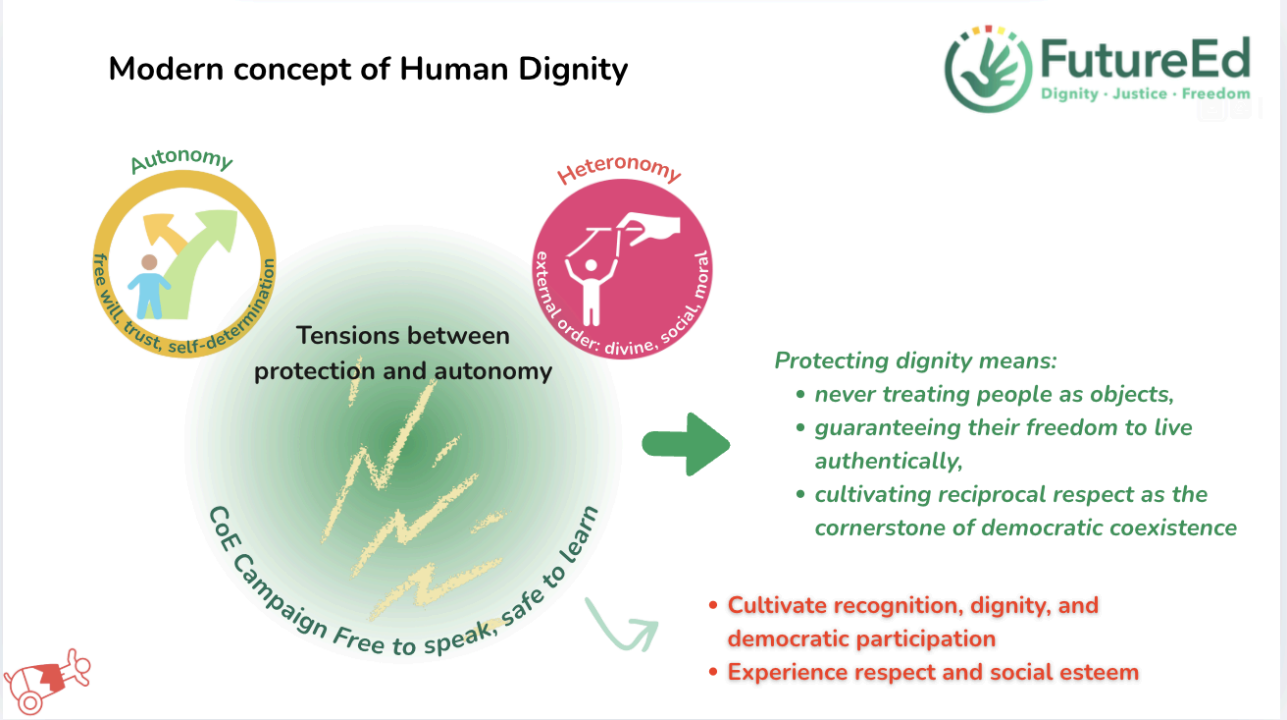


*Figure 5 - **Modern concept of Human Dignity***
Modern recommendations to address the tensions between autonomy and protection.

Reflection activity

Would you have imagined that human dignity has so many facets?
Working together or individually, give your definition of human dignity.
Refer back to the document on which you wrote your first definition at the start of your reading of this book. Compare the two definitions. Are they identical?

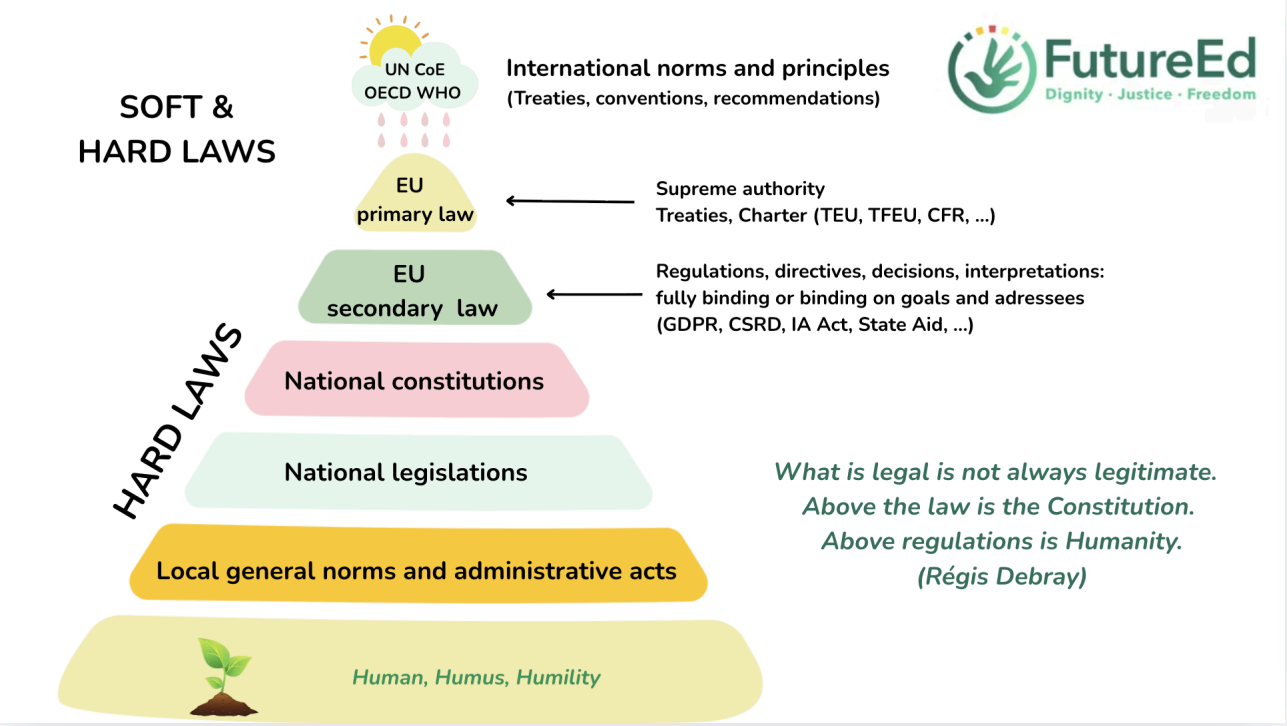
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1.2. Legal concept 1: the hierarchy of norms in Europe

Laws help to provide a common framework for regulating behaviour, resolving conflicts and protecting individual rights. They are one means, among others, of upholding social order and fairness.

But not all laws are equal. Some are more important than others. This is why we speak of a hierarchy of norms. It is this concept that explains why some rules take precedence over others or why certain rules must conform to higher-ranking ones.

The hierarchy of norms in Europe



This pyramid shows us the types of laws in order of importance.

*Figure 6 – **Hierarchy of norms in Europe***

At first glance, having become accustomed to reading texts advocating equal rights for individuals, you might be inclined to attribute this same quality to laws. But in fact, when it comes

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to laws, there is no such thing as equality. It is the hierarchy that prevails, and we are going to explain this concept, which is actually very simple.

Today, there are hardly any countries that are completely cut off from one another. Consequently, when international bodies establish standards in the form of charters, declarations, conventions and treaties, and countries ratify them, they must then apply the content of these texts. Compared to our private dress code, we assume that we dress as we please at home, but as soon as we go to a public place – at work, in a shop, on the street – we must wear an outfit deemed decent according to the standards in force in that place.

This standard therefore takes precedence over our personal dress code. The same applies to states. They have national laws, but when their respective governments ratify these international texts, the content of these texts becomes part of their national law and must be applied.

At this stage, it is worth noting a distinction between states. Indeed, some are monist and others are dualist. What do these terms mean?

In a monist state, international law is directly incorporated into national law, whereas in a dualist state, it remains external and only produces internal effects after being transposed into national law.

Monist or dualist state?

Monist state	Dualist state
A single legal system	Two distinct legal systems
Direct application of treaties	Transposition required
May be invoked by individuals	Indirect or impossible invocation
Frequent primacy of international law	Primacy of domestic law

Table 2: Characteristics of a monist or dualist state

Reflection exercise

What is the situation in your country? Is it a monist or a dualist state?

However, just because a text has been drafted by an international body, such as the United Nations or the Council of Europe, for example, does not mean that it automatically becomes legally binding. Some of these documents are referred to as recommendations or *soft* law.

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Even if these recommendations are not incorporated into the national law of states, they can nevertheless exert a strong influence on governments by creating political pressure, establishing international standards and guiding changes in laws and policies.

Citizen action is also an important, even essential, lever, so it's up to you. We'll discuss this further in the final chapter.

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1.3. Real life examples

Armed with all these theoretical references, you're no doubt keen to get down to the nitty-gritty. So here are a few real-life cases to ponder.

a) The dwarf-tosser

He is 1.18 metres tall. In politically correct terms, he is a person of short stature. A dwarf, in other words. He has turned what could be seen as a disability into an asset. He has become a star – the star of dwarf tossing.

Dwarf tossing is an ancient form of entertainment, revived in the 1990s. It involves hurling a person of small stature for the sake of amusement. In France, this activity was banned in the name of human dignity, notably in the case of Mr Skyman, the flying dwarf, in 1995. The Council of State ruled that this practice undermined public order by degrading the image of the human being, not because of physical suffering, but because it reduced the person to an object of spectacle, regardless of their consent. Disability, exploited for entertainment purposes, lay at the heart of the reasoning.

Similar decisions have been taken elsewhere, notably in Germany, where an administrative court ruled that dwarf tossing was immoral, highlighting its negative influence on social norms and the trivialisation of disrespect towards people of short stature. However, this approach has drawn doctrinal criticism, with some legal scholars arguing that invoking human dignity goes too far, as it no longer protects the individual from the state but serves to restrict their professional freedom. The risk of normalisation is nevertheless recognised: if such practices become commonplace, they may encourage disrespectful behaviour in contexts where no consent exists.

This danger became a reality in the case of Martin Henderson, who was the victim of a violent assault after a rugby player, influenced by a 'dwarf tossing' experience, sought to replicate the act outside any regulated context.

This incident illustrates how a practice perceived as mere entertainment can foster a culture of dehumanisation and intolerance. Martin Henderson has been paralysed since the incident.[6]

[6] Twenty years of the ban on dwarf tossing.
https://www.unique-online.de/20-jahre-verbot-zwergenweitwurf/6097/

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Reflection activity

Have any members of your discussion group had their human dignity denied?
What experience did they go through? Are they able to share this with you?
How do you think such situations should be addressed?
What is the opinion of each member of your discussion group on dwarf tossing?
Watch and listen carefully to this video. **Manu, the dwarf who wanted to become a star**.[7]
Is your opinion still the same?

The issue of dwarf tossing exemplifies the tension between human dignity and individual freedom.

b) Child protection, a recent development

This specific case helps you understand the role of Conventions within a country's legal system. This is a case relating to family law, and therefore falls outside the scope of the European Charter of Fundamental Rights but is nonetheless subject to international law.

It is scientifically recognised and accepted that violence has devastating effects on children.

Whether it constitutes an immediate threat to their life and well-being or leads to long-term, even lifelong, repercussions, it undermines the child's sense of self-worth and disrupts their emotional, cognitive and physical development.

Yet on 18 April 2024, a former border police major prosecuted for violence against his ex-wife and children, who had been sentenced to 18 months in prison at first instance, was acquitted during his appeal hearing in Metz (France).

The former border police major denies the charges against him, but admits to a "harsh and strict upbringing of [his] sons". "You'll have to explain to me what that means, a strict upbringing," replies [the children's lawyer] Jérôme Tiberi. "I don't know what a strict upbringing is."

"When you have children coming forward to say they were grabbed by the neck, strangled, pinned against the wall, or had a service weapon placed on the desk whilst doing their homework, that's not what we mean by a strict upbringing," the lawyer stated on BFMTV.[8]

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[7] Manu the Flying Dwarf https://www.youtube.com/watch?v=8e_nTndsEWw
[8] Parent's right to corporal punishment https://www.bfmtv.com/police-justice/droit-de-correction-l-avocat-des-enfants-du-policier-relaxe-denonce-des-violences-pures-et-simples_AV-202404220979.html

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How is such a judgement possible in 2024, in France, despite the laws and scientific knowledge?

Reflection activity

Step one: reading two treaties.
One is the CRC – the UN **Convention on the Rights of the Child**. *It was adopted by the United Nations General Assembly on 20 November 1989 and came into force on 2 September 1990 after being ratified by twenty states, including France, on 7 August 1990.*
The other text is the ECHR – the **European Convention on Human Rights**. *It was signed on 4 November 1950 and came into force on 3 September 1953. France ratified this convention on 3 May 1974.*

Choose the language you are most comfortable reading in by clicking on the hyperlink. As you read these two texts carefully, you will notice guiding principles and key words. Make a note of them and compare your respective lists once you have finished reading. Are they similar or different? Do they align with your values and concerns? What discussion is already taking shape within your discussion group?

Have these two treaties been ratified in the country where you live?
Which countries have not ratified the UN Convention on the Rights of the Child and the European Convention on Human Rights?

Step two:
Are there any laws protecting children in the country where you live?
Do these laws protect children from all forms of physical violence?

Let us return to our specific case. In France, there are three national laws on child protection. We have chosen to illustrate this activity using French laws, as France presents itself to the world as the country of human rights. These are **Law No. 2007-293 of 5 March 2007** reforming child protection, **Law No. 2016-297 of 14 March 2016** on child protection, and **Law No. 2019-721 of 10 July 2019** on the prohibition of corporal punishment in education.

These three laws are the culmination of ongoing civic action, driven mainly by specialist associations, child welfare professionals and independent institutions. This campaign has taken the form of producing expert reports, critically evaluating public policies, holding public authorities to account and invoking France's international commitments, notably the Convention on the Rights of the Child. It exemplifies a form of democratic participation based on expertise, persistence and normative standards, rather than on protest mobilisation.

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Reflection activity

As you did when reading the two treaties, note down the guiding principles and key terms contained in your country's child protection legislation, then compare your respective lists and discuss them.

At this stage of your reflection, you have no doubt already noticed an important point: a clear resemblance, or even an inspiration, between these texts. Indeed, the treaties you have just read and analysed served as the basis for the drafting of the laws you have also just read and analysed. When you realise that international treaties, ratified by France, serve as the basis for French laws, you understand a distinctive feature of French law: France is a monist state, which means that European and/or international treaties, once ratified, are automatically incorporated into national law. This incorporation is a first step, but does it also imply automatic effectiveness? In reality, the application of these texts is not absolute.

Thus, in France, a violent father was acquitted and found not guilty by the Court of Appeal. What happened from a legal perspective?

On 18 April [2024], the Metz Court of Appeal acquitted a police officer who had been convicted at first instance for acts of violence against his children and partner. In their judgment, the judges stated that 'parents are recognised as having a right to discipline'. A decision that outrages Senator Marie-Pierre de la Gontrie, rapporteur for a bill that has prohibited 'educational violence' since 2019.[9]

Indeed, the judge in Metz interpreted the law and delivered her judgement by referring to a legal decision from a bygone era, a precedent from 1819 concerning the right of correction. She referred to a judge's statement made over 200 years ago, which read as follows:

> *"Whilst nature and civil laws grant fathers the authority to discipline their children, they do not confer upon them the right to inflict violence or ill-treatment that endangers their life or health."* (1819)

This extract shows that, as early as 1819, the Court of Cassation recognised a form of authority or power of correction attached to parental authority. However:

> "*What is legal is not always legitimate; above the law stands the Constitution; above the laws stands humanity*." R. Debray[10]

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[9] Acquittal of a man accused of domestic violence https://www.publicsenat.fr/actualites/societe/relaxe-dun-homme-accuse-de-violences-familiales-le-droit-de-correction-invoque-par-les-juges-est-contraire-a-la-loi

[10] Debray R, (1998), *La République expliquée à ma fille*, Ed. Seuil.

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In this case, the Public Prosecutor, a magistrate of the Public Prosecutor's Office who represents the interests of society before the court, did not accept this acquittal; he persisted in seeking justice through what is known as an appeal to the Court of Cassation. An appeal to the Court of Cassation is an extraordinary appeal lodged with the Court of Cassation, the Council of State in France, to challenge a decision handed down in the final instance. It does not re-examine the facts, but verifies the correct application of the law and compliance with procedures. It aims to set aside – overturn – the contested decision in the event of an error of law.

In a landmark decision on 14 January **2026**[11], the Court of Cassation will finally overturn the dogma of the right to corporal punishment in the exercise of parental rights: **'the right to corporal punishment does not exist'**. It will establish a new interpretation of the law in line with international law, which the French State has undertaken to respect by ratifying the relevant treaties.

The Court of Cassation has referred the case back to the Court of Appeal in Nancy for a fresh hearing.[12]

This case illustrates how these two conventions, the Convention on the Rights of the Child and the European Convention on Human Rights, have shaped French legislation and judicial reasoning, but also face limitations due to the discretionary power of judges, whether out of conviction or for reasons of legal strategy.

An understanding of such mechanisms has a clear civic impact. As the saying goes, forewarned is forearmed; so too is a forewarned citizen. Above all, they are better able to understand the gap between formal ratification and the actual protection of rights. They also realise that human rights education and civic vigilance are essential to ensure that international standards translate into effective national safeguards.

It is vital for all citizens – and particularly for professionals, lawyers and educators – to know how rights must be recognised in order to hold institutions to account and ensure that human dignity and the protection of children become genuine social norms, rather than abstract legal ideals.

So it's up to you!

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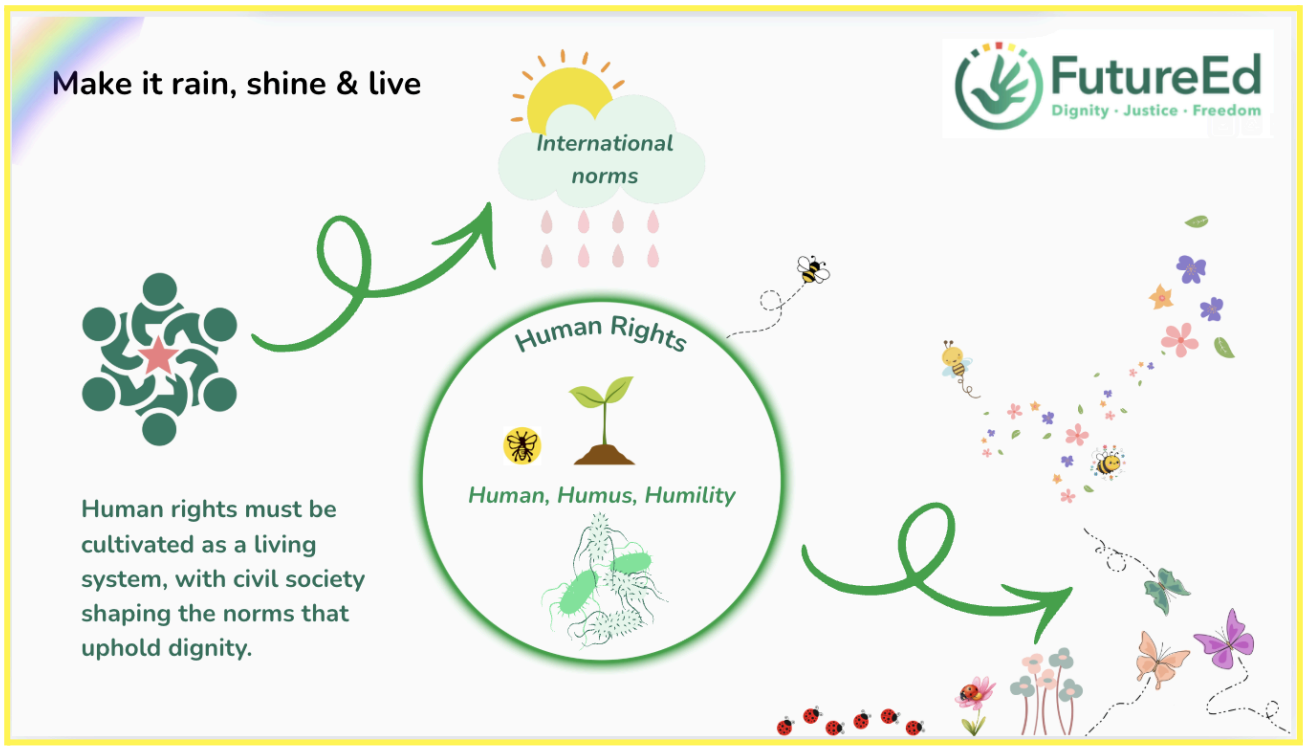
[11] Court of Cassation 14 January 2026
https://www.courdecassation.fr/decision/6967412ccdc6046d473a79d9

[12] Educational violence at the Court of Cassation
https://www.lemonde.fr/societe/article/2026/01/14/violences-educatives-la-cour-de-cassation-met-fin-au-droit-de-correction-parental-et-clarifie-la-loi_6662171_3224.html

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Human rights are meaningless if no one brings them to life.

*Figure 7 – **Make it rain, shine and come alive***

We have now reached the second part of our guide. We will now look in detail at human rights. This fundamental concept is exercised in two areas, amongst others, that we are examining: democracy and education. As in the first part of this guide, we have interspersed your reading with activities to carry out with your discussion group.

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The Paradox of Homo Sapiens



We are capable of both extreme violence and unprecedented cooperation between groups.

Did you notice the three A's?

They stand for Aggressive, Acquisitive, and Ambitious. Exploring the origins of inequality, archaeologist Brian Haydn argues that social inequality emerged when "Triple-A" personalities gained control over surplus resources and used them to accumulate power and status.

Drawing: Instagram @jean.f.pierra

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2. Shared values to apply in daily life

What significance do human rights have if they are not present in our daily lives? Before answering this question, let us first recall the origins and development of this fundamental moral concept.

2.1. Moral reflection 2: human rights

After the Second World War, the international community sought to rebuild a foundation of shared values in order to prevent further conflicts. The League of Nations operated from 1920 to 1946. Having proven ineffective, it was replaced by a new body: the UN – the United Nations. Its functioning requires member states to resolve their disputes through diplomacy rather than war.

In 1945, this new body drafted the United Nations Charter with the aim of establishing a framework conducive to international peace, security and cooperation. This text constitutes the founding treaty of the organisation. It was signed on 26 June 1945 in San Francisco and came into force on 24 October 1945.

Reflection activity

Read the **UN Charter** *in the language of your choice. What do you think of this text?*
Do all members of your discussion group share the same opinion?

This Charter forms the legal foundation of the entire international system built around the United Nations, in the same way that a constitution defines and organises a state. It serves as the UN's constitutional document and sets out the organisation's objectives and principles, such as the maintenance of international peace and security, the promotion of human rights and the strengthening of cooperation between nations.

The structure and powers of its main bodies – the General Assembly, the Security Council, the Economic and Social Council and the International Court of Justice – are also covered by this text. It also defines the rights and obligations of Member States.

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Reflection activity

Have any members of your discussion group experienced a personal situation related to a UN initiative, such as peacekeeping through the presence of Blue Helmets, the promotion of human rights, sessions of the International Court of Justice, or something else?
Can you share this experience with the other members of your discussion group?

Shortly after the United Nations Charter came into force, the Economic and Social Council established the United Nations Commission on Human Rights. It was tasked with drafting an International Bill of Human Rights. This was to include both a general declaration defining human rights and a binding treaty accompanied by an international monitoring system. However, due to major disagreements over the legal force of the treaty, the Commission on Human Rights initially focused on creating a theoretical, non-binding declaration to be adopted as a resolution of the United Nations General Assembly. This work culminated in the Universal Declaration of Human Rights, adopted on 10 December 1948 by 48 votes in favour, 8 abstentions and no votes against.

Reflection activity

Read, in the language of your choice, this UN **Universal Declaration of Human Rights**.
What do you think of this text, compared to the **UN Charter** *you read earlier?*

When drafting the International Bill of Human Rights, the United Nations Commission deliberated at length on whether to include philosophical, religious or ideological foundations. This caution was reinforced by a study conducted by UNESCO in 1947, which had gathered the views of around 150 thinkers from countries across the world on the philosophical foundations of human rights. Far from providing clarification, this survey revealed profound disagreements regarding the very nature of human rights. Faced with these differences, the UN Commission chose to disregard them and kept the study[13] confidential, before UNESCO finally published it in 1949, following the adoption of the Universal Declaration of Human Rights.

Reflection activity

What is UNESCO? What does the acronym stand for?
What are the history, activities and objectives of this organisation?

This experience demonstrated the impossibility of basing human rights on a single universal philosophy. But it opened up a decisive perspective: the universality of human rights can rest not

[13] Human rights: comments and interpretations - UNESCO (1948)
https://e-docs.eplo.int/phocadownloadpap/userupload/aportinou-eplo.int/Human%20rights%20comments%20and%20interpretations.compressed.pdf

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on a unity of foundations, but on a practical agreement between different worldviews, that is to say, a convergence of conclusions rather than a common doctrine.

Thus, human rights do not serve to impose fixed moral standards, but to offer ethical guidelines based on shared values and on the *"intellectual and moral solidarity of mankind"*, as stated in the preamble to *the* UNESCO Constitution.[14]

These rights are simply tools for action, available to all citizens. It is up to each of us to learn about them, to understand how they work so that we can all take hold of our power to act, and to contribute to their implementation. We are all capable of doing so. This guide is here precisely to help you understand these rights and how they work.

Among the areas covered by human rights, the rejection of discrimination, the principles of equality, democracy and diversity, and the rejection of inhuman or degrading treatment are of great importance.

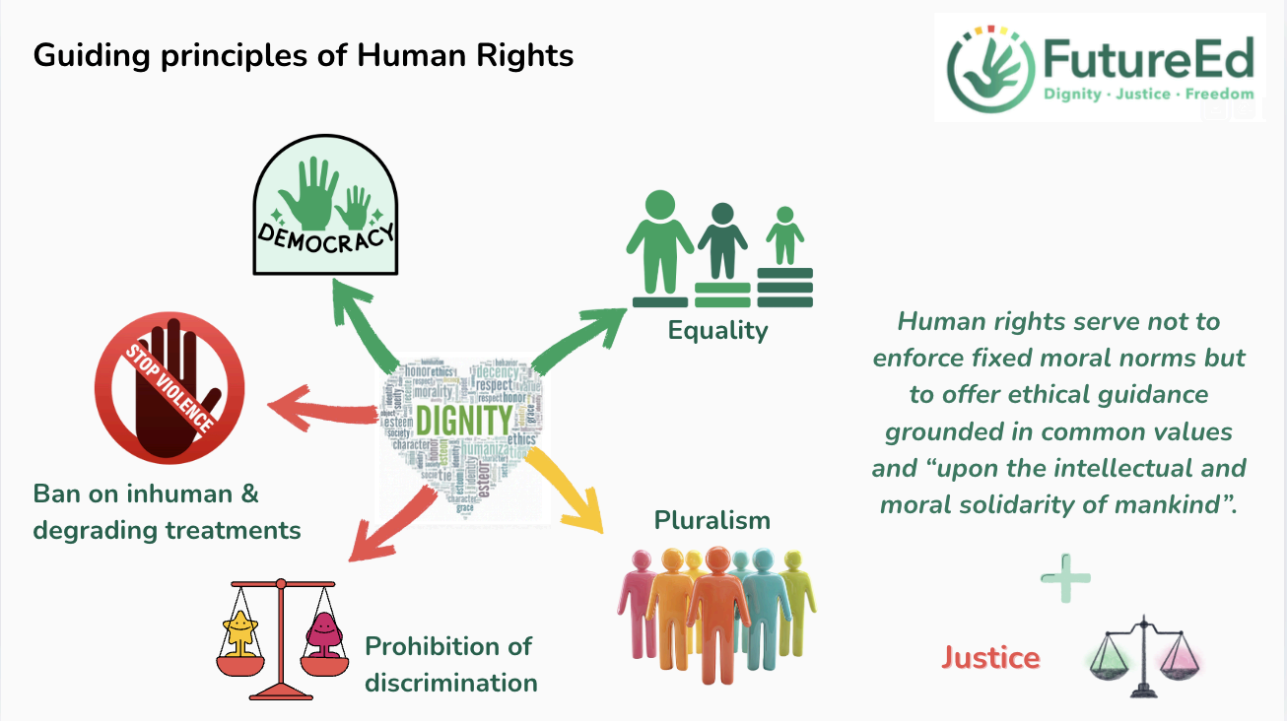


*Figure 8 – **Guiding ethical principles of human rights** are based on dignity, solidarity and justice.*

[14] Acte constitutif - UNESCO (mise à jour 20 janvier 2026)
https://www.unesco.org/fr/legal-affairs/constitution

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Reflection activity

Despite the drafting and adoption of the UN Universal Declaration of Human Rights, have any members of your discussion group ever suffered from discrimination, inequality, a lack of democracy, a lack of diversity, or inhuman or degrading treatment? Can you share your experience?

Following this general overview, let us explore a few concepts in greater depth, starting with the prohibition of all forms of discrimination. In addition to the UN Universal Declaration of Human Rights, the Charter of Fundamental Rights of the European Union also refers to this in very similar terms. The European Convention on Human Rights also pays particular attention to this issue.

Like human dignity, **discrimination** is a concept with many facets.

Reflection activity

How would you define discrimination? If every member of your discussion group gives their own definition, are these definitions all the same?
If you come up with a collective definition, do you need to discuss it at length to reach an agreement?

Let's start with unequal treatment. Discrimination occurs when people or groups in similar situations are treated differently. Note that 'similar' does not mean identical in every respect. The legal wording is precise: given the nature of their grievances, the claimant must be in a situation that is comparable or similar, in a relevant respect, to that of the people who were treated more favourably than them. Direct discrimination occurs when a person is explicitly treated less favourably on the basis of a protected ground, such as race, gender or religion. Indirect discrimination occurs when an apparently neutral rule or practice disproportionately disadvantages a particular group.

Reflection exercise

What examples of direct and indirect discrimination can you give from your own experience?

Does one necessarily have to intend to discriminate in order to actually discriminate? The intention to discriminate is not necessary. Discrimination can exist even if the difference in treatment is unintentional or results from neutral policies that have unequal effects. For example, when a school decides that all homework must be submitted via a digital platform, this ostensible modernisation ultimately excludes children from economically disadvantaged families who do not own a computer.

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Discrimination is only acceptable if it is based on objective and legitimate grounds. In other words, it must pursue a purpose recognised by the European Convention on Human Rights. Such purposes may include public safety, public order, the protection of health, or other serious and justifiable interests. Furthermore, the measures taken must be appropriate and proportionate to that purpose. The European Court of Human Rights checks whether these conditions are met. For example, refusing to enrol a pupil in a wheelchair in a state school simply because there is no lift may constitute discrimination on the grounds of disability, particularly if no alternative solution is offered.

In some cases, discrimination is proven; in others, it is presumed. Thus, when a person is treated differently on the basis of a protected characteristic, such as their gender, skin colour or religion, it is initially considered that discrimination may be involved. It is then up to the relevant authority to prove that this difference in treatment is justified.

Discrimination may be labelled as positive. This is referred to as affirmative action. This term refers to measures taken to benefit disadvantaged groups. Such measures are generally considered acceptable provided they do not unduly prejudice others. These measures are recognised as a legitimate tool for promoting equality and combating structural inequalities.

In an *obiter dictum*[15], that is, a remark made in passing by the Court – which is not essential to its decision but may contribute to the development of a rule of law – the European Court of Human Rights notes that differences in treatment may be legitimate where they are intended to correct de facto inequalities. It thus acknowledges that positive action or affirmative action policies – that is to say, policies aimed at promoting equality through proactive measures designed to compensate for or eliminate a situation of inequality suffered by a group as a result of past or present discrimination – are not, in principle, contrary to Article 14 of the European Convention on Human Rights.[16]

Discrimination also relates to autonomy, insofar as it may restrict an individual's ability to freely determine their way of life. However, this autonomy is not absolute: it must not conflict with an important public interest. The Court states that the State must choose the measures to be taken to prohibit discrimination 'taking into account developments in society and changes in the

[15] An *obiter dictum* is a Latin expression meaning 'said in passing'. In law, it refers to a remark, opinion or incidental comment made by a judge in a decision, which is not strictly necessary to resolve the dispute (unlike a *ratio decidendi*) and which is not binding, although it may have persuasive value and contribute to the emergence of case-law (precedent) rules.

[16] Interpretation Guide on discrimination
https://ks.echr.coe.int/documents/d/echrks/guide_art_14_art_1_protocol_12_eng

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perception of social issues, civil status and relationships, in particular the idea that there are several possible paths or choices regarding the conduct of private and family life'. But exercising our individual autonomy is not always easy. As a pupil or student, have you ever tried to insist that you only want to take certain courses, and not others? Did you succeed? Perhaps you remember the story of the dwarf...

In conclusion, any decision to treat certain people less favourably than others must be based on rational and fair grounds in order to guarantee protection against arbitrariness.

Let us now examine the **principle of equality** in more detail. International law recognises that human beings are born equal in dignity and rights, as set out in Article 1 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

The principle of equality forms a cornerstone of international human rights law. It is enshrined, in particular, in the Preamble and Articles 1(3) and 55 of the Charter of the United Nations (1945), Articles 1, 2 and 7 of the Universal Declaration of Human Rights (1948), Articles 2, 3 and 26 of the International Covenant on Civil and Political Rights (1966), as well as in several specialised conventions such as the Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the Convention on the Rights of the Child (1989). This principle is also affirmed in regional instruments, notably Article 14 of the European Convention on Human Rights and Articles 20 & 21 of the Charter of Fundamental Rights of the European Union in its Chapter III on equality.

In essence, human rights define what we are all entitled to: a life of equality, dignity and respect, and a life free from discrimination. You do not have to earn your fundamental rights. You are born with them. They are the same for every human being.

Following this highly theoretical introduction, we invite you to consider human rights in two areas of our daily lives: democracy and education, in order to continue exploring other ethical principles of human rights.

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2.2. Human rights and democracy

Can you imagine human rights without democracy? These two concepts seem closely linked. Yet their relationship is worth examining: does democracy always guarantee human rights, and do human rights necessarily imply democracy?

To shed light on this question, let us begin by considering what democracy itself entails. The term derives from the Greek *dêmokratia*, formed from *dêmos* (people) and *kratos* (power). It therefore literally refers to the power of the people or government by the people.

But democracy is not merely the assertion of absolute power exercised by the people. Rather, it rests on a delicate balance between citizen participation, institutions, the rule of law and respect for fundamental freedoms.

Over the centuries, this ideal has taken shape through debates on equality, freedom, collective responsibility and the necessary limits on power.[17]

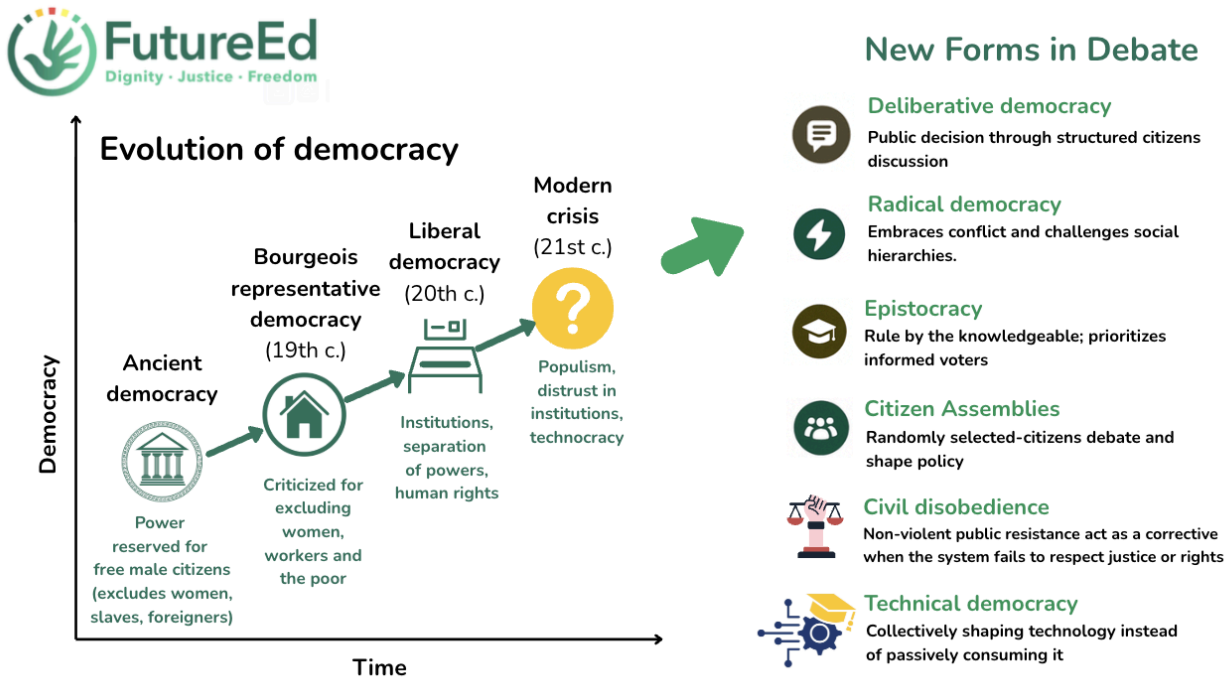


*Figure 9 – **The Evolution of Democracy** illustrates the different phases of this process.*

[17] Debras, F. (2023). *Démocratie: histoires, pensées et outils pour une réflexion critique*, [*Democracy: histories, thoughts and tools for critical reflection]*, Ed. Territoires de la Mémoire.

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Understanding this historical and philosophical evolution in Europe helps to shed light on contemporary challenges and to better grasp the values that underpin a life lived with dignity. That is why, as with our reflection on human dignity, we invite you on a journey through time and space exploring this demanding ideal that is democracy.

In the early days of democracy in ancient Greece, particularly in Athens, individual rights as we understand them today did not yet exist. Political participation consisted primarily of taking a direct part in collective decision-making, debating laws, war or the organisation of the city-state. This democracy was therefore based less on the protection of personal autonomy than on civic engagement and the pursuit of the common good: the main objective was to preserve the order, cohesion and stability of the political community rather than to assert individual freedoms in the modern sense.

Philosophers such as Plato and Aristotle were cautious about the principle of majority rule. They feared that a government dominated by the majority of citizens – often from working-class backgrounds – might prioritise immediate or particular interests over the common good. In their view, political participation without sufficient oversight could encourage demagoguery, lead to instability and, paradoxically, pave the way for a form of tyranny exercised by the majority itself. For the Greeks, the city-state, or *polis*, was of paramount importance as it constituted the political, social, cultural and identity framework of human life. By fostering a sense of belonging and solidarity, the city-state enabled the realisation of virtue, justice and the common good. Women, slaves and foreigners were excluded from participating in the decisions of the *polis*.

In the Middle Ages, roughly from the 11th to the 15th century, significant institutional transformations took place, such as the Magna Carta of 1215 in England, as a result of which the king was forced to contractually limit his power vis-à-vis the nobility. Across Europe, parliaments, estates-general and diets began to develop. Although this was not yet true democracy, these developments laid the foundations for the idea that power must be regulated and subject to consultation.

The 17th and 18th centuries were marked by radical changes in political thought. In the United States, for example, the sovereignty of the people became central, but the total concentration of power in the hands of the citizens was seen as a risk to social stability. In France, some revolutionaries feared that the masses lacked the virtue and knowledge necessary to make informed decisions. Representation by an educated elite, the natural aristocracy, was seen as necessary to guide the population.

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In the 19th century, Karl Marx criticised the democracies of his time, which he believed were dominated by the interests of the bourgeoisie. In his view, true democracy is not limited to political institutions: it implies that every individual must be able to develop freely, a necessary condition for everyone to be able to develop equally. In other words, democracy must be assessed not only in political terms, but also in social and economic terms. Legal rights alone are not enough to guarantee equality or freedom; material conditions must also allow for the genuine participation of everyone in community life, including women and the poor.

Democracy can be described as liberal. This model, prevalent in our modern era, emphasises the protection of individual rights, the separation of the public and private spheres, and pluralism. Democracy is regarded both as a system of governance and a way of communal life, where debate, dissent and civic participation are encouraged. Illiberal tendencies, or authoritarianism in democratic guises, remind us that democratic institutions, as procedural frameworks, do not in themselves guarantee respect for substantive principles such as fundamental human rights or the rule of law. Countries in which elections are held whilst the media are censored or human rights are not respected exemplify what illiberal democracies are.

However, the evolution of the democratic model did not stop at the consolidation of the liberal and representative regimes of the 20th century; the 21st century marks the advent of more hybrid and participatory forms that seek to respond to a crisis of representation. Faced with growing mistrust of elites, new paradigms are emerging to restore citizens' power to act.

Deliberative democracy, exemplified by randomly selected citizens' assemblies, seeks to recreate a space for rational dialogue far removed from electoral contests, whilst technical democracy – involving collective participation in the design of technologies rather than merely consuming them – and epistocracy – favouring informed voters and government by competent individuals – question the role of knowledge and expertise in public decision-making. At the same time, more protest-oriented approaches such as radical democracy or civil disobedience are emerging as necessary corrective measures when institutions fail to guarantee justice, transforming democracy into a living, conflict-ridden process rather than a mere system of administration.

Technical, or technological, democracy is now emerging as a crucial lever for emancipation, positing that infrastructure choices are never neutral but deeply political. Rather than accepting innovation as an inevitability imposed by industrial lobbies, much like the historic sacrifice of public transport in favour of the individual 'car-centric' model, this model calls for citizens to take back control of technological trajectories. It advocates for a genuine right to information and sovereignty over our data, whilst paradoxically defending a right to non-digital life to preserve the freedoms of those who reject hyper-connectivity. From the perspective of the ecological

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emergency, this approach also values low-tech: simple, repairable and locally produced technology that prioritises social utility and planetary resilience in the face of the planned obsolescence of consumer 'high-tech'.

To conclude this chapter, let us recall, however, that the history of democracy cannot be reduced solely to the legacy of ancient Greece, for the aspiration to collective participation in power is a universal human experience that flourished in various cultures long before the modern West. As early as the 6th century BCE, India was already seeing the emergence of republics, the *gana-sangha*, whilst Native American nations such as the Iroquois based their governance on consensus and collective decision-making.

This deliberative tradition is also found in traditional African assemblies centred on community decision-making, or in the Scandinavian *Things* and *the* Icelandic *Althing*, genuine popular assemblies established as early as the 10th century. These diverse roots demonstrate that the quest for a balance between power and citizen consultation largely predated contemporary liberal models.

History also reveals that the ideal of collective participation in power emerged independently within many cultures across the world. Indeed, every human being thinks, judges and seeks the truth like a philosopher. But one only becomes a fully-fledged person if this judgement is recognised by others, through dialogue and public discourse.

One might therefore ask whether democracy is the political system that enables this mutual recognition, by guaranteeing freedom of expression, debate and equality among citizens. At first glance, it appears to meet this requirement. However, a legal analysis suggests that this view should be qualified. Democracy is, above all, a system that manages conflicts within society by granting the majority the power to impose its decisions. In this sense, it does not necessarily pursue a specific objective in terms of values. It therefore becomes essential to specify what type of democracy is being discussed, lest we otherwise fall into a form of dogmatism that would prevent us from considering other political systems.

This approach leads us to examine the practical conditions of democratic practice. The law plays a central role here, in that democracy rests on a set of procedures for drafting and adopting laws. However, such a procedural framework can be respected even when certain fundamental freedoms are undermined. This is why regimes described as 'illiberal democracies' may appear democratic from a formal point of view. This conception, however, poses a major difficulty: if democracy is reduced to a set of procedures, there is nothing in law to prevent a state from claiming to be democratic whilst infringing human rights, provided that such infringements are validated by a majority. It is precisely to address this limitation that the concept of the rule of law

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emerged, which frames and complements democracy by subjecting political power to the observance of higher standards.

Let's come back to the human beings and citizens, the interplay between individual judgement and collective recognition is powerfully expressed by the philosopher Jacques Poulain:

> …**everyone [is] a philosopher who attains their humanity, their status as a person, only by having the truth recognised by others, in the same way that they have recognised it for themselves. Public recognition of this right to judgement thus goes hand in hand with the recognition of democracy as an objective condition of human life.** (2009).[18]

However, the recognition of everyone's right to exercise their judgement cannot remain an abstract principle. It presupposes that every individual has the effective means to develop this critical capacity. Whilst democracy provides the institutional framework within which truth and mutual recognition can unfold, it is through an access to education that this exercise of judgement becomes truly possible and shared.

In this sense, the right to judgement and democratic participation find their natural extension in the right to an education that enables everyone to develop their capacity for judgement. This gives rise to the requirement for a right to a philosophical education, which alone is capable of fully realising the promise of human rights.

Reflection activity

Article 24 *of the* **Charter of Fundamental Rights of the European Union** *states that children and young people have the right to express their views freely and that these views must be taken into account in all matters affecting them, in accordance with their age and maturity.*
Can you think of situations at school, within the family or in society where decisions have been made without asking young people's views, even though they were directly affected by them?
In your opinion, in which cases should young people be able to give their views or vote, and why?
Are there also situations where it is more difficult to consult young people? Which ones?
Are there any possible remedies?

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[18] Jacques Poulain, Hans Jörg Sandkühler, Fathi Triki (Ed.), *La Dignité humaine : perspectives transculturelles*, [*Human DIgnity: transcultural perspectives*], Ed. Peter Lang (2009), p.169, https://unesdoc.unesco.org/ark:/48223/pf0000222346?posInSet=3&queryId=0d4c6761-5cb6-441b-b51f-659b35faccf8, Jacques Poulain is Professor Emeritus and holder of the UNESCO Chair in Philosophy of Culture and Institutions at the University of Paris-VIII.

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2.3. Human rights and education

The combination of these two areas seems so obvious that it seems incongruous to dwell on it. But in reality, are human rights applied in education?

Let us return to the study conducted by UNESCO[19], which we mentioned earlier. It included an entry on Education, on page 233, worded as follows:

> *Education for freedom does not mean, as has often been thought, a lax programme in terms of content or teaching methods, but the intelligent recognition of responsibility and duty. If this principle is valid, it also implies a change in the status of the teacher and of teaching. […] If the teacher's efforts are to be directed towards the development of free personalities and towards education in freedom of expression, communication, information and research, the teacher must, through their training, become professionally independent and recognise that freedom without a sense of responsibility easily degenerates into licence.*

Reflection exercise

Whether you are a teacher, pupil or student, parent or other, do you think that teachers' training and practice correspond to the second part of this extract on education? What arguments do you base your opinion on? Do you have any concrete examples to illustrate your point?
Do all members of your discussion group share the same opinion?

Remember the Little Prince's[20] request to the aviator to draw him a sheep. And you, how would you draw education? What do you depict: a pyramidal or horizontal system? Empty throats to be filled, like those of the poor, force-fed animals? Arrogant know-it-alls perched on their pedestals? People of different ages happy to share their passions? Eyes full of wonder? Little hands handling pebbles, cutting, sticking and drawing? Papers marked in red, mediocre grades, disparaging comments, sad and closed faces? Education is a bit of all that, depending on each person's experience. But it is not just that. Thus, the approach to learning may be inspired by the thinking of Maria Montessori, Charlotte Masson, Célestin Freinet, Rudolf Steiner, Paolo Freire, Tsunesaburo Makiguchi, Loris Malaguzzi, John Holt, Leo Tolstoy or so many others.

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[19] Human rights: comments and interpretations - UNESCO (1948)
https://e-docs.eplo.int/phocadownloadpap/userupload/aportinou-eplo.int/Human%20rights%20comments%20and%20interpretations.compressed.pdf

[20] *The Little Prince* by Antoine de Saint-Exupéry is one of the most widely translated books in the world, having been translated into a record-breaking 600 languages and dialects by 2024.

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Education can also draw on the principles of a traditional culture, whether Native American or otherwise. Sometimes, it is reduced to nothing more than childcare, official jargon and endless national and international assessments. Poor children, treated with so little consideration!

In fact, in this section of our guide, we hope to encourage you to reflect on the concept of power in education. Who has power over whom? Who is subject to this power? Is this exercise of power legitimate and healthy? Is a **fair balance of power** possible in education? Which international texts address this subject, and what do they contain? As our aim is not to provide a detailed explanation of various educational approaches, we will discuss education in a particular way. By equipping you to reflect on the education of the future, hence the title of our book: FutureEd.

Historical foundations and challenges of the right to education

Let us begin with international texts. When the right to education was debated in Europe in the early 1950s, shortly after the Second World War, the main objective of these debates was both moral and political: to preserve democracy and peace by educating enlightened and responsible citizens. The drafters of Protocol No. 1 to the European Convention on Human Rights wanted to ensure that education would never again be used as a tool for ideological indoctrination or state propaganda, as had been the case under totalitarian regimes.

As early as 1921, the first Congress of New Education saw education as the means to train citizens for peace. Yet another world war broke out some twenty years later. Today, what remains of the ideals championed by these educators, when, in some countries, including in Europe, schools inspired by their educational approaches are subject to political challenges or institutional restrictions?

Reflection activity

What educational approaches exist in schools, both state and/or private, in the country where you live? Do you feel that the principle of diversity, which we have already mentioned, is being respected?

The founding debates on the right to education aimed to strike a balance between the state's responsibility to guarantee access to and the quality of education, and individual freedom, whilst respecting the beliefs of parents and children. The ultimate objective was to make education a universal, lifelong process grounded in rights. It was no longer to be a privilege but was to help preserve human dignity and prevent future oppression through knowledge, critical thinking and moral development. To achieve this aim, a protocol was drafted, appended to the European Convention on Human Rights and signed in Paris on 20 March 1952.

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However, more than two years of intense debate on the wording of Article 2, devoted to the right to education, had been necessary. This article was to possess real legal force, going beyond mere ethical recommendations. The Convention had to be underpinned by a collective guarantee, immediately enforceable, in order to strengthen the political foundations of European nations. Any violation of fundamental democratic rights had to be subject to an impartial investigation and, if necessary, brought before a European Court. The aim was to establish the essential principles guaranteeing the proper functioning of democracy.

This endeavour nearly failed. Without a thorough understanding of the various cultural contexts and without the delegates' ability to reconcile divergent viewpoints into a common project, it would never have succeeded and the European Union might never have come into being. After two years of discussions, a compromise was finally reached in Article 2 of Protocol No. 1 to the European Convention on Human Rights:

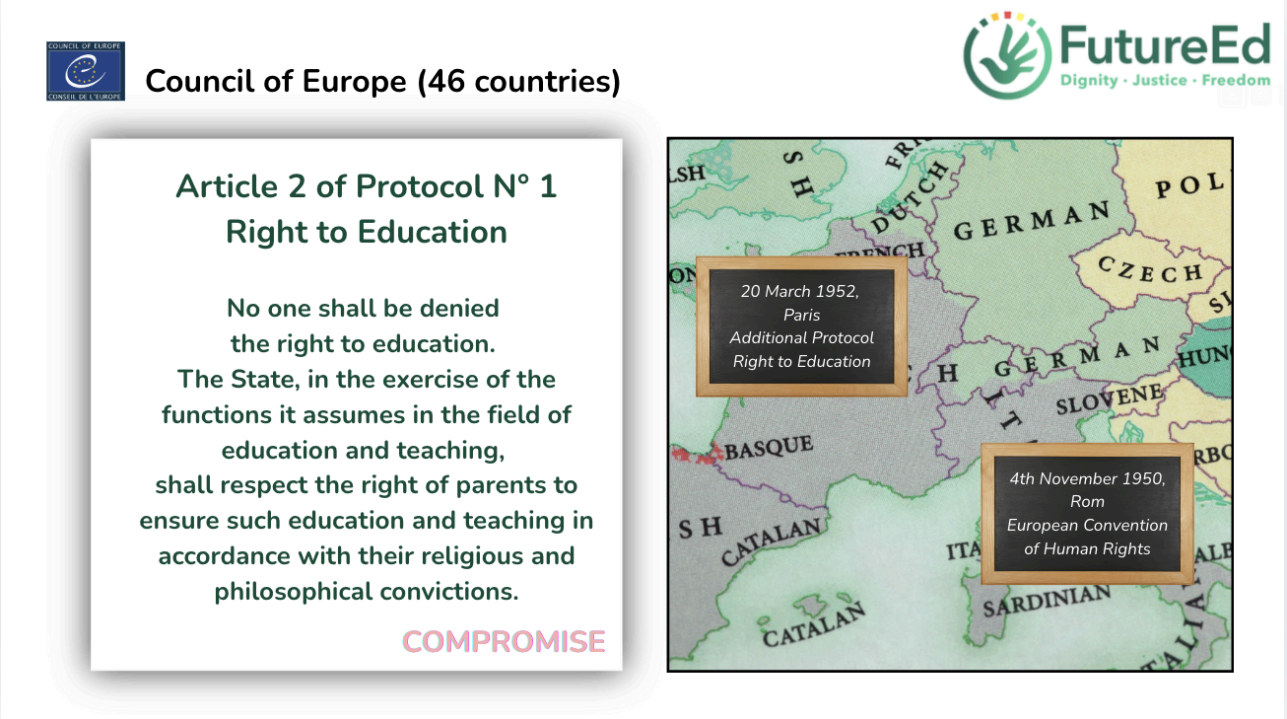


*Figure 10 – **Article 2 of Protocol No. 1 (Right to education)** reminds us that it has not been an easy task to reach a consensus on a subject that touches so deeply on our values, our identity and our culture. The 46 signatory countries had to settle for a compromise after two years of debate.*

The negative wording of this right implies that the State is not obliged to ensure that everyone receives the specific type of education they desire. The State is therefore not obliged to fund private schools, but this does not mean that a single interpretation of the right can be imposed, whether by the State or by parents.

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Reflection exercise

According to the official line of the government in your country of residence, what is the purpose of education? Furthermore, is it equated with, or even confused with, school attendance? What are the personal views of the members of your discussion group on these two questions?

Here are the principles established during the founding debates[21] on the right to education between 1950 and 1952. Education is a lifelong right, so there must be no discrimination based on age. The natural rights of parents take precedence over the authority of the state, which implies that they have priority in choosing the form of education for their child. Freedom of conscience must be respected for both parents and children. Children are individuals, not property. They possess inherent and inalienable rights. Education must respect each child's individuality and encourage critical thinking. No doctrine should be imposed. Free inquiry must be promoted rather than dogmatism. Maturity brings autonomy, and children must develop their own convictions. Parents may guide but not dictate. Children must remain free to make their own life choices.

Since then, the European Court of Human Rights has received numerous complaints, leading it to develop, over time, a complex interpretative framework, which continues to evolve in accordance with the founding ideals of the Convention.

We share with you an extract from the seminal debates on the right to education that led to the formulation of the principles listed above between 1950 and 1952.

> **In this regard, there is, in my view, only one right that can truly be described as fundamental: it is the right of every child to have access to culture, to be brought up in an atmosphere of freedom, without doctrine or dogma, so that they may become a mature and free individual**.

Reflection activity

Based on your personal experience, would you say that these principles were upheld in the education you received? Do all members of your discussion group share a similar experience? If you note differences in your experiences, what are they due to?

[21] Founding debates on the right to education (1950-1952)
https://www.echr.coe.int/documents/d/echr/echrtravaux-p1-2-cdh-67-2-bil2292567

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Misarchy: the child as a full subject of rights

Following this historical overview, let us explore together an innovative concept – misarchy – and what it can offer in the field of education. In his book *Journey in misarchy: an essay to rebuild everything*[22], law professor Emmanuel Dockès defines misarchy as a system based on the principle of minimising power and domination. Misarchy promotes a society in which individual autonomy is the fundamental principle. However, the problem of power is not merely political; it is anthropological and part of everyday life: relationships of domination are reproduced everywhere – in the workplace, within the family, at school, and so on.

In contemporary society, the relationship between adults and minors is generally asymmetrical: adults hold legal, moral and social authority, whilst children and adolescents are regarded as incompetent, dependent and in need of education. Misarchy invites us to challenge this asymmetry.

From a misarchic perspective, several avenues can be explored. For example, the recognition of children's subjectivity and competence. This means that children are not simply adults in the making, but fully-fledged individuals, capable of expressing their preferences, emotions and choices, and therefore full subjects of rights.

Misarchy also invites us to limit the arbitrariness of parental and educational authority. On this point, Dockès envisages a society in which forms of authority are always justified by their function rather than by their position. This would imply that educational authority is contractual, transparent and dialogical, rather than based solely on an age hierarchy. Such principles could reasonably lead to the promotion of young people's participation in decision-making. Indeed, from a misarchic perspective, the voices of minors should be institutionally recognised, for example in schools, public policy or the juvenile justice system, in order to balance the distribution of power.

Reflection exercise

At this stage of your reading, were you familiar with misarchy?
What are your thoughts on what you have just read?

Our way of thinking and our habits may lead us to view this vision as utopian, idealistic, or even unachievable. We perceive tensions between the notion of protection and children's autonomy. Dockès does not deny the need to protect the most vulnerable, but he reverses the usual logic: protection must never serve as a pretext for domination.

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[22] Dockès E. (2017), *Voyage en misarchie – Essai pour tout reconstruire, [Journey in misarchy: an essay to rebuild everything]*, Ed. du Détour.
https://unipoplyon.fr/enseignants/emmanuel-dockes

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In other words, protecting a child should not mean depriving them of all autonomy, but rather creating the conditions that allow them to develop it.

Redefining the balance of power: between heteronomy and autonomy

So many concepts can find their place in education. Take, for instance, the concept of judgement, or more precisely, the development of judgement. Can this development be effective if the context in which it takes place is not healthy? Let us rephrase our question: are pupils free to form a judgement on the education they receive; are they free to demand one form of education over another? And are they listened to? This training in judgement caught the attention of the philosopher Jacques Poulain, who wrote on the subject:

> **...all education proves to be a training of judgement, for it always incorporates within it that moment of exercising judgement and mutual recognition of individuals in the exchange of truths. Everyone is entitled to expect from political institutions [...] the right to access a training of judgement concerning the appropriation by each individual of this faculty of judgement: a philosophical education...**[23]

Let us remain in the realm of philosophy, but let us go back in time to encounter Nietzsche. And let us reflect with him on the notion of power in education. 'The balance of power' is not a matter of equalisation, but of dynamic interaction, a creative tension and an organisation of forces within oneself, between individuals and between cultures, which generates vitality and growth. Life flourishes when power is in motion and creatively balanced, not when it is suppressed or neutralised.

Reflection activity

Think back to situations of power imbalance you have experienced in education and share them with one another. What feelings did they evoke in you?

Words are of great importance; they convey ideas, concepts, thoughts and all sorts of things that are perceived differently across cultures. Instruction and education are often used interchangeably. But are they really synonymous?

Reflection activity

How do the members of your discussion group define instruction? And education? What are the words used to describe them in your mother tongue?

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[23] Jacques Poulain, Hans Jörg Sandkühler, Fathi Triki (Ed.), *La Dignité humaine : perspectives transculturelles*, [*Human DIgnity: transcultural perspectives*], Ed. Peter Lang (2009), p.171, https://unesdoc.unesco.org/ark:/48223/pf0000222346?posInSet=3&queryId=0d4c6761-5cb6-441b-b51f-659b35faccf8.

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A legitimate question to ask regarding education is: what should be taught, and why? The government of Ontario, in Canada, asked itself this question, and the answer is contained in a report published in 1965. This report details the findings of a study on the aims and objectives of education in that province. The authors titled one of their chapters **'The Pursuit of Truth in a Democratic Society'** and began it as follows:

> *'If the highest ideals of truth can only be pursued in a free society, then it is of the utmost importance that education, the official cradle of truth-seekers, reflects an awareness of those factors in our society which may stifle the free flow of thought and individual action. Democracy implies the freedom to think, to dissent and to bring about change through lawful means in the interests of all. It is a flexible and responsive form of government, difficult to describe in fixed terms. Democracy does not result from imposed or structured political practices, but from a dynamic and liberating force, nourished by the people themselves. It can only thrive and flourish when its citizens are free to constantly seek out new ideas, new models and new theories to replace outdated knowledge, with the aim of serving an ever-growing population in the future. A true democracy is a free and responsible society, and one cannot exist or have meaning without the other.*"

Education as a space of protection against violence

Is it possible to learn, reflect and think whilst being ill, injured, mistreated, starving, neglected, abused or frightened? We have already mentioned **the prohibition of inhuman and degrading treatment**. This prohibition also falls within the realm of education. Indeed, since the launch of the Sustainable Development Goals in 2015, the international community has committed to ending all forms of violence against children by 2030.

However, the limited and non-comparable nature of the available data has hampered understanding and action, often reinforcing the misconception that violence is marginal. To address this, UNICEF[24] has developed the International Classification of Violence Against Children – ICVAC.[25] More than 200 experts contributed to the development of this document, which provides operational definitions for all forms of interpersonal and collective violence, including during armed conflict. The ICVAC enables countries to systematically identify and classify incidents, align national data with international standards, produce data that is comparable across countries, and foster collaboration and the sharing of strategies, which ultimately supports more effective prevention and intervention efforts globally.

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[24] The UN established this organisation in 1946 under the name 'United Nations International Children's Fund'. In 1953, its name was shortened to 'United Nations Children's Fund'. However, the original acronym, UNICEF, was retained for historical reasons and for global recognition.

[25] Link to ICVAC Report 2023 in English : https://share.google/UK3pH1j7LvcD3yvxC

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According to UNICEF, violence against children refers to:

> **any deliberate, unwanted and non-essential act, whether threatened or actual, committed against one or more children, which results in or is likely to result in death, injury or other forms of physical or psychological suffering. An act is defined as doing or carrying out something. This also encompasses acts of omission, i.e. the failure to carry out an act. Acts can be of various kinds, namely physical, verbal or non-verbal, or of a sexual nature**.

This definition, taken from the ICVAC report, clearly shows that our aim must be to reduce violence against young people as much as possible. More broadly, as violence is inherently inhumane and degrading, it prevents any possibility of leading a life of dignity.

UNICEF's Classification of Violence against Children emphasises that educational neglect encompasses not only preventing a child from attending school, but also actively hindering their learning opportunities, even within the home, in the context of the child's right to education.

In its report entitled 'Education for a Sustainable Future', UNESCO further reminds us that education cannot be reduced to school attendance or formal teaching alone. It also encompasses non-formal and informal modes of learning, such as traditional knowledge and community education.

Similarly, the General Comment on the aims of education (2001) under the Convention on the Rights of the Child reaffirms the principle of human dignity, emphasising that education "goes far beyond formal schooling to encompass the wide range of life experiences and learning processes that enable children [...] to develop their personalities, talents and abilities, and to lead a full and satisfying life within society".

In the same vein, General Comment No. 13 (1999) on the right to education, under Article 13 of the International Covenant on Economic, Social and Cultural Rights, recalls that this right is based on the idea that 'a well-nourished, enlightened and active mind, capable of wandering freely and widely, is one of the joys and rewards of human existence'.

This idea was subsequently reformulated in the Abidjan Principles (2019), where the term 'well-nourished' was replaced by 'well-educated', a change that emphasises that the right to education consists not only in accumulating knowledge, but also in being able to apply and use it meaningfully. In this context, 'being well-nourished' means having learnt a great deal, whilst 'being well-educated' means knowing how to think for oneself using what one has learnt.

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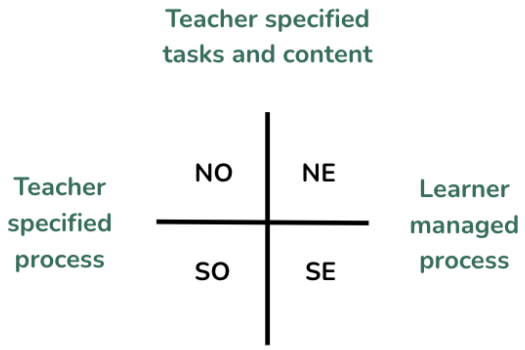
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Pluralism and freedom: the diversity of educational models

The **principle of diversity**, which we have already mentioned, is essential in education. It is through its application that different methods of acquiring knowledge, different ways of behaving, and respect for each individual's pace and interests can be taken into account. Its absence, under the guise of official rhetoric boasting of equality and inclusion, amounts, in reality, to a dreary and harmful standardisation. Such a school system, in which all pupils must fit into the same narrow box imposed by the State, resembles the society depicted by Aldous Huxley in his famous dystopia, *Brave New World*. No critical thinking can be fostered there.

The comparison of diverse teaching methods, drawn from the educators we cited – albeit not exhaustively – at the beginning of this chapter, gives an idea of what educational richness might look like in a truly free society. And it is only in such an environment of respect for educational freedom that paragraph 3 of Article 26 of the UN Declaration of Human Rights can be upheld. It states that parents have the primary right to choose the type of education for their child. But to be able to choose, one must have a choice between different options. And let us bear in mind that learners, too, have a say!

Below, we offer an example of a diagram illustrating what a human rights-based educational approach might look like.[26] You may have a different idea for a diagram to suggest, as it is true that everyone's perceptions are different yet complementary.



Online paradigm grid
Coomey & Stephenson, 2001

We have therefore discussed education without going into detail about school curricula, teachers' salaries, exams, marks, qualifications, timetables and other such elements. We have highlighted

[26] Source: Cunningham I. (2020), *Self Managed Learning and the New Educational Paradigm*, Ed. Routledge.

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the international context that has enabled universal **access to education, the objectives of education, and freedom of choice**. These three components interact dynamically not only with one another but also with the environment around them, without implying any hierarchical order.[27]

The right to choose, for both parents and learners, can only be truly exercised when there is a range of options allowing for autonomous action, including the possibility of leaving an unsatisfactory situation. But for these rights to be fully exercised, one principle is essential: the principle of diversity.

Reflection activity

How are school curricula established in the country where you live?
Who has a say in defining them? Who implements them? Who is subject to them?
Do you find the same people in all three groups?

Ultimately, among the educational models currently in operation that have caught our attention are democratic schools and unschooling. These are not merely teaching or learning methods, but rather educational approaches that form part of a way of life. Those involved – teachers, parents and pupils – have generally reflected on the place of human dignity and human rights in education. Respect for each child's individuality, their interests and their own pace of learning is central to this. This perspective can lead to forms of self-directed education.

Depending on the country, these approaches are more or less recognised or accepted by the education authorities. Several schools draw inspiration from them. The Summerhill School in the United Kingdom, founded in 1921[28] by Alexander Sutherland Neill, is the oldest such school still in operation. The Sudbury Valley School has been operating since 1968 in Massachusetts, USA. There may well be a school of this type near you. *Unschooling*, a concept developed notably by John Holt, is practised by children who are educated outside of school. These two options do not constitute a single or universal solution, but they represent educational choices that some families wish to be able to consider, in accordance with the principles of freedom, dignity and fundamental rights outlined in this guide. The question then remains as to what extent these principles can actually be implemented in contemporary education systems.

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[27] Stanfield J. (2021), *Parental choice and the right to education: revisiting article 26 of the Universal Declaration of Human Rights*, https://unesdoc.unesco.org/ark:/48223/pf0000380161

[28] Summerhill School was founded in 1921 by the Scottish educationalist Alexander Sutherland Neill (A. S. Neill) in Germany, then moved to Lyme Regis in the UK in 1923 and subsequently to Leiston in 1927, where it remains to this day. This school has become one of the best-known examples of democratic education, based on pupils' freedom, participation in school decisions, and the absence of compulsory attendance.

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From Ideals to Reality



The Development Cycle of the Schengen Agreement

Declarative Phase — Political vision of free movement despite border congestion.
Conventional Phase — 1985 Schengen Agreement and 1990 Convention signed in Schengen
Protocol Phase — Development of rules, monitoring, and the Schengen Information System.
Integration Phase — Schengen enters into force on 26 March 1995 - integrated into EU law in 1997.

Result: free circulation of people and goods across much of Europe.

Drawing: Instagram @jean.f.pierra

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3. Fundamental rights: from ideals to reality

What is needed to move from ideals to reality? Asking this question implies the existence of a gap between legal standards and societal reality.

3.1. The gap between law and reality

Empirical research in political science has sought to assess the impact of human rights treaties. The results suggest real progress in certain areas, but causal links remain complex and overall effectiveness is difficult to quantify. Examples include Beth A. Simmons (2009) on political mobilisation around human rights, Neil A. Englehart and Melissa K. Miller (2014) on women's rights, and studies examining the effects of the Convention on the Rights of the Child on certain indicators of children's health and well-being.

Human rights treaties must be viewed as tools: their success depends on how citizens, courts and non-governmental organisations use them to hold governments to account.

As political scientist Beth Simmons[29], points out, human rights law becomes effective when it serves as a mobilising resource, enabling the resolution of disputes, the defence of rights and policy reform. According to Beth Simmons, treaties such as the European Convention on Human Rights, the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women achieve tangible results where there is local mobilisation, but remain largely ineffective in contexts where regimes silence civil society or repress civic participation. Beth Simmons argues that human rights treaties are important, but in an indirect way. They do not automatically change governments.

Rather, they serve to strengthen national actors, that is to say, NGOs, citizens, lawyers and judges. They provide useful legal and moral frameworks for pressure and mobilisation. They establish new expectations and standards within societies.

In this sense, progress has been made. Rights are more widely recognised and certain institutions function effectively. Human rights standards now influence both the law and political culture. However, treaties alone do not guarantee respect for rights. Their effectiveness ultimately

[29] Beth Simmons *Mobilizing for human rights: International law in domestic politics* (2009) https://ink.library.smu.edu.sg/cgi/viewcontent.cgi?article=3024&context=soss_research (2010) https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2766&context=journal_articles (2012)

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depends on political will, civic engagement and institutional independence. In short, the impact of human rights treaties is determined less by international law itself than by national political and social dynamics. We can summarise this observation with the following formula:

Effectiveness = Standards + Institutions + Civil Society + Time.

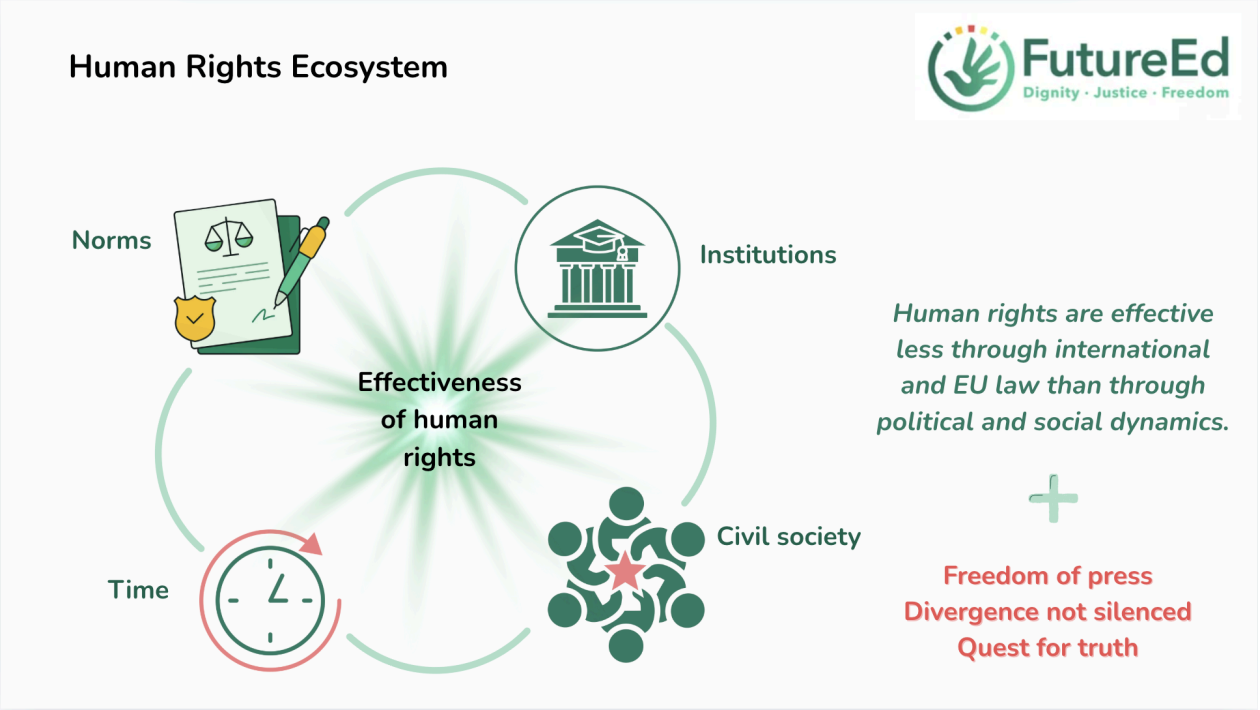


*Figure 11 – **Human rights ecosystem** illustrates the interactions necessary to move from ideals to reality.*

If a law is enacted without corresponding social support, it may remain ineffective or merely symbolic. For example, a law promoting gender equality will have little impact if social attitudes remain deeply patriarchal. Conversely, when social values evolve, when citizens collectively believe that equality or transparency are important, these convictions reinforce and legitimise the legal framework, making compliance with it natural and its enforcement easier. Thus, whilst the law may express ideals, only society can internalise them. The sustainable protection of human rights therefore depends not only on legislation, but also on a shared cultural commitment to these rights. When social values underpin legal principles, they reinforce one another: the law gains legitimacy and society finds direction.

In the previous section of our guide, we explored the theme of education through the lens of human rights. Let us return to this area, the central theme of our FutureEd publication: how have legal and social standards evolved in relation to the ideals of the right to education? So, what is the situation, from ideals to reality, when it comes to education?

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3.2. Legal concept 2 : The Living Instrument and the Principle of Non-Regression

The case law of the European Court of Human Rights can never be regressive; in other words, it cannot remove or reduce rights that have already been recognised, due to the doctrine of the living instrument and the principle of non-regression inherent in the European Convention on Human Rights. Let us examine this point in more detail, then illustrate it with the right to treatment free from degradation.

The European Court of Human Rights interprets the European Convention on Human Rights as a living instrument that must be understood in the light of current conditions, a principle first set out in the case of Tyrer v. The United Kingdom in 1978. This means that the Court's interpretation may evolve progressively in order to extend or deepen the protection of human rights. It cannot backtrack by reducing or restricting rights that have previously been recognised. Once the Court has recognised a certain level of protection, subsequent case law must at least maintain that standard, and generally strengthen it. Otherwise, the legitimacy and coherence of the human rights system would be compromised.

Although not explicitly mentioned in the Convention, the principle of non-regression derives from Article 1 of the European Convention on Human Rights, namely the obligation to guarantee rights to every person within its jurisdiction. But also from Article 19, according to which the Court's role is to ensure compliance with the Convention and the principle of the rule of law underpinning the Convention system. In essence, States and the Court cannot reduce the scope of the rights guaranteed by the Convention once they have been recognised in the Court's case law[30].

The right to freedom from torture is set out in Article 3 of the European Convention on Human Rights. Cases concerning corporal punishment perfectly illustrate this principle:

In the case of Tyrer v. The United Kingdom in 1978, the Court applied this '*living instrument*' doctrine for the first time, declaring that the Convention must be interpreted in the light of current conditions. Corporal punishment inflicted on a 15-year-old boy, although accepted locally at the time, was deemed to be degrading treatment within the meaning of Article 3, entitled "Prohibition of torture".

[30] Jurisprudence is the study or theory of law, which explores its principles, concepts and objectives; in other words, *why and how* the law exists and functions. In civil law systems (such as in France or Luxembourg), jurisprudence may also refer to the body of judicial decisions (a collection of rulings and judgements handed down by the courts) that interpret and apply the law in practice.

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Since then, the European Court of Human Rights has gradually extended protection against corporal punishment to schools, in the case of Campbell and Cosans v. the United Kingdom in 1982, and to the home, in the case of A v. the United Kingdom in 1998, recognising that such practices are incompatible with human dignity.

Thus, once the Court has established that a form of treatment violates human dignity and Article 3 prohibiting torture, subsequent judgments cannot reverse or weaken this protection. The so-called 'living instrument' approach ensures that case law evolves towards greater protection of human rights, and not towards regression.

Indeed, if the European Court of Human Rights were to interpret Article 3 more restrictively, for example by permitting corporal punishment in schools and at home – which was previously protected – this would contradict its own precedents, the object and purpose of the Convention, and the 'living instrument' doctrine. Consequently, whilst the Court may adapt its reasoning, for example to take account of technological developments or new social realities, it can only advance or refine its position, not regress.

We summarise the evolution of the application of these principles in the table below.

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Development of the prohibition of corporal punishment

Principle	Meaning	Example in the prohibition of corporal punishment
Living instrument	Interpretation evolves with society and current moral standards	In Tyrer v. the United Kingdom (1978), the Court held that the Convention should be interpreted 'in the light of present-day conditions', ruling that corporal punishment imposed by the courts constituted degrading punishment.
Non-regression	Once protection has been recognised, it cannot be withdrawn or weakened	Following the Tyrer and A v. the United Kingdom (1998) cases, corporal punishment is firmly regarded as incompatible with human dignity within the meaning of Article 3; subsequent judgments cannot justify its reintroduction.
Progressive development	Each case builds on and reinforces previous protections	The Court extended the protection from judicial sanctions (Tyrer) to the school environment (Campbell and Cosans), and then to the home (A v. the United Kingdom), thereby reinforcing the total prohibition of violence against children.

Table 3: Application of the living instrument and the principle of non-regression

To conclude on this point, we note that the case law of the European Court of Human Rights cannot be regressive, as the Convention is interpreted dynamically in order to better safeguard human rights, not to curtail them.

The evolution of the ban on corporal punishment perfectly illustrates this irreversible and progressive trajectory.

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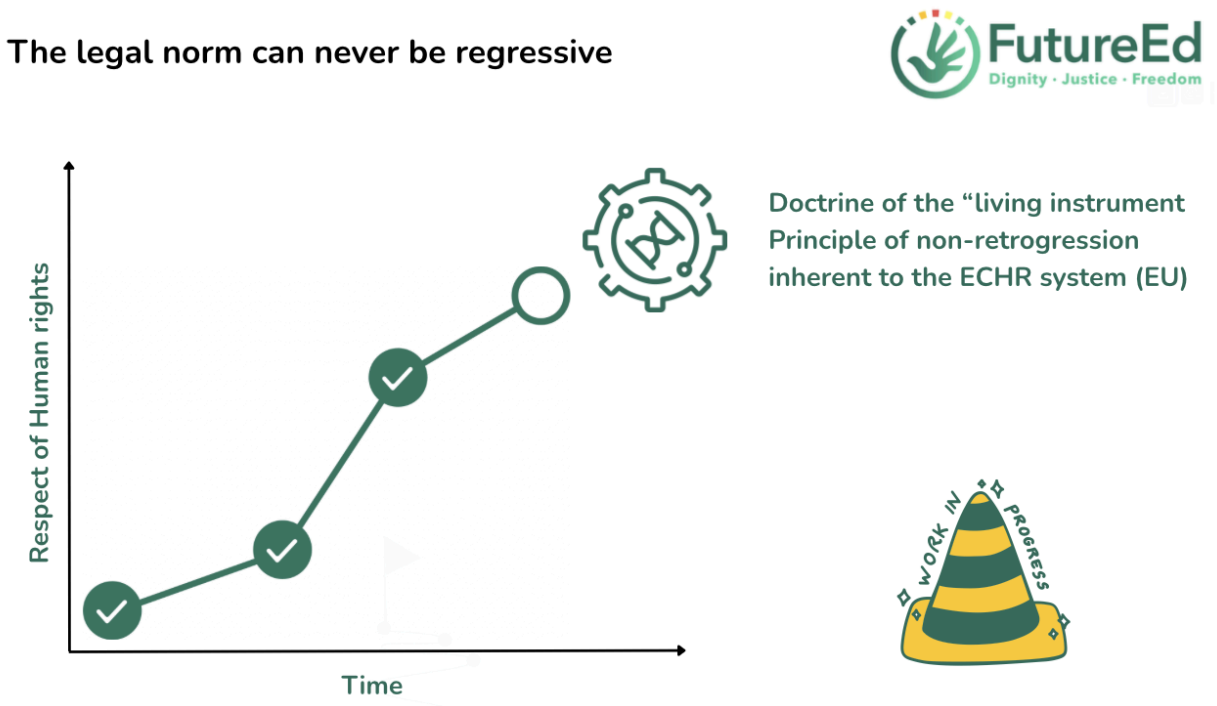


*Figure 12 – **The legal norm can never regress**, and the examples cited in this chapter help us to understand that, ultimately, human rights are always a work in progress.*

Questioning this principle could call everything into question.

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3.3. Moral reflection 3 : Social norms and blind spots

The gap between ideals and reality in the field of education can also be measured by the evolution of social norms. When we speak of the social norm relating to the right to education, we look beyond the legal text of Article 2 of Protocol No. 1 to the European Convention on Human Rights to focus on the shared social expectations, moral consensus and cultural practices that give this right its meaning and legitimacy in society.

Here is a proposal for approaching this in a systematic manner. Let us first define what a social norm is. A social norm is a collectively accepted standard of appropriate behaviour, something that a community expects of itself and its members, prior to or beyond what the law requires. In the case of the right to education, the social norm reflects the widely held belief that 'every person, regardless of their origin, gender, religion or status, should have access to an education that enables them to flourish, participate in society and respect others'. Thus, before being a legal right, education is a duty and constitutes a social expectation: parents send their children to school, the state organises education, and society values learning as a means of achieving dignity and equality.

a) Evolution of the social norm : from compulsory schooling to inclusive education

But this social norm has evolved over time. From the 19th century to the early 20th century, education became linked to citizenship, nation-building and moral development. The social norm shifted from optional schooling to compulsory education. After the Second World War: the Universal Declaration of Human Rights in 1948, followed by Protocol No. 1 to the European Convention on Human Rights in 1952, established education as a universal human right, and no longer merely as a privilege reserved for certain citizens.

Today: the norm has evolved towards inclusive, lifelong and non-discriminatory education, extending to people with disabilities, migrants, women and minorities. Access alone is no longer enough; the norm now includes quality, relevance and equality of outcomes.

Quality means that education must meet certain standards: it must offer meaningful learning, competent teaching and adequate resources so that all pupils can truly develop their potential.

Relevance means that education must be tailored to the real needs of learners and the demands of modern society, preparing them to participate in social, cultural and economic life. Equality of

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outcomes means that all learners, regardless of their background, must have a fair chance of achieving comparable educational outcomes, not only in terms of equal access, but also in terms of equal opportunities for success through inclusive and supportive systems. Furthermore, Article 29 of the United Nations Convention on the Rights of the Child stipulates that education must aim to develop the child's personality, talents and abilities so that they may realise their full potential. The Committee interprets 'full potential' not only as the maximisation of academic results, but also as a means of fostering dignity, self-esteem and self-confidence, recognising each child's *unique abilities* and evolving aptitudes, adapting education – curricula, pedagogy, the environment – to the diverse needs of children, to ensure a balance between intellectual, emotional, physical and social dimensions, and to prepare children to participate fully and responsibly in society.

That is the ideal, but in practice, what are the interactions between social norms and the European Court of Human Rights, and how does the Court reflect and shape these social norms?

When the Court interprets Article 2 of Protocol No. 1 to the European Convention on Human Rights as guaranteeing effective access to education, non-discrimination and respect for pluralism, it gives legal force to constantly evolving social expectations. Conversely, its judgments reinforce these expectations across Europe, helping to normalise equality and inclusion in education policies.

Here are a few examples.

In Bulgaria, in 2011, the Ponomaryovi case concerning the recognition that foreign pupils cannot be excluded from free education reflects a growing European social norm regarding equality and inclusion in education.

In Turkey, in 2005, the Leyla Şahin case reflected social debates on secularism and individual autonomy in higher education.

Leyla Şahin v. Turkey (2005) is a case in which the European Court of Human Rights examined the ban on wearing the Islamic headscarf in Turkish universities. The Court's judgment reflects the broader social debates on secularism versus individual autonomy in higher education: the secular Turkish government argued that restricting religious symbols in universities was necessary to protect the secular nature of education and public institutions. Leyla Şahin argued that the ban violated her personal freedom, including her right to manifest her religion under Article 9 of the European Convention on Human Rights. The Court ultimately upheld the ban, emphasising the margin of appreciation available to the State in striking a balance between secularism and religious freedom, but this case illustrates the tension between collective social norms – in this instance, secularism – and individual rights and autonomy in the field of education.

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There is therefore a dialogue between the law and social values: each influences the other.

Today, the fundamental significance of social norms regarding the right to education can be summarised as follows:

Social expectations regarding education

Dimension	Social expectations
Access	Everyone should be able to go to school; exclusion is socially unacceptable.
Equality	Education should not reinforce social hierarchies, but reduce them.
Quality	Education must empower, not merely instruct.
Respect for diversity	Education must foster tolerance, intercultural understanding and pluralism.
Lifelong learning	Education is not limited to childhood, but is a continuous process throughout life.

Table 4: Social expectations regarding education

In conclusion, we note that the social norm regarding the right to education reflects a deep-seated collective conviction that education is both a social good necessary for democracy, economic participation and cultural cohesion, and a moral obligation, as society has a duty to enable every individual to realise their potential.

The right to education is upheld not only by laws and the courts, but also by a shared social commitment to learning, which is regarded as essential to human dignity and to a free and egalitarian society. However, ethical standards, the values embodied in human rights, and the modern concept of human dignity are far from being realised, and social norms do not always correspond to reality.

Faced with this reality, we rightly ask ourselves: are we still far from these ideals? The answer may lie in how we view education.

We propose – and this is the very essence of our work – that we view education as a pillar of human dignity and non-violence. Let us take a brief step back.

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Since 1948, international frameworks have increasingly recognised the right to an education free from violence as a cornerstone of human dignity. Starting with the Universal Declaration of Human Rights, followed by the United Nations Declaration of the Rights of the Child in 1959, and reinforced by the Convention on the Rights of the Child and the Council of Europe's ban on corporal punishment in 1989, and more recently, the prohibition of violence in numerous national laws and the promotion of positive parenting strategies in various countries across Europe and beyond demonstrate a growing commitment to prevention and cultural change.

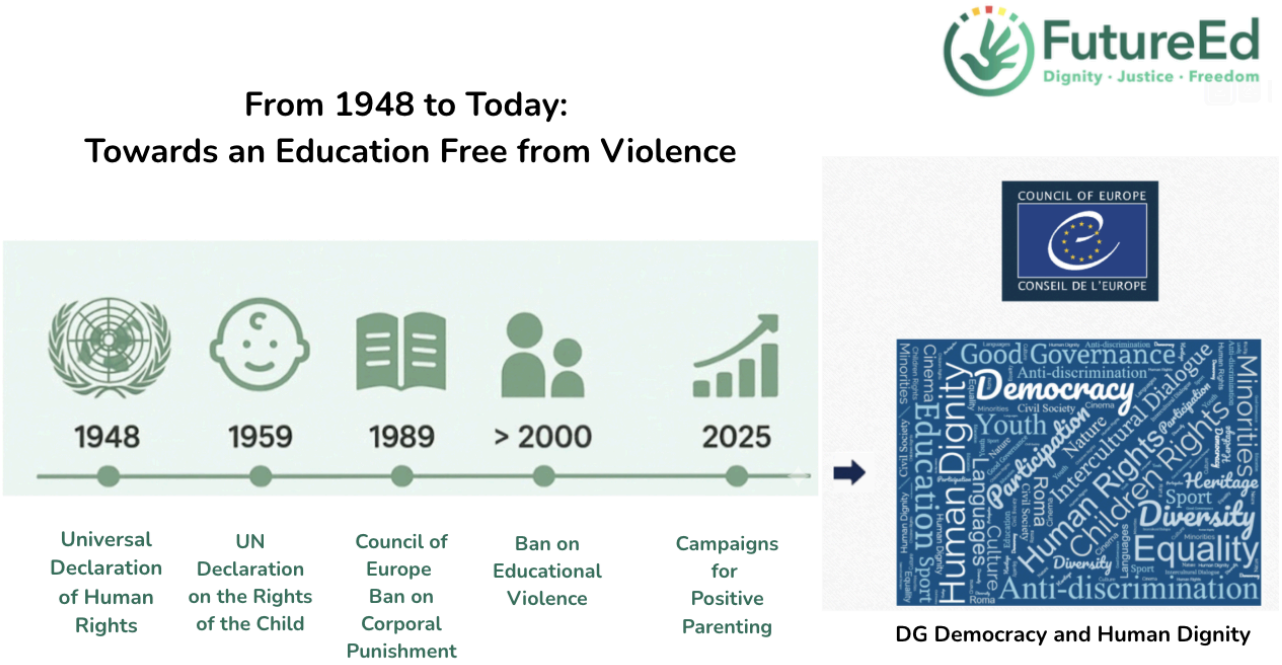


*Figure 13 – **From 1948 to the present day: Towards violence-free education**, highlights some significant positive developments.*

These important milestones mark significant progress, but they also highlight that the creation of respectful and non-violent environments remains an ongoing endeavour, requiring constant vigilance, cooperation and commitment from all societies.

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b) Blind spots : institutional violence and prejudice against children

While these developments represent significant progress, institutional forms of violence are still not sufficiently addressed. Practices such as systemic discrimination, unequal access to quality education, rigid hierarchies or the use of degrading disciplinary measures persist in many contexts, undermining the principles of dignity and equality. Unlike overt corporal punishment, institutional violence is often embedded in policies, structures and routines, making it harder to identify and combat. Addressing this reality requires not only legal bans, but also profound cultural and structural changes to ensure that education systems themselves do not perpetuate harm or inequality.

A sustainable path forward lies in adopting a rights-based approach to education, in which every practice and policy is assessed against the ethical principles of human rights. This involves not only prohibiting violence in all its forms, but also actively promoting environments of respect, participation and mutual recognition. Education aligned with these values becomes more than a mere transfer of knowledge: it serves as the foundation for democratic culture, equality and human dignity.

By grounding educational and parenting practices in human rights, societies can ensure that learning genuinely strengthens and protects, rather than perpetuating harm.

Yet the main obstacle to realising education's promise as a pillar of human dignity and non-violence is the unquestioned belief that it is inherently a social good, without recognising that flawed approaches can cause harm. Adults, through their authoritarianism, utilitarianism and emotional neglect, often hinder education's emancipatory potential. Misopaedia – that is, the often unconscious contempt for or rejection of children – further reinforces this tendency by devaluing their voices, their initiative and their moral worth. Although childhood is a universal human experience, generations of adults struggle to empathise with it, thereby perpetuating oppression, discrimination and adultist attitudes. Consequently, education risks becoming a tool of domination rather than a practice that fosters autonomy, empathy and mutual respect.

As suggested by interdisciplinary research[31], the oppression of children by adults, and the violence and discrimination they endure – rooted in an adultist worldview – is both widespread and often unconscious. In line with sociologist Pierre Bourdieu's idea that 'alienation deprives one

[31] International transdisciplinary symposia on misopaedia, adultism and contempt for children.
https://www.unilim.fr/ehic/colloques/medias-colloque-misopedie-3-4-octobre-2024/
https://www.unilim.fr/ehic/colloques/medias-colloque-misopedie-9-10-octobre-2025/

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of the awareness of alienation', much of this oppression goes unrecognised not only by those who perpetrate it, but also by those who suffer it, making it all the more insidious and difficult to combat. Cécile Kovacshazy, Senior Lecturer in Comparative Literature at the University of Limoges in France, explains:

> **The oppression of children by adults, and the violence and discrimination they suffer, driven by an adultist mindset, are extremely widespread and often unconscious**.

Consequently, attitudes such as adultism, misopaedia and even paedophobia constitute profound social injustices that demand the same recognition and collective effort as those historically directed against racism and misogyny. Just as misogyny reflects a profound devaluation of women, misopaedia reveals a systemic contempt for children, which manifests itself in their marginalisation, silencing and the denial of their capacity to act. Combating these prejudices is not only a moral imperative, but also an essential prerequisite for building a society that truly respects the dignity and rights of all its members, including the youngest.

In his book *Nexus – A Brief History of Information Networks from the Stone Age to AI* (2024), historian Yuval Noah Harari[32] explores how information systems – and, by extension, institutions in the broader sense – often operate without sufficient self-reflection or corrective mechanisms.

Once established, institutions tend to perpetuate themselves and resist change, even when faced with evidence that their methods are outdated.

This lack of self-reflection can lead to practices that are no longer effective or relevant. Although Harari does not focus specifically on education, his observations apply to the school system: like other institutions, it can become sacrosanct, regarded as inherently good or immutable, and thus lack self-correcting mechanisms. This institutional inertia hinders the system's ability to evolve and respond to the needs of contemporary society, as well as to the ethical ideals it professes. Harari's analysis thus highlights another crucial challenge: the education system's frequent inability to examine itself critically and adapt to society.

[32] Harari Y.N. (2024), *Nexus: A Brief History of Information Networks from the Stone Age to AI*, Fern Press

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c) Towards a culture of recognition and autonomy

Paradoxically, educating for dignity gives rise to two opposing visions. Education is essential for cultivating human dignity, but it can be approached through two contrasting visions that share the same overarching objective.

Autonomous education fosters children's ability to think freely, engage in dialogue and respect others, thereby enabling them to experience dignity through authenticity and recognition. Heteronomous education, on the other hand, risks instilling passive obedience rather than active responsibility.

Self-assessment activity

What is your educational experience or practice?

Which category do you fall into?

Educational practices often combine elements of both approaches, as we show in the comparative table of educational practices below.

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Comparative table of educational practices

Dimension	A. Autonomist (autonomy-focused)	B. Combined (structured and participatory)	C. Coercive (control-oriented)	A, B or C?
1) Main objective	Fostering independence, critical thinking and responsibility	Combining independence with structure: fostering responsible citizens	Ensuring obedience, order and conformity	
2) The role of the adult	Guide, facilitator, mediator	Structural reference point, mentor, guardian of the shared framework	Authority figure, controller, judge	
3) Educational relationship	Based on trust, mutual respect, cooperation	Respectful and reassuring; a benevolent authority relationship	Hierarchical, asymmetrical, authoritarian	
4) Decision-making	Shared with the children/pupils	Joint: collective decisions within a defined framework	Imposed unilaterally by the adult	
5) Teaching methods	Experimentation, projects, independent learning, co-construction	Alternating between independent discovery and guided teaching	Top-down teaching, imposed exercises, repetition	
6) Management of rules	Collective development, dialogue, negotiation	Rules established with participation and consistently reinforced	Imposition, obedience, strict discipline	
7) Dealing with mistakes	Tolerance, thoughtful analysis, opportunity to learn	Support and constructive feedback within a structured framework	Low tolerance, punishment, avoidance of mistakes	
8) Preferred motivation	Intrinsic (enjoyment, curiosity, meaning)	Mixed: intrinsic encouraged, extrinsic used in moderation	Extrinsic (marks, punishments, rewards)	
9) Learning environment	Caring, supportive, stimulating	Demanding but supportive, structured, cooperative	Controlling, competitive, anxiety-inducing	
10) Main effects	Self-confidence, independence, cooperation, critical thinking	Regulated independence, sense of responsibility, commitment, solidarity	Submissiveness, dependence on external evaluation, inhibition	

Table 5: Comparative table of educational approaches and self-assessment

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In light of all the above, we believe it is urgent to move towards a rights-based approach. The Council of Europe's campaign 'Free to speak – Safe to learn: democratic schools for all', led by the Directorate General of Democracy and Human Dignity and completed in 2022, highlighted the commitment of schools across all member states to democratic values and principles in everyday educational life. In this context, the Reference Framework for Competences for Democratic Culture (CRCCD) was developed, defining for the first time the fundamental values, attitudes, competences and critical understanding necessary for citizens to participate actively in democratic life. In line with international treaties, this framework considers that quality education is education that promotes democracy, human rights and social justice whilst meeting the diverse educational and social needs of learners. Furthermore, it enables pupils to develop their self-confidence, critical thinking and sense of responsibility. Initially designed for democratic citizenship, the CRCCD also fosters transversal skills – such as critical thinking, intercultural communication, conflict management and collaboration – which are increasingly essential in today's labour market.

The perspective of the German philosopher and sociologist Axel Honneth on education perfectly complements the Council of Europe's campaign 'Free to Speak – Safe to Learn: Democratic Schools for All'. Both emphasise that education must go beyond the transmission of knowledge to foster recognition, dignity and democratic participation. For Honneth, schools are essential institutions of mutual recognition, where learners must experience respect and social esteem, which are indispensable for the development of autonomy, self-esteem and the capacity to be free. In this sense, a rights-centred education aligns with Honneth's vision of Bildung as a moral and social process through which individuals become capable of participating in democratic life on an equal footing. Like the campaign's reference framework for democratic culture, Honneth's theory advocates an educational environment that values respect, solidarity and empowerment, rather than mere preparation for the labour market, thereby affirming education as a fundamental right to recognition and human dignity.

As shown in Andy Warner's book The Incredible Story of Everyday Things[33], there are similarities between the situation of women and that of children. It was in 1920 that a woman, Scudder, had the brilliant idea of packaging crisps. But at the time, it was impossible for her to insure her lorry because the companies did not believe a woman would pay her premium on time, as "The female brain always forgets these things. It's well known". Today, women inspire greater confidence, but this is still not the case for young people.

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[33] Warner A. (2017), *L'Incroyable histoire des objets de tous les jours* [*The Incredible Story of Everyday Things*], translation Béguerie B., Illustré Poche, Ed. Vuibert.

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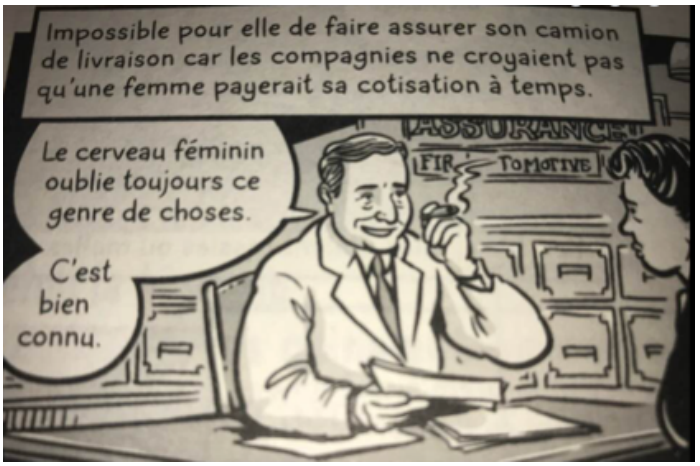


Image featured in *The Incredible History of Everyday Objects* [34]

It was impossible for her to get insurance for her delivery van because the insurance companies didn't believe a woman would pay her premiums on time.
"The female brain always forgets these things. It's well known"

Another challenge remains: just as women have been denied trust in their ability to think and act independently, children have long been stripped of their power by education systems and parenting models focused on control rather than empowerment. This structure must be socially deconstructed in order to rebuild autonomy, self-esteem and the capacity for freedom. It is essential not to hinder individuals capable of autonomy by imposing coercive or uniform learning methods on them.

On the contrary, we should encourage educational approaches that foster autonomy, such as those promoted by the Council of Europe. As autonomy is inseparable from responsibility, our actions towards young people and adults must always be guided by the ethical principles of human rights based on continuous self-reflection. Protect dignity, self-determination, authenticity and mutual recognition. Prohibit all non-essential violence. Ensure a fair balance of power and minimise domination. Uphold a moral standard of equality and respect. Prohibit discrimination. Promote diversity of choice and pluralism.

People who grow up in a coercive environment – whether within their family, at school or within wider social systems – often internalise patterns of dependence, fear and obedience that can limit their ability to be free and self-reliant. When authority is exercised through domination rather than recognition, individuals learn to conform rather than to choose. Their sense of autonomy

[34] Warner A. (2017), *L'Incroyable histoire des objets de tous les jours* [*The Incredible Story of Everyday Things*], translation Béguerie B., Illustré Poche, Ed. Vuibert.

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weakens, as their decisions are motivated by a desire to avoid punishment or to gain approval rather than by values they have determined for themselves. However, the capacity for autonomy and responsibility is not destroyed; it remains a potential that can be reawakened through experiences of trust, dialogue and recognition. To develop a genuine sense of freedom, individuals need environments that encourage critical thinking, participation and mutual respect—conditions that enable them to reclaim their will and moral judgement.

From this perspective, responsibility is inseparable from autonomy: when people are recognised as capable subjects rather than controlled objects, they become capable of assuming their responsibilities towards themselves and others. Thus, to overcome the effects of coercion, we need not only structural change but also an ethical reorientation, replacing domination with cooperation, fear with trust, and obedience with thoughtful self-governance. This is the direction advocated by FutureEd to empower individuals and societies to overcome the challenges of our time.

Reflection activity

Following this lengthy, well-argued case, choose one element from your discussion group that captures everyone's attention. Imagine all the characters involved in the chosen scenario, improvise the dialogue, and act out one or more scenes in which you defend your viewpoint. Do not read from a script; this will bore your audience. Play on expressiveness, eye contact, body language and intonation. Be lively and convincing. One day, when you are ready, you will experience this scene for real; it will not just be a role-play.

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Conclusion

We hope we have kept the promise we made at the start of this book. We hope that from now on, you will view your role as a citizen differently. That you are itching to take action, that you have identified steps to take, and that you are aware of your rights and those of children.

This guide is like the first step on a staircase to a responsible life. Another step is the work carried out by our colleagues at EUDEC – the European Democratic Education Community. It is entitled **Best practices in Democratic Schools** and describes how democratic schools align education with fundamental rights in practice. It is complemented by the work of our other colleagues at CollectiveUP, a company working for societal transformation, which has developed an educational guide to inform young people about their digital rights: **Zara and the Glowing Realm**. It invites us to actively reflect on the right to informational self-determination in order to preserve digital autonomy.

Armed with these three complementary works, you are well equipped to contribute, in your own way, to shaping the education of the future, **FutureEd**, an education aligned with fundamental rights.

And by the way, what is your ideal for education now? Is it the same as it was when you started reading?

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Human rights instruments

Timeline of key human rights instruments

1940s–1960s: modern foundations

- Adopted 1945 / Entered into force 1945
  Charter of the United Nations (—)
- 1948 / — (not legally binding)
  Universal Declaration of Human Rights (UDHR)
- 1950 / 1953
  European Convention on Human Rights (ECHR)
- 1965 / 1969
  Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- 1966 / 1976
  International Covenant on Civil and Political Rights (ICCPR)
- 1966 / 1976
  International Covenant on Economic, Social and Cultural Rights (ICESCR)

1970s–1990s: further development of specific rights

- 1979 / 1981
  Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- 1966 / 1976
  International Covenant on Civil and Political Rights (ICCPR)
- 1966 / 1976
  International Covenant on Economic, Social and Cultural Rights (ICESCR)
- 1984 / 1987
  Convention against Torture (CAT)
- 1989 / 1990
  Convention on the Rights of the Child (CRC)

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2000s: contemporary rights and inclusion

- Adopted in 2000 / Entered into force in 2009 (binding under the Treaty of Lisbon)
  Charter of Fundamental Rights of the European Union (CFREU)
  Given the growing reach of EU law and the binding force of the Charter under the supervision of the Court of Justice, the EU framework often provides more immediate and enforceable protection than the Council of Europe system.
- 2006 / 2008
  Convention on the Rights of Persons with Disabilities (CRPD)
- 2006 / 2010
  International Convention for the Protection of All Persons from Enforced Disappearance (ICPD)

Justice

- 1959 (established)
  European Court of Human Rights
  It ensures compliance with the European Convention on Human Rights and protects individuals against violations committed by member states of the Council of Europe (46 states as of September 2026).
  There are equivalent bodies in America and Africa.

  !!!

  To bring a case before the European Court of Human Rights, applicants must meet strict criteria: they must have the status of a victim, have exhausted domestic remedies, comply with a four-month time limit and provide evidence of serious harm. Cases must not be anonymous or duplicative, and they must fall within the Court's jurisdiction in relation to a State. In practice, around 90 to 95 per cent of applications are declared inadmissible.

🌍 **ICJ International Court of Justice→ disputes between States (UN Charter)**

⚖️ **ECHR / regional courts → individual applications against States**

🏛️ **UN Committees → monitoring through reports and complaints**

🇪🇺 **CJEU European Court of Justice → interpretation of EU law (CDFUE)**

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Further resources

- This publication (in French, English and German), along with other publications and resources produced as part of the FutureEd project, are referenced on this page: https://alliasbl.lu/en/projects/futureed/
- Case4EU: Empowering EU citizens https://ghum.kuleuven.be/case4eu/en/home
  Case4EU YouTube www.youtube.com/@Case4EU
  Prof. Dr Grimonprez K. (2020) Ebook : *The European Union and Education for Democratic Citizenship: Legal foundations for EU learning at school* (in particular chapter 9), Ed.Nomos.
- HUDOC European Court of Human Rights: Reference database providing access to the Court's case law and other legal documents relating to the ECHR. https://hudoc.echr.coe.int/
- Guide on Article 2 of Protocol No. 1 to the European Convention on Human Rights https://ks.echr.coe.int/documents/d/echr-ks/guide_art_2_protocol_1_eng
- Le Rouzic M. (2016), *The Right to Education in the Case Law of the European Court of Human Rights*, Ed. L'Harmattan. https://theses.hal.science/tel-01249583v1

Number of countries by institutions (September 2026)

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United Nations
(UN) 193 countries



Council of Europe
(CoE) 46 countries



European Union
(EU) 27 countries



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