

Towards 'law education for all': Teaching school students about the law in Australia and Pakistan

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Abstract: Law-related topics arise in the school curricula of both developed and developing countries. Civics/citizenship education and social studies tend to be the curricular mediums into which law topics are inserted. This paper details law education at school level in Australia (State of Victoria) and Pakistan. The main challenge facing the law-education-for-all project in the context of schooling is the competence of teachers entrusted to teach children and adolescents about the law, particularly with reference to their own background knowledge. There are roles for curriculum developers, government ministries, pre-service and in-service teacher education providers, and professional associations to play for the ideal to be turned into reality.

Key words: law education, civics education, citizenship education, pre-service teacher education, continuing professional development

Introduction

In a comparative study conducted by the International Association for the Evaluation of Educational Achievement (IEA) involving school students in 28 democracies, obedience to the law was rated highly as an attribute of good citizenship by 14-year-olds (Torney-Purta, Oswald & Schultz, 2001). But how much do children and adolescents generally know about the law?

If schooling is a preparation for adult life in one's society, it seems axiomatic that school curricula should contain topics about the law of relevance to any citizen. Law is an emerging theme in the school curricula of various countries, both developed and developing. The curricular niche for law-related topics tends to be within civics/citizenship education, with social studies also providing opportunities for inclusion. In the UK, it is incorporated mainly into citizenship education. At the primary level, it remains non-statutory, but some guidelines are offered for schools that wish to incorporate it into their curriculum. At secondary school level, it is statutory and concepts to be covered include "laws, justice and democracy". Specific foci include the rule of law, the workings of parliamentary democracies, the cabinet system of government, political and legal rights, and the structure of the justice system, including the police and courts, and the distinction between civil and criminal justice. As well as government mechanisms and democratic participation at both the local and national levels, the curriculum also draws attention to the EU, the UN and the Commonwealth of Nations as contexts (Department for Education, 2013).

Law is a complex field requiring specialised subject knowledge, which raises the issue of teacher competence to teach young students about the law. Of the various aspects of citizenship education presented to teachers in the IEA study, the one they generally felt the least confident about teaching was the judicial system.

In this paper, we shall look at developments in a developed country (Australia) and a developing country (Pakistan) towards educating all school learners about the law. Both Australian and Pakistani law are derived from the Common Law via their colonial heritage.

Australia

The Australian legal system has been independent since 1986 when appeals to the Privy Council of Britain were abolished and the High Court of Australia became the final court of appeal. The Australian Constitution of 1901 is atypical of national Constitutions in that it does not contain a Bill of Rights.

Education is a state or territory responsibility in Australia, and each entity has its own education system complete with terminating qualifications. However, the new civics curriculum is a federal initiative. The Australian draft civics and citizenship education plan draws on a 1994 Civics Expert Group definition of the subject as encompassing “government, public administration and [the] judicial system” (ACARA, 2012, p.7). Mandatory curricular inclusion is envisaged for Years 3-8, with opportunities to continue in the field thereafter. Specific foci include the Australian Constitution, the intricacies of parliamentary democracy, the rule of law, legal rights, and the workings of the courts. At the upper secondary level, the curriculum moves to “more advanced topics of politics and law” and engages with international relations and law particularly in the context of Asia.

Responsibility for implementing the Australian Curriculum remains with the states and territories. Accordingly, we shall restrict ourselves to the State of Victoria when describing developments in this area and some comments may only apply to that state.

Law in the current Victorian school curriculum

Law topics are embedded in the subject Civics and Citizenship. This is typically taught by primary school teachers whereas in Years 7 to 10 Commerce, Social Education, Humanities, History and Geography teachers, and Years 11 and 12 Legal Studies teachers implement law topics and themes. It is up to each individual school to decide how Civics and Citizenship will be delivered – it can be integrated into History, Geography, Humanities, Economics or Commerce or taught as a stand-alone unit or subject.

Generally speaking, knowledge of the legal system is subservient to involvement in the political system in the Civics and Citizenship strand of Australian Victorian Essential Learning Standards (AUSVELS) which covers Foundation Year to Year 10. Future citizens are told that they “need knowledge of political and legal systems” in Australia and are expected to “develop knowledge and understanding of the origins and key features of the Australian political, government and legal systems”, the underlying belief being that students’ “knowledge of rules and laws of governance” will enable them to “participate in processes associated with citizenship”. Likewise, students are meant to “discuss examples in the media of laws (that illuminate) features of democracy” (VCAA, 2013, pp. 3, 16).

The legislative aspect of government is referred to quite frequently in the Civics and Citizenship section of AUSVELS. At levels 3 and 4 (ages 8 and 9), students indirectly learn about the legislative function of government by learning about the purpose of government and “(looking) at the roles of leaders and representatives such as prime minister and mayor”. Levels 5 and 6 (ages 10 and 11) refer more directly to legislation and government. At these levels, students learn “how parliament makes laws”, providing specific examples of law-making at federal, state and local government levels, including “currency, defence (federal), education, health (state), parks and libraries (local)”. Again, alluding to their differing legislative tasks, levels 7 and 8 (ages 12 and 13) ask students to “consider the separate responsibilities of the three levels of government” including consideration of “the origins of statute law” and their purposes and “examples of the process of making and changing” such law (VCAA, 2013, pp. 10, 13, 16). More specific reference to government and law-making occurs at levels 9 and 10 (ages 14 and 15). Here, students learn about “the division of federal and state powers”. Debates over “the inclusion of a bill of rights in the Australian Constitution” and

“Aboriginal and Torres Strait Islander (ATSI) recognition in the Australian Constitution” are also examined (VCAA, p. 19). Thus from levels 3 to 10, students are exposed to the study of law-making by government in a progressively more challenging manner with increasingly sophisticated concepts and issues being introduced at the higher levels.

Very little mention is made of law and public administration in the Civics and Citizenship component of AUSVELS. Indeed, it is only referred to once. This happens at levels 5 and 6 where the role of the police is studied. No mention is made anywhere of prisons or correctional services; and international law and human rights law is not mentioned. . Clearly, there is much more scope for coverage of law-related aspects of public administration at the various levels.

Coverage of the judicial system in the Civics and Citizenship strand of AUSVELS is fair. It is not included at all in levels 3 and 4 though it could be argued that some study of it at a very basic level is feasible. At levels 5 and 6, students learn about judicial independence. At levels 7 and 8, a vague reference is made to “develop(ing) understanding of aspects of the courts” (VCAA, p. 16). Levels 9 and 10 are more focused as here students examine “state and Commonwealth courts and the High Court of Australia” and look at key court cases such as Mabo (native title) and the Franklin Dam (international obligation to protect the environment). Thus, by the end of Year 10, students will have been given an overview of various Australian courts, learned about their independent nature, and studied some landmark judicial cases. It is only at levels 9 and 10 that students learn about the judicial system in any great depth.

Senior secondary school Legal Studies (LS) courses are available as part of the Victorian Certificate of Education (VCE). VCE Legal Studies explicitly “examines the processes of law-making, dispute resolution and the administration of justice in Australia” (VCAA, 2010, p.7). The curriculum is divided into four units: Criminal Law in Action, Issues in Civil Law, Law-Making and Resolution and Justice. For an optional subject at upper secondary level, LS is reasonably popular. In 2012, LS had a total number of 10,312 students enrolled in unit 1, 9,935 students enrolled in unit 2, 903 students enrolled in unit 3 and 8,746 students enrolled in unit 4. Taking into account the total number of student enrolments in all units, LS is slightly less popular than Business Management but significantly more popular than Accounting and much more popular than Economics. Widely perceived as the most difficult of the VCE Commerce subjects, LS attracts many bright and capable students. Many of them wish to study Law or other courses with substantial legal content at university.

Training and support for teachers

Practising teachers of law topics have different levels of expertise at different year levels. Generalist primary school teachers are mostly unlikely to have studied Law or Legal Studies at university. The Victorian Commercial Teachers Association (VCTA) is the key body representing teachers of senior school Legal Studies and teachers of junior and middle secondary school Commerce, Business Management, Economics and Accounting in Victoria. The VCTA represents a significant number of all teachers who teach Civics and Citizenship but not all of them. Many Social Education, History and Geography teachers who teach Civics and Citizenship would not belong to the VCTA but to their relevant state subject association instead.

Civics and Citizenship, and the law topics contained in it, feature significantly in Social Education, Legal Studies and Commerce teaching methods in teacher training programmes conducted at Victorian universities. However, the focus in these teaching methods is on how to teach Civics and Citizenship rather than on gaining knowledge of the disciplines underlying it. Civics and Citizenship content is taught in various undergraduate Law and Arts subjects, but not all pre-service teachers would have studied these subjects. Thus, future teachers are taught how to teach something they are sometimes incorrectly presumed to already know about.

With regard to resources for teachers, the Discovering Democracy Teaching Units, are still available although produced by the now defunct federal Department of Education, Science and Training in 1998, provide the most comprehensive coverage of law-related topics in Civics and Citizenship for teachers of Years 3 to 10 students. The Laws and Rights theme contains units on Rules and Laws, The Law Rules (operation of the law), Law (sources of law), and Human Rights.

The VCTA also provides resources for teachers to improve their knowledge and teaching of law-related topics in 'Civics and Citizenship'. Some of these resources are specifically targeted towards these topics whilst others are generalist in nature. Independent Schools Victoria also provides professional development with some coverage of Civics and Citizenship.

Teachers who are members of the VCTA can access COMPAK, the online journal of the VCTA. COMPAK has a section exclusively for Years 7 to 10 Commerce teachers and has previously published articles with ideas and materials for teaching law-related topics. It also operates an email discussion group, 'Comchat', for teachers of Years 11 and 12 Legal Studies, Business Management, Economics and Accounting. Extending Comchat to include Years 9 and 10 Commerce teachers would enable them to ask questions, participate in discussions and share curriculum resources and teaching strategies.

Progress towards the ideal of 'law education for all' in Victoria

The Australian Curriculum improves on AUSVELS as a curricular vehicle for delivering Civics and Citizenship education. The already quite thoroughly covered legislative aspect of government in AUSVELS is expanded even more in the Australian Curriculum. The virtual absence of law and public administration in AUSVELS is rectified to some degree in the Australian Curriculum. The reasonable coverage of the judicial system in AUSVELS becomes more comprehensive in the Australian Curriculum. Pleasingly, law education within Civics and Citizenship at Years 9 and 10 levels of the Australian Curriculum focuses on law both within and outside Australia. As well as learning about Australia's courts, students examine Australia's international legal obligations. Law education in Civics and Citizenship at these levels also covers mainstream Australian as well as indigenous law with students learning about both "legal governance and customary law" (ACARA, 2013, p.12).

VCE Legal Studies will be unaffected by the new Australian Curriculum, impacting as it does only the primary and lower secondary levels. Those who only teach VCE Legal Studies may be happy with the fact that curriculum change is aimed at more junior year levels and therefore does not entail extra work on their part. However, whether reformed middle secondary school law topics provide a smooth transition into unreformed VCE Legal Studies units remains to be seen.

Pakistan

Pakistan is an Islamic Republic and all laws need to be consistent with Islamic (Sharia) law. An Objectives Resolution was passed in 1949 which provided a framework to formulate the Constitution of Pakistan according to Islamic principles.¹ The current Constitution came into being in 1973 and refers to various civil and political rights including the right to education.

¹ The issue of the Sharia is a very delicate one but in Pakistan, polls indicate that most people want the Sharia to form the basis of the national legal system. The Sharia represents the values and norms that most people there abide by. All laws passed in Pakistan have to 'be consistent with' the Sharia but this does not mean that they have to ignore contemporary circumstances. The people of Pakistan in exercising their self-determination have opted for a legal system in which the Sharia is a focal point. This does not mean they are subjected to 'extreme' forms of punishment, but aim to correct.

The provision of school education to the masses is a provincial responsibility; however, the Federal Ministry of Education (FMOE) formulates educational policies and provides guidelines to maintain educational standards. Hence, the various public and private actors that animate school education in Pakistan abide by the principal objectives underlying education at all levels – national integration and preservation of the national ideology. The Ministry supervises curricula and textbooks through the National Bureau of Curriculum and Textbooks (NBCT). The NBCT conceives and drafts objectives for each of the subjects and circulates these to provincial education authorities who translate them into specific teaching objectives. Every province has a provincial curriculum centre for ensuring provincial collaboration by engagement in all activities falling within the purview of the federation. The respective provinces bodies have their own Provincial Textbook Boards (PTTBs) responsible for preparation, publishing, stocking, distribution and marketing of the textbooks. FMOE provides guidelines whereas the provincial authorities select the actual contents for the teaching of law at different levels of school education.

The teaching of and/or about law at school level is intended to be one of the transformational steps towards the establishment of an informed democratic society in Pakistan (Dean, 2007; Government of Pakistan, 2009). The teaching of law at school level being integrated with Civics and Social Studies, its objectives can be derived from the curricula for those subjects and associated documents such as the National Education Policy 2009, Pakistan in the 21st Century: Vision 2030, and the National Curriculum Objectives 2002. These curricular statements underpin textbooks for Civics and Social Studies prepared and/or recommended by the Punjab Textbook Board and Agha Khan University Examination Board.

The basic purpose of teaching law at primary and lower secondary level is to create awareness about legally binding rules and regulations and their benefits to individuals and society. It also aims at developing democratic thinking and attitudes among students for making Pakistan a vibrant and progressive country in the 21st century. Students are prepared for coping with their civic needs by inculcating democratic thinking among them. In Pakistan, teaching about the law is considered necessary for development and importance is given to it and its teaching from early years of schooling. Teaching of law promotes civic sense among school students to become responsible citizens. They become aware of human rights to observe in their personal lives – living and letting the other live peacefully (Punjab Textbook Board, 2013; Government of Pakistan, 2007; Government of Pakistan, 2002; Agha Khan University, 2009).

Law in the current Pakistani school curriculum

Law concepts and topics are embedded in the subjects of General Knowledge (Grades 1 to 3), Social Studies (Grades 4 to 8), Pakistan Studies and Civics (Grades 9 to 12), and History of Pakistan (Grades 11 and 12). Some topics which reflect the nature and significance of law are also embedded in the subjects of English, Urdu, Islamic Studies (*Islamiyat*) and Ethics (for non-Muslim students). Social Studies and Civics are optional subjects for students of the ‘arts group’ from Grade 9 up, but students of the ‘science group’ do not opt for these subjects at all.

Basic concepts of law are taught to primary school children through activities aligned with daily life such as games, following traffic rules, and living with other people in society. These aim at making even very young children capable of identifying rules and recognising the importance of following them. The General Knowledge textbook for Grade 2 demonstrates examples of good character, respecting others and being just to one another with the objectives of promoting qualities of a good citizen among them. The concept of governance is explained through examples of home and school. The concepts of law and justice are demonstrated in the Grade 3 General Knowledge textbook by means of a chapter called “Working Out Disagreements” that emphasises following the rules for conflict resolution to live peacefully and letting others live their lives likewise.

Teaching about law at Grade 4 level is integrated with the subject of Social Studies for developing understanding of and/or about society, democracy, law, government and the Constitution. It charts out the functions of law and the role of a judge in both civil and criminal matters. Role play is recommended as a teaching method. In Grade 5 Social Studies, constitutional development and the law-making process are included in the textbook. It aims at making learners aware of the basis of Pakistani law and its history, enables them to identify the steps in the law-making process, and the relationship between different courts, including the authority of the Supreme Court. There is a focus on key developmental events since the emergence of Pakistan as a nation from the first constitutional assembly of 1947 to the Constitutions of Pakistan of 1956, 1962 and 1973. As martial law has been proclaimed and enforced from time to time, the Martial Laws of 1958, 1977 and 1999 are briefly presented in order to help students appreciate the difference between martial law and democratically-made law. In the chapter “Government – leader, community and citizen”, the functions of the federal and the provincial governments, and the workings of Parliament provide students with an insight into the political system of the country. The election process for the President and the Prime Minister is presented, with their constitutional responsibilities. Moreover, the judicial structure – the District and Session Court, High Court, Supreme Court and Supreme Judicial Council – also make an appearance in the textbook.

Law appears again as a topic in Grade 8 with a focus on developing understanding about constitutional institutions and the process of law-making including constitutional development in Pakistan. The court system is explained from the Supreme Court, Federal Sharia Court and High Court down to the subordinate courts such as the Criminal Courts, Civil Courts and Family Courts. Constitutional tribunals are also included. Students are introduced to the United Nations – the General Assembly and the Security Council, and its agencies - the International Court of Justice, Economic and Social Council, Trusteeship Council, UNICEF, UNESCO, WHO, FAO, ILO and the World Bank.

The subject of Civics in Grades 9 and 10 elaborates on political and constitutional processes in Pakistan. Topics covered include duties of the State and the nature of the Islamic State which includes commitment to the welfare of citizens, ensuring justice and the rule of law without any discrimination, guaranteeing basic rights including safety and security, food and education to all individuals, and providing equal opportunities to all citizens according to their capacities and abilities.

Attention at this level returns to the theme of constitutional development in Pakistan including the national ideology and the various Constitutions Pakistan has had. Under “Functions of Government” are presented legislation, law-making and the constitutional amendment processes. This section also charts out the judiciary and functions of the judicial system including the dispensing of justice, the interpretation of the Constitution, interpretation of law and the role of precedent, and judicial review. Other themes include forms and roles of government (including local), and good governance from an Islamic perspective; and the rights and responsibilities of citizens (social, political, legal and moral rights) in the light of the various Constitutions..

Secondary school students are also taught law in Pakistan Studies including the consolidation of the Pakistani State and search for a Constitution since 1947, the enforcement of martial law and the Legal Framework Order, and the Muslim Family Laws Ordinance 1961 with an emphasis on women’s rights as pertaining to marriage and divorce, succession and inheritance. It generates awareness particularly among female students about their legal rights as a family member – daughter, sister, mother and wife.

Training and support for teachers

Competent teachers are required for social transformation through education. General Knowledge, Social Studies and Civics teachers are charged with teaching school students about the law. These teachers have usually qualified with a Bachelor's or Master's degree with majors in arts or humanities along with a certificate, diploma or degree in education.

In practice, 'lecturing' is a main vehicle of instructional delivery in Pakistani classrooms. Generally, teachers directly teach from the textbook. So-called 'helping books' or students' guides are also used for the teaching of social studies and civics in schools. Students are expected to memorise content in the form of answers to questions given at the end of each chapter as 'exercises'. They are prepared to reproduce memorised content in the examination in order to attain higher scores.

Teaching of law is a specialised task but teachers who are currently imparting law education in schools do not have any pre-service grounding in the teaching of law. Refresher courses and workshops are organised for general and subject-specific further training of school teachers by various provincial bodies including Provincial Institutes for Teacher Education (PITEs). The general in-service training workshops usually target significant themes such as population education, traffic education, citizenship education, women's rights, and awareness about child labour. Subject-specific in-service training aims at refreshing the contents and inculcating pedagogical skills among teachers. However, English and science subjects are targeted more than social sciences or arts/humanities by in-service training workshops. There is a need for a greater focus on topics related to law.

Progress towards the ideal of 'law education for all' in Pakistan

Law education for all has become imperative in Pakistan for ensuring human rights. It needs to be disseminated from basic to higher levels of education. Formally, it can be imparted through curricula and school instruction while informal education channels involve the media and information technology.

Being citizens of Pakistan, all students have their rights and responsibilities but very few school students have much information about their rights. Pakistan as a signatory of the UN Declaration of Human Rights needs to guarantee those rights for its citizens. And yet, basic human rights are constantly encroached upon through practices such as child labour and violence against women. Human rights are seldom discussed in classrooms with students. At this point in time, although the education system needs to play a leadership role in society, it seems to be lagging behind society as a whole. Reform is needed in school curricula and pedagogy. As noted earlier, the didactic, textbook-based, memorisation-intensive style of instruction that characterises teaching in Pakistan militates strongly against a more open, inclusive approach to the teaching of law (or any other) topics. The teaching of law to all in Pakistani schools seems to be in its nascent stage and innovative steps need to be taken by government and non-government agencies.

The Challenge of 'law education for all'

Both Australian and Pakistani education authorities recognise the importance of teaching all school students about the law. Common curricular themes include the system of governance, the processes by which laws come about, the courts, citizens' obligations and rights, and aspects of international law. In Australia, upper secondary students have the option of Legal Studies as an examinable subject. The focus of this paper is, however, on 'law education for all' during the basic education cycle (primary and lower secondary).

As noted in the introduction, a major stumbling block to the effective teaching of law at the lower levels is teacher competence. The issue is not whether teachers are qualified to teach as such, or

even whether they are qualified to teach civics or social studies; out-of-field teaching is a universal problem particularly in multidisciplinary fields such as Social Studies where even fully qualified teachers may find themselves having to deliver specific material with which they are not familiar (Ingersoll, 2001, 2003). University law courses seldom appear on the transcripts of primary and junior secondary teaching graduates, and teacher preparation courses tend to emphasise teaching methodology rather than academic content. But teachers need adequate subject-matter knowledge to effectively deliver the curriculum together with the requisite pedagogical skills (Ingvarson and Rowe 2008). In the absence of this background knowledge, teachers tend to be tied to the textbook (Russell and McPherson 2001) – evidently very much the situation in Pakistan. Teachers who are confined to the content of the textbook are moreover unlikely to engage in open discussion in their classrooms – essential aspects of teaching young people about democracy and rights. There is clearly a need for teacher pre-service programmes to ensure that teachers who may be teaching school students about the law ‘know their stuff’. As recently argued by Vlaardingerbroek (2014), legal savvy is fast becoming a ‘must’ for all teachers in the light of their increasing exposure to the risk of litigation for breaches of the duty of care. The role of legal education in pre-service teacher education is set to increase, and this may necessitate higher levels of collaboration between Faculties/Schools of Law and Education. One of the forms this could take could be joint courses in law for student teachers whose professional portfolios will include subjects that contain law-related topics.

What is more urgently needed is in-service continuing professional development (CPD) for teachers who are already in the system and teaching law-related topics. Effective CPD – that which leads to permanent changes in teacher practice – involves sustained, subject-specific, classroom practice-oriented, collaborative CPD programmes, with inputs from external expertise, that are based on the learning needs of both teachers and students (Whitehouse, 2011). This formula demands full commitment from education authorities backed by an adequate supply of the necessary resources. Additional teaching resources can be valuable, but are effective only when teachers have been rendered both competent and confident through the upgrading of their own knowledge base. Professional associations also can play a leading role in the implementation and enabling process, as the Victorian case demonstrates.

‘Law education for all’ through the national school system is a major undertaking for any society, whatever its development status. It requires a concerted effort on the part of government authorities, curriculum developers, university and college teacher pre-service and in-service education and training providers, and professional bodies including teacher associations. If the promise of a law-cognisant populace is kept, the returns will make the investment worthwhile.

Acknowledgments: Our thanks to Dr Libby Tudball, Senior Lecturer, Faculty of Education, Monash University, Clayton campus, for information about teacher pre-service programmes.

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