

***Human Rights Education or
Human Rights in Education:***

A Conceptual Analysis

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Doctor of Education Degree**

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DEDICATION

This dissertation is dedicated to the memory of

Katarina Tomasevski
(1953-2006)

Global education rights activist, first United Nations Special Rapporteur on the Right to Education, courageous human rights law expert, friend and colleague.

DECLARATION

I declare that this dissertation is my own work and that it has not been submitted previously for any degree at any university.

André Keet

August 2006

Signed:

**Human Rights Education or Human Rights in Education:
A Conceptual Analysis**

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KEY WORDS

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Meanings and definitional frameworks of Human Rights Education

ABSTRACT

*Human Rights Education or Human Rights in Education:
A Conceptual Analysis¹*

The purpose of this research is to conduct a concept analysis and conceptual historical analysis as well as to develop a conceptual cartography of the concept of Human Rights Education (HRE) with reference to human rights in education.

HRE has evolved into a burgeoning pedagogical formation that sources its currency from the perceived consensus on human rights universals. However, the proliferation of HRE is paradoxically not matched by a sustained and meaningful theoretical analysis of HRE though it has far-reaching implications for educational systems worldwide.

This study provides a comprehensive theoretical analysis of HRE by examining the meanings that organise and construct the conceptual structure of HRE. The origins of the concept of HRE and its changing meanings are traced over time and paradigmatically analysed across a variety of theoretical orientations. This study also shows that HRE is a concept that is subjected to an unexplored and unexplained conceptual eclecticism that hampers its pedagogical potential as a counter-measure to human rights violations and human suffering.

Amongst all the conceptual possibilities that could have been developed as an analytical interplay between the conceptual cartography, models, approaches and typologies of

¹ In this dissertation I broadly refer to HRE as a pedagogical formulation that focuses on advancing human rights. 'Human rights in education' designates the space within which notions, violations and practices of human rights play themselves out in educational settings. HRE and human rights in education are thus closely linked as conceptual entities and such linkages should provide the backdrop for the textual interpretation of this dissertation.

HRE, this study demonstrates that the dominant conceptual structure of HRE has grown into a *declarationist², conservative, positivistic, uncritical, compliance-driven framework that is in the main informed by a political literacy approach.*

Consequently, this study develops alternative conceptual principles buttressed by a non-declarationist conception of HRE that stands in a critical and anti-deterministic relationship with human rights universals.

² This term is explained on page 7 and though it indicates a very critical stance in relation to human rights instruments, it does not constitute a rejection of international human rights provisions. I acknowledge the fact that international human rights provisions have played a significant but limited role in advancing human rights.

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CHAPTER 1 GENERAL ORIENTATION

1. 1 Introduction

Against the backdrop of Irene Khan's³ (2006) pronouncement that “the human rights landscape is littered with broken promises”⁴, Human Rights Education (HRE) has, over the past fifteen years, evolved into a burgeoning pedagogical formation (Claude, 1996; Andreapoulus and Claude, 1997; Tibbitts, 2002; Campbell, 2001; Suarez and Ramirez, 2004; Suarez, 2006) that sources its currency from the perceived consensus on human rights universals⁵. Ramirez, Suarez and Meyer (forthcoming) refer to the “Worldwide Rise of Human Rights Education” whilst Suarez and Ramirez (2004: 22) validate the “dramatic expansion” of HRE since the mid-1970s; pronounce on the “strength and the success of human rights education at the global level” (ibid: 23) and at the same time observe that HRE is under-theorized (ibid: 22). This surge of HRE activities which is paradoxically not matched by a sustained and meaningful theoretical analysis, has far-reaching implications for educational systems worldwide and as such necessitates an intellectual engagement with HRE on a conceptual level, as is the case with this study.

Notwithstanding its currency and uncritical acceptance, HRE is largely plagued by an unacknowledged conceptual diversity and ambiguity that has adverse consequences for its practice and its introduction into education systems (Tarrow, 1987, Flowers, Lynch, C. Modgil and S. Modgil, 1992; Tibbitts, 2002; Flowers, 2004). Up to now, not much consideration has been given to the meanings that organise and construct the conceptual structure of HRE despite the fact that there has been a rapid increase in the number of

³ Irene Khan is Secretary General of Amnesty International. This statement is taken from the 2006 Amnesty International Report, *The State of the World's Human Rights*.

⁴ For example, the Human Development Report (2005: 17) estimates that 10.7 million children under the age of five die every year; 3 million people died as a result of the HIV/AIDS pandemic in 2003; and 1 billion people live on less than one US dollar a day.

⁵ ‘Human Rights Universals’ refer to the normative framework of human rights declarations, conventions and covenants.

developing countries that have initiated HRE into their education systems between the 1980s and 2000s (Education For All [EFA] Monitoring Report, 2005).

The development and proliferation of HRE generated a variety of meaning contestations and a high level of unengaged conceptual eclecticism that is invariably accompanied by practical weaknesses⁶. The literature shows that these challenges have rendered HRE uncritical, ineffectual and sometimes anti-educational. The literature further shows that most studies on HRE have adopted an uncritical posture and assumed a seamless assimilation of HRE into educational discourse because of the perceived consensus on human rights universals and HRE. This study takes a critical stance on HRE, seeking to engage with and address its conceptual muddle and eclecticism with the aim of framing the conceptual structure of HRE in an anti-deterministic and critical relationship with human rights universals. This is done through a distinct methodological framework that integrates concept analysis with conceptual historical research and conceptual cartography.

1.2 Research Question: Purpose, Objectives, Contribution and Focus of the Study

This study has four *purposes*.

- The first purpose is to clarify the conceptual meanings of HRE. This is achieved by conducting a concept analysis of HRE within the broader framework of conceptual historical research and conceptual cartography that is directed at exploring the implications of HRE for educational practice. A review of the literature reveals that the meaning of HRE is uncritically assumed within the normative constructions of international human rights instruments. In addition, the relationship between HRE and established pedagogical formations has not yet been explored.
- The second purpose is to provide for a critical analysis of HRE since most treatises on HRE are illustrative rather than analytical. This study intends to

⁶ See summary of on-line review for the Mid-Term Evaluation of the United Nations Decade for HRE, Human Rights Education Associates: (2000).

develop a comprehensive critique of the mainstream constructions of HRE and to elucidate the interests underpinning the various configurations and practices of HRE.

- Thirdly, the study aims at developing a conceptual framework for HRE in an anti-deterministic and critical relationship with human rights universals. The definitional structure of HRE is too closely tied to human rights universals which hampers its critical pedagogical potential.
- Finally, the study hopes to make an innovative methodological contribution to educational research by first borrowing ‘concept analysis’ from the nursing sciences and then integrating ‘concept analysis’ with ‘conceptual historical research’ and ‘conceptual cartography’. This study thus also develops a firm rationale for the further deployment of this analytical framework within educational research.

The *research question* is framed by one main and three sub-questions:

- Main Question:
How have the concept and meanings of HRE originated, developed and changed over time and space, and why?
- Sub-questions:
 1. What are the different and changing meanings associated with HRE over time?
 2. What factors and forces influenced the concept and changing meanings of HRE?
 3. How are the meanings of HRE located and allocated on a ‘conceptual map’?
 4. How do the contending meanings of HRE frame human rights educational practice?

The *objectives* of the study are to:

- Trace the concept and trajectory of HRE – its origins and development and the different meanings associated with it
- Analyse the concept of HRE to contribute to the development of conceptual explanation
- Explore the different meanings of the concept of HRE and how it frames human rights educational practice

This study will *contribute* to knowledge generation in the HRE field in the following ways:

- HRE is an emerging and contested field and understanding the concept is important for HRE theorists and practitioners in particular and educationists in general.
- Important insights could be gained from analysing the theoretical assumptions that frame the concept HRE and its interrelatedness with associated educational forms.
- A careful examination of the reasons for the limited impact of HRE as a result of conceptual muddle could yield valuable lessons for HRE practitioners and educators in formal and non-formal settings.
- This study could provide a basis for developing HRE programmes rooted in a theoretical framework congruent with the aspirations of an inclusive human rights discourse and contribute to theory building in the field of HRE.
- Important insights could also be gained from a concept and conceptual historical analysis and conceptual cartography of HRE that can frame its definitional structure in an *anti-deterministic and critical relationship* with human rights universals.

The study has five *focus areas*:

- A critical concept analysis of HRE
- A conceptual historical analysis of HRE
- A conceptual cartography of HRE and its meaning-making influences
- Typologies, models of and approaches to HRE
- The development of a critical, alternative conceptual framework for HRE

1.3 Rationale for this Study

The present and historical lack of conceptual engagement with and within HRE provides the backdrop for the rationale of this study which resides in the need to critically explore the meanings of HRE to elucidate the various constructions of HRE as a contemporary education policy concern that might inform policy and practical initiatives and programmes around HRE in different parts of the world. The literature review covers a wide range of texts in various disciplines and sources reports and interpretations of HRE from authoritative documentation on HRE and from reputable and influential agencies and organisations in the field. This literature review indicates that HRE is under-theorized and thus beleaguered by implementation challenges. In addition, the literature review exposes an uncritical approach to HRE worldwide with an unperceptive acceptance of the logic of a human rights language that is constructed within the systems of the United Nations. The weaknesses associated with HRE are largely a result of a lack of conceptual clarity and theoretical engagement and a tendency to uncritically digest the pre-packaged constructions of HRE that are on offer. This thesis is a critical study that will advance our knowledge about the meanings of HRE; its history and development; the typologies of HRE; the conceptual cartography of HRE; and the models and approaches to HRE. It will develop a critical conceptual framework for HRE as an influential contemporary pedagogical construct.

Not much attention has been given to the conceptual development of HRE and the related questions about what it stands for; whose interests it is serving; what it means; how it should be performed and staged; how it relates to pedagogical formulations already in place; and its implications for educational practice⁷. These questions have largely remained unanswered as a direct consequence of the lack of conceptual engagement.

The primary interest of this study, as reflected in the questions above, is interwoven with a fundamental concern about the historical and present trajectory of and tendencies and approaches within HRE. The dissonance and disquiet underpinning this study is in response to the present conceptual disengagement within HRE which results in anti-educational tendencies; portrays HRE as inherently conservative by uncritically legitimising human rights universals; allows it to sometimes act as the most contemporary façade of globalized human rights ideologies; inhibits its impact despite massive financial injections and political support; and subjects HRE to a range of unexplored and contradictory designations and meanings.

Despite the projected conceptual coherence of HRE that is simulated from the pseudo-consensus on human rights universals, the array of meanings attached to HRE are eclectic notwithstanding the fact that its practise is uncritically seen as a rational and consistent pedagogical endeavour. This unengaged conceptual eclecticism, theoretical muddle and practical perplexities have resulted in HRE being ineffectual in contrast to the widely held belief and promise that HRE is central to developing a culture of human rights; to challenging discrimination; and contributing to the achievement of social justice. I speculate that these developments are a corollary of conceptual ambiguity and a consequence of inadequate theorising and conceptual development. My interest in this matter is informed by my national, regional and international experience in the field of HRE for the past nine years⁸. Throughout this period I grappled with the fundamental

⁷ See also Baxi (1997).

⁸ I am head of the National Centre for Human Rights Education and Training at the South African Human Rights Commission responsible for HRE across the various social sectors in South Africa. I have been working in the HRE field for the past 9 years and was appointed by the Minister of Education to coordinate the working groups on the infusion of HRE in the curriculum for primary and secondary schools and thus have personal and practical experience about the paradoxes and limitations of HRE.

paradoxes of HRE associated with its conceptual multiplicity and inconsistencies; its theoretical infancy; its anti-educational potential and conservatism; and its resistance towards articulation with critical pedagogical formulations already in place.

The proliferation of HRE in the 1990s, preceded by the frenetic overproduction of international human rights standards since 1948, requires in-depth scrutiny. Under the aegis of the perceived consensus around human rights universals, HRE has, in an impressive sprawl, taken on a variety of forms and meanings, each with its own claims to legitimacy. For this reason alone a concept analysis of HRE integrated with conceptual historical research and conceptual cartography is long overdue. In addition, a number of grounds are forwarded as the rationale for this study.

First, HRE is defined not as an educational endeavour in its own right but as an uncritical conduit of human rights universals. This is the most dominant conception of HRE as reflected in the international instruments. The modern consummation of human rights resides in the adoption of the Universal Declaration of Human Rights (UDHR) in 1948 which set the hubristic trend of human rights universals calling for their own legitimacy to be entrenched by HRE. These instruments attempt to define HRE but also confine its purpose to human rights illumination to such an extent that the dominant declarationist⁹ mode of HRE as represented in the work of Lohrenscheit (2002: 175) regards the UDHR as “a curriculum in 30 steps or paragraphs”. In fact, the absence of a concept analysis that is integrated with conceptual historical research and conceptual cartography contributed to the assimilation of HRE into the broader framework of human rights discourses as an instrument in service of legitimating human rights universals. But the promise resident in the practice of HRE asks for much more, as evident in the possible alternative conceptual configurations that are discussed in Chapter 7. Despite the dominance of the “declarationist” notion of HRE, HRE practitioners are starting to question this conception

⁹ I coined this term to refer to the almost dogmatic belief that all human rights truths are generated and consummated within human rights instruments such as declarations, conventions and covenants. Human Rights Education, according to this understanding, focuses on transmitting the provisions in these instruments. The associated tendency is called declarationism. This term was first employed in a paper delivered at the World Conference on the Right to and Rights in Education, Netherlands, (25-30 November 2004).

in their search for alternative formulations of HRE. This search is closely linked with the conceptual shortcomings that plague HRE at present (see Sharma, 1996: 46; Misgeld and Magendzo, 1997: 151; Fong Yuk Yee, 2001: 65-87).

Second, the literature review uncovers a number of fundamental concerns relating to HRE and to the models and approaches currently employed within the HRE field. These models and approaches display the inherited conceptual unconsciousness of HRE in the absence of a concept analysis that is integrated with conceptual historical research and conceptual cartography that should have provided the basis for educational theoretical engagement within the HRE field. This state of affairs adds to what Andreopoulos (1997:10) calls the “*poverty of our conceptual tools*”.

Education theory and practice have long been grappling with human rights related issues such as racism, intolerance, culture, gender and inequalities in an *inorganic* link with the HRE discourse. Likewise, HRE has recreated long-standing pedagogical challenges such as multicultural education through human rights instruments and provisions in a *sterile* association with educational thinking. The net result of this inorganic and sterile association between HRE and educational theory is an educational practice that treats HRE as a declarationist ‘add-on’ and a conceptual educational framework that struggles to comprehend the embeddedness and ontological nature of human rights within education. This study deals with these conceptual challenges.

Third, HRE tends to be directed entirely at rights as legal articulations and mechanical representations of the substance of HRE. Accordingly, HRE often portrays human rights articulations as unproblematic and beyond contestation. It is questionable whether this approach can be regarded as educational because it certainly exhibits, as do many other educational forms, anti-educational potential. This study develops a concept analysis that is integrated with conceptual historical research and conceptual cartography that will highlight these pitfalls and suggest alternative configurations.

Fourth, apart from challenging discrimination, abuse, intolerance and developing peace and democracy, HRE is also expected to contribute to poverty alleviation and reduction and the advancement of socio-economic rights¹⁰. This points, as is the case in South Africa, to the conviction that HRE should essentially be perceived as a critical social justice instrument. In addition, an analysis of HRE developments in South Africa and elsewhere indicates that despite the ‘moral and legal’ legitimacy and the exponential progress with regard to its practices and implementation, the influence and impact of HRE and related programmes have been limited. In the literature review a number of studies are cited which verify the need to review the models and approaches of HRE as a means to develop appropriate pedagogies and instructional frameworks that may shape HRE as a form responsive to the requirements of critical thinking and critical social justice. This study questions whether the analytical foundations of HRE and its concomitant practices facilitate such an interpretation of HRE.

Fifth, the present deterministic conception of HRE posits that HRE sources its legitimacy from human rights standards and universals. However, contemporary theoretical, economic, cultural and political debates and global developments that are reflected in the worldwide scepticism towards human rights universals and the re-emergence of social movements, present a substantive critique of the mainstream human rights discourse. In consequence, HRE itself is questioned as an uncritical conduit of human rights universals. The conceptual analysis within this study will construct a theoretical grounding for HRE in an anti-deterministic relationship with human rights universals in order to advance its critical pedagogical potential and to develop a sound pedagogical response to the legitimate criticisms that are levelled against the mainstream human rights discourse. This critical distance between HRE and the international human rights normative framework is of pedagogical necessity.

¹⁰ The Office of the High Commissioner for Human Rights published a conceptual framework for *Human Rights and Poverty Reduction* in 2004 which implicitly refers to the role of HRE.

1.4 Structure of the Thesis

As a concept analysis that is integrated with conceptual historical research and conceptual cartography, this study is non-empirical and deals with data that already exist. It therefore does not follow the conventional structure of empirical studies but is instead organised in such a way that facilitates a logical progression of a concept analysis and conceptual historical analysis. The methodological tools of concept analysis and conceptual historical research are thus employed throughout.

Concepts have histories and conceptual homes that contribute to their definitional structures and as such, a concept can theoretically have an infinite number of meanings. However, in their deployment, a number of meaning-assumptions are attached to concepts that signify their central attributes and essential meaning for them to become meaningful and intelligible. The logical domain covered by the concept and its essential meaning shift as different conceptual frameworks are employed. Thus this study provides a comprehensive conceptual cartography of HRE in chapters 4 and 5 that represents a meaning-making map with various options for looking at the central attributes and essential meaning of HRE. It acknowledges that concepts, despite their essential meaning-structure, are viewed and employed in dissimilar ways depending on the conceptual framework or frameworks that are utilized at any given time. In essence there is an interplay and mediation between the essential meaning of a concept and the conceptual framework within which it is deployed. Of necessity this study offers both an essential meaning and a conceptual cartography of HRE through concept and conceptual historical analysis. Conceptual cartography is therefore both an analytical tool and an outcome of the research.

Concept analysis and conceptual cartography are central to this study and offer a reinterpretation of paradigms and discourses in relation to the framing of human rights and HRE. They also present a variety of contemporary conceptual insights into the human rights discourse and HRE and thus span a treatise on positivism, interpretivism, critical theory, post-modernism, legal philosophy, the declarationist narrative, the

political discourse and the social justice discourse. These discourses consequently become the lenses through which the essential meaning of HRE is moderated and mediated. They are indispensable for a concept and conceptual historical analysis of HRE to avoid being ahistorical and de-contextualised and to steer clear of the shortcomings of the Wilsonian methods of concept analysis such as lack of adequate data, lack of depth in analysis and the absence of abstractness (Morse, *et al*, 1997: 92). New insights around HRE will be developed by deducing the meaning-making implications of these discourses for HRE to make better sense of why HRE is structured in the way that it is and what and why HRE practitioners are doing what they do. It will highlight the conceptual assumptions that gave rise to the variety of understandings and approaches to HRE. Integrating concept analysis with conceptual historical research and conceptual cartography is a methodological innovation of this study. It draws on work done in the nursing sciences in order to conduct a critical concept and conceptual historical analysis of HRE that situate the concept on a multitude of reference points through a conceptual cartography.


As a means to enhance its logical coherence and internal validity, this study is structured into seven chapters.

- Chapter 1 provides a general orientation to the study.
- Chapter 2 develops an innovative research design and methodology.
- Chapter 3 analyses the historical conceptual development of HRE.
- Chapters 4 and 5 build, construct and analyse the conceptual cartography of HRE.
- Chapter 6 extracts and analyses the definitional issues and typological considerations in relation to HRE.
- Chapter 7 develops alternative, creative and critical conceptual possibilities for HRE; argues for a preferred conceptual framework for HRE; makes concluding remarks; and elucidates the implications of the study with recommendations.

The table below depicts the logical flow of the study and the systematic and sequential development of insights into the concept of HRE. The literature review is considered as

intrinsic to a concept analysis that is integrated with conceptual historical research and conceptual cartography. The essential meaning and attributes of a concept can be delineated but the concept will eventually only be wholly intelligible by the space it occupies on a conceptual map at any given time. This intelligibility may shift and this shift can only be explained and traced by delineating the essential meaning and attributes of the concept in question.

Table 1: Structure of Thesis

<i>Chapter</i>	<i>Substance/ Method</i>	<i>Logical Progression</i>	
1. General Orientation	Description, purpose and rationale of study. The literature review is used to substantiate claims.	This chapter argues for the importance of the study and the methodological choices. HRE has proliferated over the past 15 years with profound implications for education systems worldwide. However the literature shows that HRE is uncritical, ineffectual and sometimes anti-educational. I argue that this is a result of conceptual muddle and thus seek to develop conceptual clarity through concept and conceptual historical analyses.	 <p><i>Meaning elucidation</i></p>
2. Research design and methodology	Presentation of concept and conceptual historical analyses as appropriate and innovative methodological choices for this study	This chapter posits that concept analysis, conceptual historical research and conceptual cartography are the most appropriate methodological tools to respond to the research questions. It also provides a sound basis for the internal coherence of the study.	
3. A concept and conceptual historical analysis of HRE	Conceptual historical analysis of HRE / Descriptive, comparative and interpretive analysis	This chapter paths the trajectory of the study by analysing the roots and conceptual development of HRE. It identifies and explains shifts in meaning and places them within the context of historical developments. It shows the various interests and influences on the concept of HRE.	
4 and 5. A conceptual cartography of HRE	Analysis of conceptual frameworks and their influences on the meaning of HRE/ Descriptive, comparative and interpretive analysis	Conceptual cartography is used as a representational strategy to analyse the various conceptual lenses as meaning-making devices through which HRE may be viewed.	
6. Definitional issues and typological considerations	Extraction and analysis of definitional issues and typological considerations in relation to HRE	The knowledge generated by the conceptual historical analysis and the conceptual cartography of HRE, provides the basis for developing and discussing the definitional structure and typology of HRE.	
7. Alternative conceptual possibilities, further implications and conclusion	Summation and assessment of conceptual alternatives	Development of alternative, creative and critical conceptual possibilities for HRE; argues for a preferred conceptual framework for HRE; makes concluding remarks; and elucidate the implications of the study with recommendations.	

CHAPTER 2

RESEARCH DESIGN AND METHODOLOGY

2.1 Introduction

An integrated framework of concept analysis, conceptual historical research and conceptual cartography constitutes the basis of the research design and methodology of this study. Concept analysis has principally been employed in the nursing sciences (Walker and Avant, 1995; Bear and Moody, 1990; Rodgers, 1993; Morse *et.al*, 1997; and Morse, 2004) as a methodological option for analysing concepts that are integral to the practice of nursing such as pain, sorrow, belonging, and so on. The traditional application of concept analysis in the nursing sciences, which was derived from Wilson (Morse *et al*, 1997: 24) in 1963 and 1969, has been widely criticized (see Morse *et al*, 1997) because the methods lack “comprehensiveness, explanatory power, and are superficial”. To overcome these weaknesses this study combines the Wilsonian derivatives of concept analysis with the critical concept analysis of Morse *et al* and integrates these with the broader framework of conceptual historical research (Leedy, 1997) and the useful insights and analytical options of conceptual cartography (Paulston and Liebman, 1993). Thus, the concept analysis of the nursing sciences, though useful, is not a sufficient analytical tool for exploring the concept of HRE. “Probing the growth of thoughts ... and ideas” (Leedy, 1997: 182) such as HRE requires the broadened framework of conceptual historical research and conceptual cartography.

The research design of this study can broadly be described as non-empirical (Mouton; 2001: 175), unobtrusive (Babbie and Mouton; 2001: 373), qualitative (McMillan and Schumacher (1997: 32) and analytical (*ibid*: 43). It is non-empirical because it relies on existing or secondary data of a textual nature. It is also unobtrusive since there is no interaction with research subjects. Further, it is qualitative since its methodology is that of concept and historical conceptual analyses. Finally, it is analytical given that concept and conceptual historical research and conceptual cartography require a critical and reflexive analysis of various kinds of textual and other data.

The terms “concept and conceptual analyses” are used interchangeably in the literature on research methodology. Mouton (2001: 175) describes conceptual analysis as an “analysis of the meaning of words or concepts through clarification and elaboration of the different dimensions of meaning”. McMillan and Schumacher (1997: 34 and 472) use the terms concept and conceptual analysis to mean a “study that clarifies the meaning of a concept by describing the essential or generic meaning, the different meanings, and the appropriate usage for the concept”. In the nursing sciences (Walker and Avant; 1995: 37) concept analysis focuses on defining the attributes of a concept. McMillan and Schumacher’s (1997: 463) classification of analytical research is of immense value since it clusters concept analysis with an analysis of educational historical events and developments and educational law. More so Leedy’s (1997: 182) notion of *conceptual historical research* allows the research design to straddle various types of analysis coherently though the focus is on *concept analysis, conceptual historical research and conceptual cartography*.

2.2 Analytical Research

This study will primarily employ a *qualitative* style of inquiry that falls within the broad category of *analytical research*. The nature of the research problem and questions and the objectives of the study lend themselves to *analytical research and specifically to concept analysis, conceptual historical analysis and conceptual cartography* with an unavoidable element of historical, descriptive, comparative and interpretive analysis and literature review. McMillan and Schumacher (1997: 464) observe the following about analytical research:

*One way to understand current educational practices is to know how these practices developed and to clarify the issues concerning them. How often have educators and non-educators made statements or justified decisions on the basis of what they assumed happened in the past? Explanations of past educational ideas or **concepts** [my emphasis], events, legal principles and policies suggest insights about current educational events and anticipate new educational issues and policies.*

Closely linked to analytical research is the framework of historical and descriptive research which includes, according to Charles (1988: 83) “any situation or conditions about whose status we want to know more about” and in the views of Cohen *et.al* (2000: 159) it may “concern itself with an individual, a group, a movement, an idea or an institution”. Babbie and Mouton (2001: 399) refer to historical/ comparative analyses as unobtrusive research and observe that there is no end to the data available (*ibid*: 402) and further suggest (*ibid*: 403) that the “researcher must find patterns among the voluminous details describing the subject matter of the study”. Neuman (1997: 384) is of the opinion that:

Historical-comparative research can strengthen conceptualisation and theory building. By looking at historical events or diverse cultural contexts, a researcher can generate new concepts and broaden his or her perspectives. Concepts are less likely to be restricted to a historical time or to a single culture; they can be grounded in the experience of people living in specific cultural and historical contexts.

Analytical and conceptual research correlates to a high degree with historical-comparative research. Whilst Mouton (2001: 175) treats conceptual analysis independently, McMillan and Schumacher (1997: 463) identify three types of analytical research of which conceptual analysis is one. The three types are concept analysis, historical analysis and legal analysis. Mouton (2001: 175) is of the view that conceptual analysis “ makes conceptual categories clear, explicates theoretical linkages and reveals the conceptual implications of different viewpoints”. Likewise, McMillan and Schumacher (1997: 491) state that “analytical studies of educational topics, aid in the development of knowledge and the improvement of practices”.

It is clear that the boundaries between various forms of analysis are blurred and this study will essentially employ concept analysis, conceptual historical analysis and conceptual cartography. Further, historical, descriptive and comparative analysis will invariably be factors in the research application. This integration is underwritten by Leedy’s (1997: 182) understanding of “*conceptual historical research*” which brings various types of

analysis together with concept analysis. He (*ibid*) reminds us that “ideas and concepts have origins, growth, and development” and that “tracing the origin, development, and influence of ideas and concepts” is a “valid type of historical research that is exciting, challenging and refreshing”. This orientation captures the essence of the research design of this study with a high level of coherence and internal validity since a concept analysis, conceptual historical analysis and conceptual cartography of HRE will unavoidably trace and analyse the origins, development and shifting meanings of the concept.

2.3 Concept Analysis and Development

2.3.1 Definition

The nature and structure of concepts has been the focus of various strands of thought most notably that of analytic philosophy. Analysing concepts and statements represents the hub of activity in analytic philosophy and diverse views on analysis are generated within this philosophical tradition (Beany, 2000). Similarly, diverse views exist about the nature of concepts which is sometimes described as “mental formulations of experience” (Chinn and Kramer, 1995: 78); “words describing mental images of phenomena” (Fawcett, 1989: 2); and “linguistic representations, or symbols of reality” (Moody, 1990: 52). Rodgers (1993: 7-31) provides a useful overview of the philosophical debates about the nature of concepts and concludes that there is only a tentative answer to questions about the nature of concepts but there is consensus:

... that concepts are cognitive in nature and that they are comprised of attributes abstracted from reality, expressed in some form and utilized for some common purpose. Consequently, concepts are more than words or mental images alone. In addition, an emphasis on use alone is not sufficient to capture the complex nature of concepts (ibid: 30).

The above attempt at defining the nature of concepts is unavoidably tentative since considerable diversity exists around the matter. This diversity has research methodological implications that hinge on the nature of the problem to be researched; the philosophical orientation towards the nature of concepts; and the history of the concept

(*ibid*: 28-29). In this study the concept of HRE is also considered within the context of social, economic, political and cultural arrangements that shaped and continue to shape its meanings.

Concept development is an umbrella term that can house concept analysis, concept synthesis and concept derivation and is a research methodological tool widely employed in research within the nursing sciences (see Baldwin, 2003). Walker and Avant (1995:36) are of the view that “careful concept development is the basis of any attempt to describe or explain phenomena” and define concept analysis as “a strategy that allows us to examine the attributes or characteristics of a concept” (*ibid*:37).

Concepts contain within them the defining characteristics or attributes that permit us to decide which phenomena are good examples of the concept and which are not. Concepts are mental constructions; they are our attempts to order our environmental stimuli. Concepts therefore, represent categories of information that contain defining attributes. Concept analysis is a formal, linguistic exercise to determine those defining attributes. The analysis itself must be rigorous and precise but the end product is always tentative.

Rogers (1993: 7-30) explored the philosophical foundations of concept development and though she decries the lack of attention given to this method, she acknowledges the renewed interest in concept development. Her description of *entity theories of concepts*, weaving through the work of Descartes, Locke and Kant; and *dispositional theories of concepts*, is instructional in its caution that the:

... productive use of concept development techniques ... is dependent upon the investigator recognizing the assumptions that underlie the approach employed and the philosophical basis of all methodological decisions.

Based on her analysis of the philosophical foundations for concept analysis, she (*ibid*: 73) forwards ***an evolutionary view of concept analysis*** that can counter the essentialism so dominant in concept analysis. This evolutionary view describes concept analysis as:

... a method ...that is an inductive, descriptive means of inquiry used to clarify the current status of a concept by identifying a consensus, to examine the historical or evolutionary background of the concept, and to determine areas of agreement and disagreement in the use of the concept among diverse disciplines (Cowles and Rodgers, 1993: 94).

This is an attractive definition of concept development as evolutionary and grounded in philosophical orientations and historical traditions. It has resonance with what Chinn and Kramer (1995: 80) refer to as “creating conceptual meaning” where they explore concept analysis as a stage or element in developing theory. Schwartz-Barcott and Kim (1993:107) are of the opinion that the creation of conceptual meaning or concept analysis can only proceed through a hybrid model of concept development that calls on three bodies of literature, namely philosophy of science; sociology of theory construction; and participant observation. Though useful, their three-phase model of theory, fieldwork and analysis are dominated by the “one-case-study-syndrome” apart from the fact that their theoretical phase also relies on the positivist notions of Hempel and Nagel (*ibid*: 108).

The work of Walker and Avant, Schwartz-Barcott, Kim Rogers and Chinn and Kramer are all labelled as “Wilson-Derived Methods” (Hupcey *et al*, 1997: 15-17) and though it is a worthwhile methodological tool it is also criticized for its adherence to a “positivist conception of objective truth” (McCormack *et al*, 2002: 95). They do however provide instructional direction, clear phased procedures and at least some level of conceptual grounding. On the basis of the limitations of the Wilsonian methods, Morse *et al* (1997: 75) describes concept analysis as a:

... process of inquiry that explores concepts for their level of development or maturity as revealed by their internal structure, use, representativeness, and/or relations to other concepts. Concept analysis entails an assessment process using various techniques to explore the description of a concept in the literature or to develop a concept from observational and/or interview data. Thus, concept analysis is a term referring to the process of unfolding, exploring, and understanding concepts for the purposes of concept development, delineation, comparison, clarification, correction, identification, refinement and validation.

This definition is congruent with the purpose of this study since the concept of HRE can only be grasped in relation to its own internal structure and its relation to other concepts. These relations are best explored through literature reviews and historical, comparative, descriptive and interpretive analysis as these research strategies allow for a high level of internal consistency within concept analysis, conceptual historical analysis and conceptual cartography as research strategies.

2.3.2 Purpose and Value

The value of concept analysis for knowledge generation lies in the need to capture and label abstract ideas and practices in ways that meanings are delineated. McCormack *et al* (2002:95-96) is of the view that:

... concept analysis entails an assessment process using various techniques to explore the description of a concept in the literature from observation/ interview data ... to move the concept towards maturity.

Mature concepts are of crucial importance for theoretical and practical endeavours and concept analysis is thus critical in providing the impetus for the maturation of concepts. This view on concept analysis is aligned with the purpose of this study since the different conceptual meanings of HRE have largely remained unexplored, both in terms of conceptual intelligibility and conceptual historical experiences. It is a “young” concept in many parts of the world and its meanings are profoundly diversified across conceptual, historical, economical, political, social and cultural faultlines. Stated differently, as a ‘young’ concept HRE has not been subjected to conceptual analysis as a way to analyse its different meanings in relation to conceptual cartography.

For Rodgers and Knafl (1993: 2) concepts are important in the “*development of knowledge*” and central to the quest for knowledge since concepts are the “building blocks from which theories are constructed”. However, it is apparent to them that concept development is “pursued too infrequently” (*ibid*: 5). Similarly, Chinn and Kramer (1995: 78) view “creating conceptual meaning” as a “foundation for developing theory” whilst

Bear and Moody (1990: 156) confirm that concept analysis “aids in promoting understanding about the events, objects or phenomenon to be studied”. Walker and Avant (1995: 93) articulate the value of concept analysis as refining ambiguous concepts; developing construct-validity and contributing to theory construction. Morse *et al* (1997: 76) capture the purpose of concept analysis as follows:

(a) to identify gaps in ...knowledge; (b) to determine the need to refine or clarify a concept ... (c) to evaluate the adequacy of competing concepts in their relations to phenomena; (d) to examine the congruence between the definition of the concept and the way it has been operationalized; or (e) to ascertain the fit between the definition of the concept and its ...application.

The essential purpose of concept analysis in this study is ***to examine the attributes of the concept of HRE; to engage with and analyse the different conceptual meanings of HRE; to examine the changing meanings of HRE over time; and analyse the factors that give rise to these changing meanings.*** This is done to explore alternative conceptual possibilities for HRE that can counter its anti-educational potential and unlock the potentialities inherent in its pedagogical promise.

However, acknowledging the limitations of concept analysis within the nursing sciences necessitates the broader application of concept analysis, conceptual historical analysis and conceptual cartography for the purposes of this study. Exploring the historical development of the concept of HRE and uncovering the multiplicity of spaces it may occupy on a conceptual map, provides this study with an innovative methodological tool that can cartographically present the shifting meanings of HRE and its implications for educational practice (see research question, section 1.2).

2.3.3 Research Strategy and Techniques

A number of techniques and approaches can be fathomed from the literature. Wilson’s (1963; 1969) work provides us with 11 techniques and 7 steps for concept analysis whilst Walker and Avant (1995) propose an 8-step framework based on the work of Wilson.

Bear and Moody (1990:157-160), faithful to Wilsonian concept analysis, identify 7 steps in concept analysis:

(1) selecting the concept; (2) identifying the aims or purpose of the analysis; (3) analysing the concept's range of meanings; (4) determining the critical attributes; (5) constructing a paradigm case; (6) constructing additional cases; and (7) identifying antecedents and consequences.

The *selection of the concept* is determined by the interest of the researcher (Walker and Avant; 1995: 40; Bear and Moody: 1990; 159) but also the significance of the concept in relation to the field on inquiry. In this instance the concept of HRE is central to the interest of the researcher and the concept has developed a yet unexplained legitimacy and currency in educational circles over the past 15 years. Further, the various conceptual meanings attached to the concept have not yet been analysed.

The *aim and purpose* of the analysis is confined to (a) clarifying the various meanings of an existing concept, i.e. HRE; (b) developing an operational definition; (c) adding to existing theory; and (d) contributing to the development of a conceptual framework for HRE. An *analysis of the range of meanings of the concept of HRE* will explore the wealth of literature on the topic through an in-depth *literature review*. This literature review will extend to *determining the critical attributes* of the concept of HRE whilst the development of a *paradigm case and additional cases* will be extrapolated from the literature. *The antecedents and consequences* of the concept of HRE will be framed against those developments and conditions that have had a profound impact on the conceptual trajectory of HRE.

The various models for concept analysis that refer to the different stages of the process are usefully summarised by Baldwin (2003: 34) in the table below which also reflect the slight deviations amongst the most influential authors on the subject.

Table 2: The stages for concept analysis (Source: Baldwin, M.A: 2003)

Stages for concept analysis	Authors
Identify the concept of interest	Walker and Avant (1983) Rodgers (1994) (implied by Wilson 1971)
Determine the aims or purpose of the analysis	Walker and Avant (1983) Rodgers (1993)
Identify and select an appropriate realm or sample for data collection	Rodgers (1983, 1994)
Identify attributes, antecedents and consequences of the concept	Walker and Avant (1983) Rodgers (1989, 1993) Morse (1995) concept development
Identify a model case of the concept, if appropriate	Wilson (1971) Rodgers (1994)
Identify implications for further development of the concept	Rodgers (1993)

The methodology of this study is not confined to the 7-phase process of Bear and Moody or the 8-stage design of Walker and Avant. Though extremely useful as starting points, these designs are eclipsed by the strategies of Morse *et al* (1997: 73-93) for concept analysis. These strategies stress critical analysis of the literature and highlight useful quantitative and qualitative methods for concept analysis. Of immense value is their notion that the level of maturity of a concept determines the approach to concept analysis. An immature concept is a concept that is ill defined, with information about the concept being severely limited, pointing to the need for qualitative methods of concept analysis. This is not the case with HRE since a wealth of information is available on the subject. On the other hand, a mature concept is well defined and quantitative methods are “appropriate to fine-tune the concept” (*ibid*: 88). This also is not the case for HRE since the various possible conceptual frameworks have not been explored. Thus HRE is a concept that falls between the categories of immature and mature concepts.

Such concepts may appear to be well established and described, although some degree of conceptual confusion continues to exist, with several

concepts competing to describe the same phenomenon. In such cases, it may not be necessary to collect data, but only to critically analyze the literature to further develop the concept (ibid: 88).

These observations are extremely useful since the concept of HRE fits the articulation in the above passage. First, HRE appears to be a well-established concept but the different meanings remain unanalysed which in turn results in unexplained conceptual inconsistencies. Second, a number of concepts and labels such as democracy education, civic education, democracy education and citizenship education are used interchangeably to describe related phenomena¹¹. Third, there is a need to ***critically analyse existing data and literature*** to develop the conceptual cartography of HRE. An example of this is the study of the *meaning of “context”* of McCormack *et al* (2002: 96) that employs literature analysis in a two-phased process. First, an analysis of “seminal texts”; and second an analysis of a “broad range of literature”. But as Morse *et al* (1997: 90) would suggest, indicators for data sources, including literature, do not only provide direction in sourcing data, but also point to the types of concept analysis to be employed (see table 3 below).

¹¹ Chapter 6 provides a comprehensive typology of HRE and associated formations.

Table 3: Indicators for Data Sources, and Type of Concept Analysis Inquiry (Source: Morse et al: 1997)

Indicators	Type of Concept Analysis Research
Multiple indices, borderline concepts exist, yet no concept accurately accounts for describing a phenomenon.	Concept identification
A concept is immature, in that, while defined, the definitions may be inadequate. Descriptive information is missing regarding the characteristics, antecedents or consequences.	Concept development
Two concepts appear almost uniformly linked together, as if they were a part of the same experience.	Concept delineation
The area of inquiry is undeveloped and numerous concepts exist to explain the phenomenon and provide competing explanations.	Concept comparison
The concept appears “mature,” and there is a large body of literature that includes definitions and rich descriptions, such as clinical exemplars and quantitative instruments, but the concept is measured using various variables and is applied in different ways in research.	Concept clarification
The concept appears well-developed and defined consistently, but the application to practice appears inappropriate or appears inaccurate.	Concept correction
The concept appears well developed, its dimensions and boundaries and potential indicators have been identified. The validity of the conceptualisation across populations and contexts has not been determined.	Concept refinement/ measurement

On the basis of the preliminary literature review this study seems to be attracted to *concept comparison; concept clarification; concept correction; and concept refinement* as discussed in the table above. This study also meets the requirements of Morse *et al* (1997: 90-92) for concept analysis. These requirements can be summarised as the need for an adequate database; the importance of depth analysis; and the contribution of concept analysis to knowledge generation. First, the demand for an adequate database is easily met because of the availability of vast literature sources and the fact that a search on the Internet will consistently yield more than 1 000 000 results with HRE as the keyword. Second, the wide range of literature sources and rigorous investigation will cover the requirement of depth analysis. Third, this study will contribute to knowledge

generation since it is aimed at engaging an array of possible meanings relating to the concept of HRE. This concept enjoys high levels of commonsense currency and acceptance and is widely employed in different contexts.

Morse *et al* (1997: 92) recommend the discontinuation of using the Wilsonian methods of concept analysis because of its lack of adequate data; lack of depth in analysis; lack of reasoning; etc. Though this study will employ the Morse *et al* design of concept analysis it will also use Wilsonian categories. This does not constitute a contradiction or low levels of coherence in the research design. Rather, it contributes to the rigour of the study by employing the clinical categories of Wilsonian approaches and at the same time avoids the shortcomings mentioned above. In any event, by applying the Morse *et al* (1997: 91) criteria for evaluating the rigour of concept analysis as presented in table 4 below, this study will steer clear of the weaknesses of Wilsonian methods.

Table 4: Criteria for Evaluating the Rigor of Concept Analysis (Source: Morse, et al: 1997)

Criteria	Standards	
	Unacceptable	Acceptable
1. Extensiveness of the data base	Thin and scant Recollected data Abbreviated case studies Confabulated examples	Rich and complete Loads of literature Full description Oodles of observations Widely sampled examples
2. Depth of analysis	Absent Trivial, insignificant Lacks depth	Intellectual rigour Logical Creative and original
3. Development of argument	Obfuscation Lacks reasoning	Logical Clarity
4. Validity	Lacks specificity to concept	Delineates inclusion/ exclusion criteria
5. Level of abstractness	Context/ situational bound	Encompasses all forms and situations of the concept
6. Contribution to knowledge	Findings are obvious Research does not contribute to the literature	Finding make intuitive sense Provides new insights and new perspectives into the phenomenon Empirical questions identifiable Facilitates inquiry

Further, and as an additional mechanism to contribute to the rigour of the study, it will include other analytical strategies with concept and conceptual historical analysis as methodological tools that are appropriate to deal with data that already exist. As mentioned earlier, Leedy's (1997: 182) observations about conceptual historical research pave the way to build a coherent research design and methodology with concept and conceptual analysis as its axis and historical-comparative, descriptive and interpretive analysis as contributing strategies. In fact, Leedy's interpretation points to the necessity of combining these strategies to address the concerns raised by Morse *et al.*

2.4 Literature Review/ Conceptual Historical Analysis

In-depth literature review is intrinsic to concept analysis (Morse *et al*, 1997: 88) more so in the case of this study that deals with a concept that has displayed a variety of contending meanings on which the literature is almost infinite. For Morse *et al* (*ibid*: 26) a *critical analysis of the literature* can represent the entire approach to concept analysis. Unlike empirical research, this study will almost wholly rely on literature reviews as it weaves through the sources on the origins, development and meanings of HRE. Using conceptual historical analysis in relation to concept analysis, this study underwrites Cohen and Manion's (1994: 44) reflection that literature reviews are constitutive of historical analysis.

McMillan and Schumacher (1997: 119) describe the literature review as a “critique of the status of knowledge of a carefully defined topic” and as a “narrative interpretive criticism of existing literature”. This study, with its focus on the concept of HRE, will essentially employ the literature review in aid of *concept analysis, conceptual historical analysis and conceptual cartography* through inductive reasoning (see Mouton, 2001: 179). For Mouton (*ibid*) a literature review can constitute a whole study “that provide (s) an overview of scholarship in a certain discipline through an analysis of trends and debates”.

Following this logic, a concept analysis, conceptual historical analysis and conceptual cartography of HRE will employ the literature review based on an understanding of HRE as a concept where the need for additional empirical evidence is obsolete (Morse *et al*, 1997: 88). But the literature review is essentially conceptual historical since it is focused on the conceptual origin and development of the concept of HRE. The massive literature on HRE provides the basis for this study and is captured in various documented formats. These formats include primary sources such as official conference and country reports, official publications of UN agencies, research reports and charters and law. It also includes other sources such as professional and academic texts, journal articles, reviews and research reports. Mindful of Mouton's (2001: 179) caution in relation to the

“representativeness” of sources, this study will focus on mainstream sources such as those derived from the United Nations machinery, articulations from the most respected authors on the subject matter, and a variety of additional sources. These include UN Human Rights Instruments, official UN documents, guidelines and recommendations of UN agencies, reports on UN conference proceedings, UN action plans, resolutions within the Inter-American, African, European and Asia-Pacific systems, reports of meetings of UN Treaty Bodies, civil society resolutions, UN country reports, UN development reports, non-state human rights reports, law and policy documents, human rights law reports, reports on conferences, manuals and training materials, professional books, specialized handbooks and yearbooks, journal articles, research reports, evaluation reports and previous and ongoing studies on HRE.

This study is bed-rocked by the literature review because not only does the literature review provide the sources and strategies through which the trajectory and genealogy of HRE can be traced, it is also crucial to the conceptual analysis itself. The literature review thus has two purposes. One, it scans the field as a precursor to define and refine the research problem, research design and methodology. Two, it is constitutive of the research design and process itself as an in-depth and continuous process in “that it provides the (actual) data for research” (Cohen *et al*, 2000: 62). In addition it provides the evidence and rationale for the periodization, labelling, description and analysis of HRE and events related to it.

2.5 Descriptive, Comparative and Interpretive Analysis

Descriptive, comparative and interpretive analysis will be used to determine the reasons that gave rise to the mutations and variations of HRE; its link with associated educational forms; its definitional and conceptual contestations; and its origins and development. In this sense the *purposeful sampling* method seems to be most appropriate since examples of sources will be chosen that exhibit the possibilities of describing the meanings attached to HRE. Within conceptual analysis this study uses three distinct strategies identified by McMillan and Schumacher (1997: 472-473) which closely resemble the

process of concept analysis that is used in the nursing sciences as described earlier in this chapter:

- a. *Generic analysis*: to identify the essential meaning of HRE that distinguishes it from other concepts.
- b. *Differential analysis*: to provide a clearer idea of the logical domain covered by HRE.
- c. *Conditions analysis*: to identify the necessary conditions for the proper use and application of the concept of HRE.

(Adapted from McMillan and Schumacher, 1997: 472-473)

Sowell (2001: 160-161) identified three additional types of analyses that may be regarded as sub-categories of historical conceptual analysis:

- a) The *descriptive analysis*, which essentially in this study, will illustrate the various configurations of the concept of HRE and its associated models and approaches as a particular educational event.
- b) The *comparative analysis* will be used to compare HRE with other related educational configurations.
- c) Through *interpretative analysis*, this study will endeavour to articulate the concept of HRE as an educational phenomenon that is related to other events such as the proliferation of international human rights standards and shifts in political and socio-economic arrangements. An investigation into the models and approaches of HRE in relation to these events will also be conducted.

(Adapted from Sowell, 2001: 160-161)

Though all three of the above types of analysis will be employed, interpretive analysis will be infused in the whole study. Interpretation is evidently “a defining element of all qualitative research” (Hatch, 2002: 178) and interpretive analysis will be employed in all the phases and processes of the study with the aim of “making inferences, developing

insights, attaching significance, refining understandings, drawing conclusions, and extrapolating lessons” (*ibid*: 178).

2.6 Conceptual Cartography

Conceptual cartographies are both analytical tools and products of analyses. The instructional argument here is that a concept analysis and conceptual historical analysis of HRE should be enriched and juxtaposed with a conceptual cartography since the meaning of the concept takes on different shapes as it is deployed within various conceptual frameworks. Conceptual historical analysis is thus intertwined with conceptual cartography since the historical construction of a concept is constantly configured and re-configured within the innumerable theoretical temperaments of conceptual orientations.

Based on Paulston’s (Paulston and Liebman, 1993) notion of postmodern mapping, this study employs the construct of conceptual cartography because of its principle of conceptual inclusivity. Paulston (*ibid*: 13-14) presents us with a ‘postmodern’ map that situates “paradigms and theories on the spatial surface of paper”.

This heuristic map identifies intellectual communities and relationships, illustrates domains, suggests a field of interactive ideas, and opens space to all propositions and ways of seeing the social milieu. What appears as open space within the global representation is space that can be claimed by intellectual communities whose discourse is not yet represented on the map.

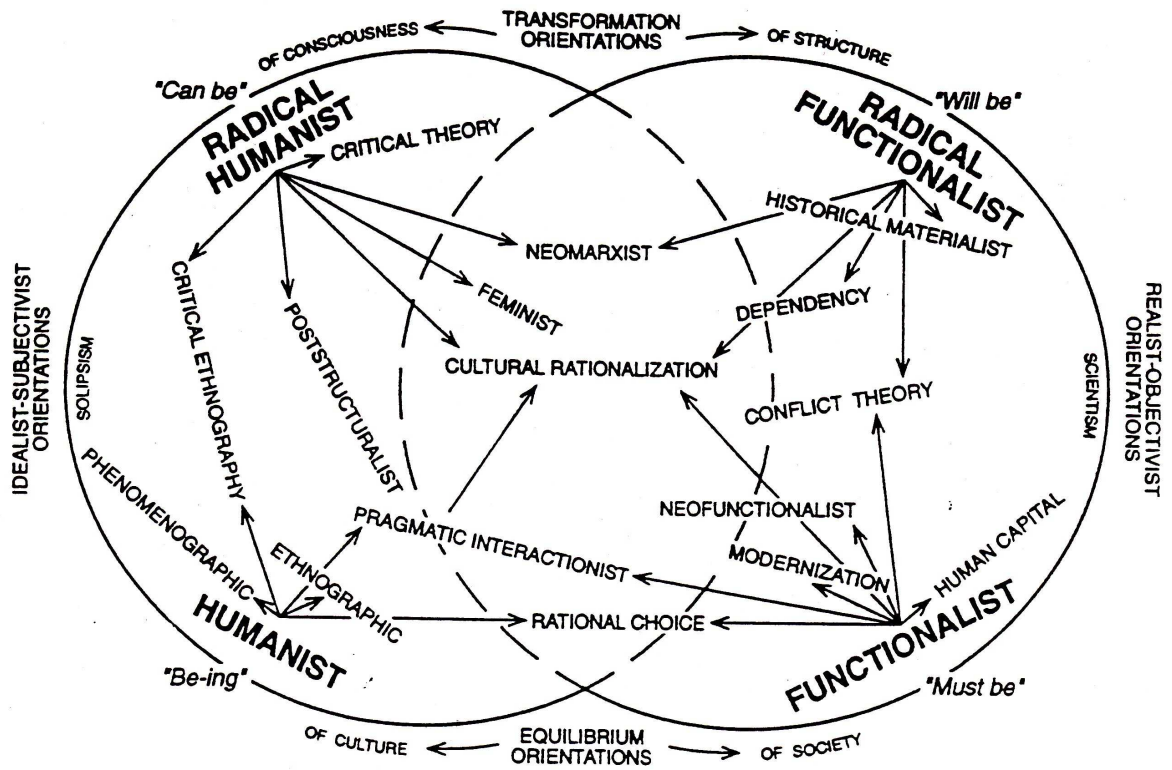
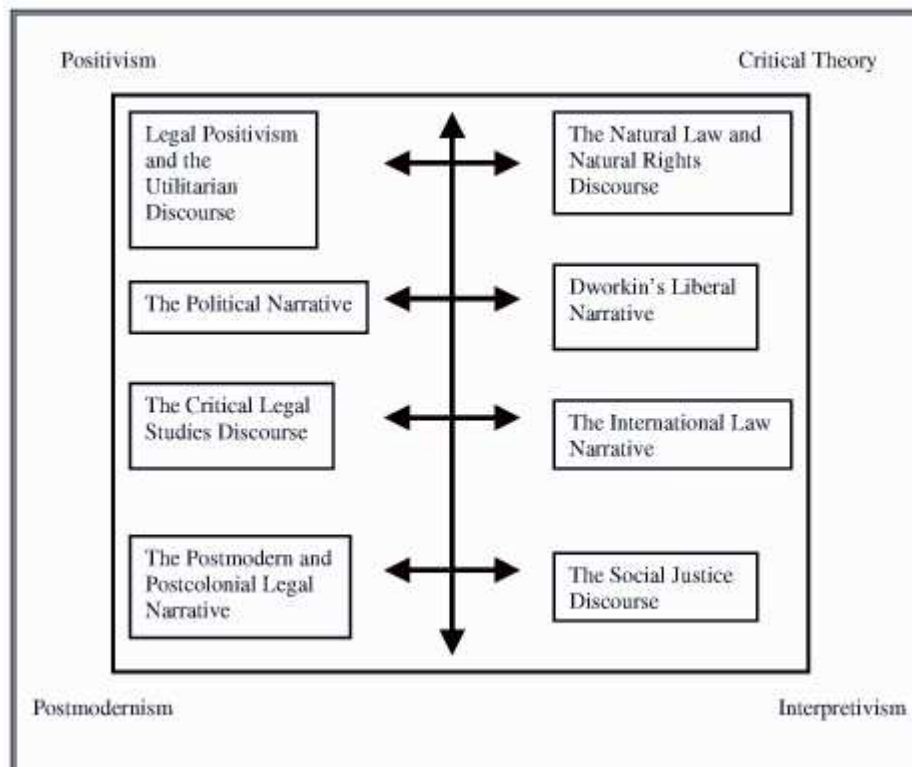


Figure 1: Postmodern Mapping: (Source: Paulston in Paulston and Liebman, 1993)

The social framework and space presented in the heuristic map in figure 1 is inclusive of mini- and meta-narratives. The appropriateness of such a map for this discussion resides in the many spaces and possibilities that are opened up through the map and also the infinite number of relations that are assumed within the spatiality of the map. This study employs a slightly different terminology to the one in use on the map. Thus, the grand paradigms or meta-narratives such as positivism, interpretivism and critical theory are represented by the overarching orientations of either “functionalist, radical functionalist, humanist and radical humanist”. In addition a number of ‘other’ spaces are occupied by different kinds of narratives. Of particular importance in this social mapping is the principle that no narrative may hide the meanings intrinsic to other narratives. Thus, though the meanings of human rights and HRE are certainly informed by these meta-narratives, they do not necessarily provide the ultimate meaning frameworks for human rights and HRE.

Flowing from this map, Chapter 4 assesses the influences of positivism, interpretivism, critical theory and postmodernism on the meaning of HRE. Chapter 5 provides for enhanced conceptual inclusivity by presenting several self-articulated discourses and narratives (see figure 2) and exploring their impact on meaning-making in relation to HRE.

Figure 2: Narratives and Discourses that frame the Conceptual Meanings of HRE



Despite this enhanced conceptual inclusivity, there are conceptual frames that might not have been considered; there are others that are yet to be ‘uncovered’; and there is scope for further developments. The essence of this part of the study is twofold. First, conceptual frameworks have profound influences on meaning-making processes and no conceptual meaning is possible outside of historical and conceptual frameworks. Second, contrary to conventional, insular ways of seeing paradigms, the boundaries between conceptual frameworks are not fixed but fluid and various forms of relationships are possible between different conceptual frameworks.

2.7 Research Process

The previous sections provided a rationale for combining concept analysis with conceptual historical analysis and conceptual cartography. This allows the research design to substantively articulate with the research questions and the coherent and logical application of concept analysis, conceptual historical analysis and conceptual cartography. This understanding is the requisite basis on which the research process and research design are modeled as depicted in the table below.

Table 5: Research Process and Design

	Research Design	Strategy	Purpose
1.	Conceptual Historical Analysis/ Conceptual Cartography	<ul style="list-style-type: none"> • Descriptive Analysis • Comparative Analysis • Interpretive Analysis 	<ul style="list-style-type: none"> • To trace the origins and development of the concept of HRE • Establishing the links between the concept and other developments • Interpret the development of the concept in relation to changing political and economic arrangements over time • Identify shifts in the nature and meaning of the concept • Explore the concept against the background of meta-theoretical positions; diverse conceptions of social reality; and different discourses on human rights
2.	Concept Analysis	<ul style="list-style-type: none"> • Concept comparison • Concept clarification • Concept correction • Concept refinement <hr/> <ul style="list-style-type: none"> • Generic Analysis • Differential Analysis • Conditions Analysis 	<ul style="list-style-type: none"> • Identify attributes, antecedents and consequences of concept of HRE • Identify the essential meaning of HRE that distinguishes it from other concepts • Provide a clearer idea of the logical domain covered by HRE • Identify the necessary conditions for the proper use and application of the concept of HRE
3.	Conceptual Development	Synthesis of strategies in phase 1 and 2	<ul style="list-style-type: none"> • Highlight implications of concept of HRE for educational practice • Explore how the diverse concept meanings frame educational practice • Situate and develop the concept of HRE within broader pedagogical frameworks

2.7.1 Wilsonian Concept Analysis

The Wilsonian concept analyses of HRE draw on three widely used, distinct but related models that were developed by Walker and Avant (1995), Rogers (1993) and Bear and Moody (1990). The table below is reproduced from section 2.3.3 and adapted to include the model of Bear and Moody and to exclude that of Morse *et al.* The major weakness of the original table from Baldwin (2003: 34) is the way in which the linearity of the Wilsonian method, as represented by Walker and Avant, is superimposed on the evolutionary cycle of Rodgers' method of concept analysis. Further, the table erroneously fixed the Morse *et al* model into a linear structure that is contradictory to their model of concept analysis. The table also omitted the work of Bear and Moody (1990) whose model would have fitted perfectly into the linearity of the Wilsonian method. However, earlier it was argued that this study would employ both the Wilsonian methods of Walker and Avant and Bear and Moody, the evolutionary method of Rogers and the critical method of Morse *et al.*

Table 6: Stages for Concept Analysis (adopted from Baldwin, 2003).

Stages for concept analysis	Authors
Identify the concept of interest	Walker and Avant (1983) Rodgers (1994) (implied by Wilson 1971) <i>Bear and Moody (selecting a concept)</i>
Determine the aims or purpose of the analysis	Walker and Avant(1983) Rodgers (1993) <i>Bear and Moody</i>
Identify and select an appropriate realm or sample for data collection	Rodgers (1983, 1994)
Identify attributes, antecedents and consequences of the concept	Walker and Avant (1983) Rodgers (1989, 1993) <i>Bear and Moody: Analyzing the concept's range of meanings/ Determining the critical attributes/ identifying antecedents and consequences</i>
Identify a model case of the concept, if appropriate	Wilson (1971) Rodgers (1994) <i>Bear and Moody: Constructing a paradigm case/ constructing additional cases</i>
Identify implications for further development of the concept	Rodgers (1993)

2.7.1.1 Identify the concept of interest

The concept of HRE has been identified in the research design as the central focus of this study because it represents the topic of greatest interest to the researcher (Walker and Avant: 1995: 40). This concept drags its own terminology such as human rights, education, pedagogy, human rights violations, etc. along (Rogers, 1993: 78). The concept is also of sufficient significance in human, economic or theoretical terms (Bear and Moody, 1990: 159-160) since it has wide currency and potent moral and political force in the modern global world though its meaning is eclectic and inconsistent (*ibid*: 159). Rogers (1993: 78) also opined that an analysis of the meanings of associated concepts are important which in this case may include the following additional concepts or expressions:

Education for Democracy, Democracy Education, Civic Education, Citizenship Education, Political Education, Peace Education, International Education, Global Education, World Education, Moral Education, Environmental Education, Development Education, Multicultural Education and Anti-Racism Education

Developments around the concept of HRE as illuminated in Chapter 3 have however shown that HRE is presently most closely tied to Democracy Education and Citizenship Education within the notion of *education for democratic citizenship and human rights*.

2.7.1.2 Determine the aims or purpose of the analysis

The aims and purpose of the study are captured in the research question and objectives in section 1.2 and reiterated below. More importantly, the research question cannot be answered and the research objectives cannot be achieved by using the conventional concept analyses of the nursing sciences. Conceptual historical research and conceptual cartography are important research strategies of this study since the purpose of the study is to conduct a conceptual analysis of HRE.

2.7.1.3 Identify and select an appropriate realm or sample for data collection

This study is a literature-based analysis (Rogers, 1993: 78) that employs conceptual historical and concept analysis (see Chapters 3, 4 and 5). The setting thus spans a lengthy historical period and the sources are drawn from:

- The United Nations and its agencies
- Regional and national human rights regimes
- Non-governmental organisations
- The disciplines of education, law, philosophy, cultural studies and political philosophy.

2.7.1.4 Identify uses of the concepts

The uses of the concept of HRE and its definitional structure are explored in Chapters 3, 4 and 5. However, the study moves beyond the mechanical dictionary meanings of concepts on which conventional concept analysis relies (see Walker and Avant, 1995: 40 and Bear and Moody, 1990: 161). Using conceptual cartography as a methodological innovation, this study highlights the changeability in the meaning of HRE as the concept positionally fluctuates on a conceptual map.

Analysing the range of meanings of the concept is what Bear and Moody (*ibid*) prefer to name this phase. It requires extensive reading (see Chapters 3, 4 and 5) to probe the various uses and misuses of the concept. As demonstrated in chapters 3, 4 and 5, “related terms are discovered” and the meanings of “the concept within past and current contexts are explored and the semantic space of the concept is delimited” (*ibid*: 161-162). Rogers (1993: 83) suggests that data should be of such a representative nature to allow for the identification of “surrogate terms and related concepts” as is the case with this study.

Because concept analysis within the nursing sciences does not employ historical conceptual analysis and conceptual cartography, this study demonstrates that such methodological tools can be integrated into a research design and approach that has wider applicability in the educational sciences.

2.7.1.5 Identify attributes, antecedents and consequences of the concept

Walker and Avant (1995, 41) refer to the characteristics of a concept that appear over and over again as the defining attributes whilst Bear and Moody (1990: 162) prefer the notion of “critical attributes” to designate the “necessary and sufficient phenomena” related to the concept. Antecedents and consequences refer to “situations, events, or phenomena that precede and follow, respectively, an example of the concept” (Rogers, 1993: 83) (see also Walker and Avant, 1995: 45-46; Bear and Moody, 1990: 160-170). Bear and Moody

(1990: 164) also introduce the notions of “necessity, to omit superfluous information, and sufficiency, to avoid omission of pertinent attributes”.

Again, this study enriches concept analysis as a methodological tool with conceptual historical research and conceptual mapping. Though it is clear from the study that human rights universals are dominant in the construction of the defining attributes, antecedents and consequences of the concept of HRE, they are not represented as static characteristics but rather as oscillating and fluid meaning-making elements that take on different qualities depending on their location on a conceptual map and their position in historical space (see Chapters 3, 4 and 5). The covert and overt influences on the concept of HRE that are embedded within this conceptual map include philosophical and theoretical orientations as well as political, economic and cultural frameworks.

2.7.1.6 Identify a model case of the concept, if appropriate

A model case provides an example “of the concept that demonstrates clearly its attributes, antecedents, and consequences in a relevant context” (Rogers, 1993: 87). In this study a number of model cases of HRE are explored, especially those associated with the United Nations and its agencies such as the United Nations Educational, Scientific and Cultural Organisation (UNESCO). Other cases that have developed outside of this mainstream framework include those from NGOs and national state machineries (Candua, 2004). However, most of them emulate or try to emulate the HRE of UNESCO as, what Moody and Bear (1990: 164) would call, “the paradigm case”. Moody and Bear (*ibid*) also usefully refer to the notions of contrary cases, additional cases and related cases as analytical tools within concept analysis. These techniques are all deployed within this study.

2.7.1.7 Limitations of Wisonian Methods

The limited use and value associated with the linear and evolutionary approaches to concept analysis relate to its shallow treatment of the context of the concepts and its

inability to view concepts as fluid and floating meaning-making structures on a conceptual map. As discussed in section 2.3.3, Morse *et al* (1997: 92) recommend the discontinuation of using the Wilsonian methods of concept analysis because of its lack of adequate data; lack of depth in analysis; lack of reasoning; etc. Thus, there is a need for additional deployments such as historical conceptual analysis and conceptual cartography to facilitate an in-depth conceptual analysis of HRE.

2.7.2 Critical Concept Analysis of Human Rights Education

Morse *et al* (1997) and Morse (2004) provide a critical framework of concept analysis that is neither linear, such as those of Walker and Avant (1995) and Bear and Moody (1990), nor evolutionary such as that of Rogers (1993).

In line with the overall orientation of this study, Morse (2004: 2) is of the opinion that there are multiple ways “that concepts are used within a theoretical structure”.

Note that a concept may be used according to the original definition of the concept, that is, as a label; it may be subsumed as an internal attribute of a more abstract concept; or it may be explored for its role as a concept or as a component of theory. To add further confusion, the same concept label can be treated as a subtheory within a larger theory or as a theory itself. Thus the structure of the concept and its position in a theory vary depending on the context and the purpose of its use and how the researcher elects to conceptualize and use it.

Morse (*ibid*: 2) further argues that concepts may “be treated with varying degrees of abstraction”; “it may be analyzed as a single entity, as a concept, or analyzed within a cluster of allied concepts”; it may also “be viewed as statically in a single point in time or within a dynamic interaction system, modified over time”. Cowles and Rodgers (1993: 94), though working within the evolutionary framework, refer to the importance of examining the “historical or evolutionary background of the concept”¹². Morse *et al* (1997: 75) emphasize the “internal structure” of a concept; its “relationship with other concepts”; and the centrality of a critical literature review. The critical literature review is

¹² Chapter 3 provides an historical conceptual analysis of HRE.

extensively used throughout this study and contributes to the concept comparison, concept clarification, concept correction and concept refinement in Chapters 3, 4, 5 and 6.

2.7.3 Concept analysis, conceptual historical analysis and conceptual cartography

Though the Morse *et al* (1997) model provides for a sounder basis for concept analysis than those resident within the Wilsonian derivatives, it certainly lacks the tools for in-depth analyses that are provided by historical conceptual analysis (see section 2.4) and conceptual cartography (see section 2.6). As an integrated research design, these frameworks constitute a far more advanced research methodology than those associated with conventional concept analysis in the nursing sciences. It is this design that makes the generic analysis, differential analysis, conditions analysis, descriptive analysis, comparative analysis and interpretive analysis referred to in section 2.5 possible.

2.8 Validity and Reliability

This study – in its theoretical orientation, research questions, research design and methodology – exhibits a high level of design coherence. Durrheim (1999: 35) argues that “design coherence is achieved when the decisions from each of the four different domains ... fit together with an internal logic”. These domains are purpose, paradigm, context and techniques. Conducting a concept analysis of HRE is the purpose of the study and its context is the HRE field. The study’s techniques are housed within conceptual historical analyses and its theoretical framework is initially presented as a comprehensive conceptual cartography with a shift towards critical educational research, critical pedagogy and critical postmodern theory. These domains come together in a unifying logic that enhances the interpretive validity of the study. Leedy’s (1997: 168) reference to four types of interpretive validity to judge validity and reliability are appropriate for this study:

- a) Usefulness: the study must enlighten those who read it.

- b) Contextual completeness: the study must provide a comprehensive view of the situation.
- c) Research positioning: the researcher must explicate his or her own influences.
- d) Reporting style: the researcher's reconstruction of participants' perception must be perceived to be authentic.

The *usefulness* of the study is based on the conceptual meanings and frameworks it seeks to develop around a topical subject that is burdened by unanalysed conceptual eclecticism and practical inconsistencies. With reference to *contextual completeness*, this study traverses a wealth of primary and secondary sources with a high level of representativeness that includes the authoritative and contemporary texts on the topic. Also, the criterion of *contextual completeness* has similarities with the reference made by Cohen *et al* (2000: 109) to content validity which will be the basis on which the validity and reliability of this study will be constructed. The *position* of the researcher is articulated as a critical stance towards human rights and HRE. The last criterion, *reporting style*, is not applicable to this study since it is a non-empirical study.

2.9 Conceptual Framework

Conceptual frameworks are heuristic devices that guide research endeavours and are “defined as a set of concepts and the propositions that integrate them into a meaningful configuration” (Fawcett, 1989: 2) and a “set of lenses with which to view reality” (Moody, 1990: 48). These frameworks are underpinned by specific sets of suppositions, principles, values and beliefs about the nature of reality. They thus constitute or represent various philosophical orientations. The conceptual framework and philosophical orientation influence the research process in the same way as an adopted theoretical position that has been developed to “assist us in describing, explaining, predicting and understanding phenomena of concern” (Moody, 1990:23). Conceptual frameworks, philosophical orientations and theoretical positions coalesce to provide conceptual pathways, theoretical maps and cartographic principles that hold a study together within a coherent framework of analysis.

As a concept analysis, a conceptual historical analysis and conceptual cartography of HRE, this study will investigate a range of different conceptual frameworks, paradigms, discourses and theoretical positions through which the various meanings of HRE are constructed. These include discourses within the domain of human rights such as the natural rights discourse, liberal theory, legal positivism and critical legal studies. Theoretical positions and practical orientations associated with positivism, interpretivism, critical theory and postmodernism will also be explored as configurative forms of meaning making in relation to HRE. These various lenses provide the study with a fertile edifice as a basis to explore the range of meanings associated with HRE. Each of these conceptual orientations frame human rights in particular ways with specific implications for the concept of HRE.

Though various conceptual orientations will come into play as a result of the nature of the study, a preferred conceptual framework for rooting the concept of HRE will be explored in Chapter 7. The study will demonstrate why a Critical Postmodern Pedagogy that is rooted in an alternative language of human suffering and solidarity, and not human rights and responsibilities, should be considered as the most appropriate conceptual carapace for HRE. Stated differently, this study constructs a pedagogically sound alternative and solid justification for abandoning, or at least reconfiguring and reformulating, the mainstream conceptions of HRE.

Conceptual frameworks are used in two distinctive ways in this study. First, it will employ a variety of frameworks to explicate the meanings of HRE in dissimilar conceptual settings. Second, it will formulate and justify alternative conceptual possibilities for grounding the concept of HRE. This approach is underwritten in the observation of Bear and Moody (1990: 157) that “concept analysis can occur within a particular ...theoretical framework” or a “broad variety of theoretical orientations” (1990: 157). This study will do both.

CHAPTER 3
A CONCEPTUAL HISTORICAL ANALYSIS OF HUMAN RIGHTS
EDUCATION¹³

3.1 Introduction

The proclamation of the United Nations Decade for Human Rights Education (1995-2004) by the UN General Assembly (Res. 49/184) and the subsequent resolution 2004/71 of the United Nations Commission on Human Rights on a World Programme for Human Rights Education probably represent the most distinct events to signify the growing international consensus on the importance of human rights education (HRE). It followed an era, the latter part of the twentieth century, of rights developments never witnessed before. Just in terms of sheer numbers and range, the business of rights enunciations has and continues to dominate the international agenda and relations amongst nations and peoples. Knowles (2004: 133) remarked that “nowadays the rhetoric of human rights seems to be just about universal” ... and has been “elevated to political correctness where a denial of them taints the innocent philosophical sceptic”. In similar vein Ignatieff (2000: 1) describes the phenomenal development of human rights standards as the “rights revolution” whilst Fagan (2003:1) is of the opinion that “the doctrine of human rights has become the dominant moral doctrine for evaluating the moral status of the geo-political order”. This doctrine is thought to “precede considerations of strict national sovereignty” (Fagan: *ibid*) and ‘regulates’ the relationships among nation states. In reflecting on these developments, Baxi (1997: 1) states:

No preceding century of human history has been privileged to witness such a range of rights enunciations as ours. Moreover, never before have we come to a situation in which the language of rights nearly replaces all

¹³ Some of the ideas in this chapter have been reflected in a paper commissioned by the Centre for Policy Development (CEPD). A. Keet. (2005): *Towards a Critical Human Rights Education in South African Schools*.

other moral languages...Further, even as the alleged end of ideology is being proclaimed worldwide, a human rights socio-dialect emerges as the only ideology-in-the-making, enabling both legitimation and delegitimation of power and anticipatory critiques of human rights futures.

Baxi's observations are supported by the fact that between 1948 and 2003, 189 United Nations member states and 4 non-member states have either signed, acceded to or ratified no less than 104 international human rights instruments (UNHCHR: 2003 website). Freeman (2002: 36) estimated that "there are now approximately 200 legal human rights instruments". The major instruments such as the Covenant on Civil and Political Rights ([CCPR] UN: 1966), the Covenant on Economic, Social and Cultural Rights ([CESCR] UN: 1966), the Convention on the Rights of the Child ([CRC] UN: 1989) and the Convention on the Elimination of All Forms of Racial Discrimination ([CERD] UN: 1965) recorded 149, 147, 192 and 173 ratifications or accessions from UN member states and non-member states respectively as at 7 July 2003. Another 10 instruments are presently being developed and the entering into force of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as recently as July 2003, clearly indicate that we are in an 'age of rights' (Baxi, 1997). These instruments include foci on women, race, religion, children, minorities, development, education, socio-economic rights and civil and political rights (Melander and Alfredsson: 1997). In addition, regional human rights regimes have been established in Europe, Africa, the Americas and Asia-Pacific which are governed by regionally-based human rights instruments, structures and processes. In this regard and echoing Baxi (1997) and Fagan (2003), Falk (2002: 2) remarks:

The prominence given to human rights in all parts of the world is one of the most remarkable developments to have occurred during the last half-century. And the end of this development is not yet in sight. Support for human rights has been gathering momentum in recent decades.

Despite these developments the 'age of rights' also witnessed 169 202 000 government inspired murders in the 20th century (Freeman, 2002: 2); the malnourishment of more than 840 million people across the world; the death of 12 million people annually due to a lack of water (Seabrook, 2003: 24); a worldwide incapacity for peace; an escalation in

wars¹⁴; the deepening of inequalities within the context of globalization; and the exposure of a widespread human rights hypocrisy in ‘western’ democracies as far as international relations, global trade and world peace are concerned . However, the extent of human rights violations and the non-enjoyment of socio-economic rights have not arrested the elaboration of human rights into the only “universal ideology” and the dominant moral language of the new geo-political order. These developments provided the basis for the development and proliferation of HRE across the globe as the legitimating arm of human rights universals.

3.2 Human Rights Standards Generation and Human Rights Education

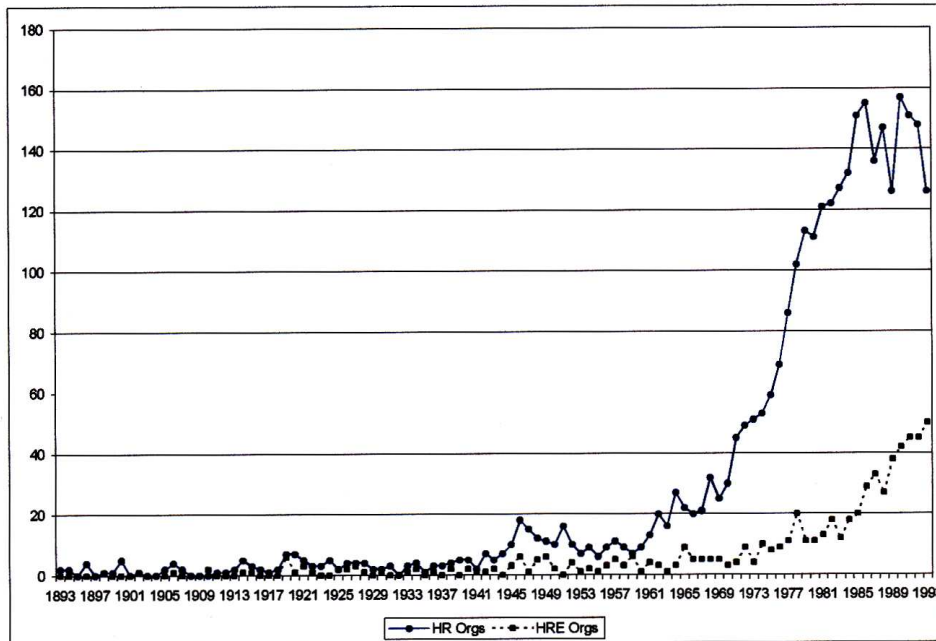
Sourcing its currency from the rights endorsements articulated in international instruments, HRE has become a central preoccupation within the education field, more so now than ever before. For instance, the South African ‘human rights aligned’ educational policy and legislative framework resulted in a Revised National Curriculum Statement (2002) for General Education and Training and Further Education and Training (2004) that is underpinned by the principles of social justice, a healthy environment, human rights and inclusivity. This trend has been duplicated in many parts of the world and is captured in Tibbitts’s (2002: 160) observation that:

Over the past twelve years, HRE has slipped into the languages of Ministries of Education, educational non-profit organizations, human rights groups, and teachers ... not to mention inter-governmental agencies such as the United Nations ...

The trend in the growth of HRE is buttressed by the phenomenal growth in the normative human rights framework which in turn spawned the growth in the number of human rights organisations over the past two to three decades. The growth in the establishment of HRE organisations and the publication of HRE materials shows a similar trend (see graphs 1 and 2) that demonstrates the worldwide growth in HRE activities as a discursive practice.

¹⁴ Stott (1999) registered that between 1945 and 1995 eighty wars were fought across the world.

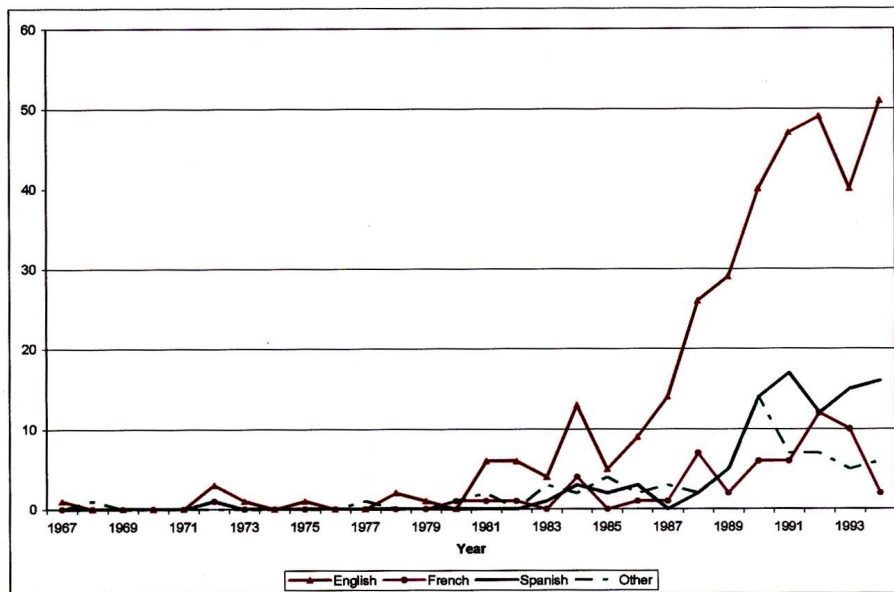
Graph 1 (Source: Suarez and Ramirez, 2004)



Comparison of Human Rights Organization Foundings and Human Rights Education Organization Foundings, by Year

Source: Human Rights Internet (2000); Union of International Associations (various years); UNESCO (2003a); Elbers (2000); UNHCHR (2003b).

Graph 2 (Source: Suarez and Ramirez, 2004)



Human Rights Education Publications, by Year and Language (N=560)

Source: Amnesty International (1992, 1993, 1995, 1996, 1997); Elbers (2002); UNHCHR (2003b).

Since 1948 HRE, as a human right, has been articulated in at least ninety-two provisions in international and regional covenants, protocols, conventions, declarations, principles, guidelines, resolutions and recommendations (United Nations, 1999) either as part of the right to education and other rights or as independent provisions. The legal status of these instruments varies and though only a limited portion is legally binding on member countries that ratify or accede to them, all of them have an “undeniable moral force” (United Nations, 1999: 2). These instruments task HRE to be responsive to racism, intolerance, conflict, political illiteracy, discrimination, socio-economic rights and a general knowledge of human rights and responsibilities. For example, the Convention on the Rights of the Child (1989) lists educational measures (article 19) relating to physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, and education directed (article 29) at developing peace, tolerance and the development of respect for human rights and fundamental freedoms. Calling on human rights to be included in the curriculum at all levels of public and private education, the African Commission on Human and Peoples’ Rights adopted a resolution on Human and Peoples’ Rights Education (AHG/198) in 1993 and emphasized education for democracy, tolerance and justice. The multitude of topics to be covered by HRE as reflected in international and regional instruments is probably the primary reason why HRE has taken on so many different but related forms, each informed by particular theoretical assumptions about the conceptual structure of HRE.

Figure 3 below demonstrates the increased currency of HRE and other related formations as newer subjects and subject areas. Note the increased recognition of HRE as a right in itself.

Figure 3: (Source: EFA report, 2005, Box 4.4.)

The currency of a selection of newer subjects and subject areas# at global level

▪ **Health education or hygiene**

In one-fourth to one-third of countries globally, some form of health education is required during primary and (lower) secondary education. Its prevalence in primary school curricula has declined slightly since the 1980s, but this trend is less apparent in secondary school curricula. The content of health education varies greatly. It can include family planning, HIV/AIDS prevention education, sex education, drug prevention and personal hygiene. The prevalence of health education in national curricula may reflect, in part, the broad-based content possible under this catch-all subject label.

▪ **Human rights education***

Considered an integral part of the right to education, this area has gained some recognition as a human right in itself. It is designed to increase knowledge of and respect for the rights and freedoms of each and every person, including the individual learner.

▪ **Multicultural education***

Multicultural education promotes knowledge and understanding of the cultures of fellow learners and citizens. It had considerable prominence in the past two decades.

▪ **Environmental subjects and education for sustainable development**

Pollution, concerns over population and food supplies, depletion of natural resources and the ozone layer, the greenhouse effect and possible solutions for such environmental concerns are being covered in the primary school curricula of many industrialized and, to a lesser extent, developing countries. Overall the prevalence of this subject in national curricula has increased notably in the past fifteen years. While it is given greater prominence during the first five grades of primary school, the proportion of countries requiring instruction in environment-related topics has increased in all grades.

▪ **Citizenship and global citizenship education: educating for democracy and peace**

Civics and citizenship has increased in almost all grade levels since the 1980s. Attention given to citizenship education is particularly apparent in the lower grades of primary education. On average, one-fifth to one-third of all countries require the teaching of this subject in primary school and close to half of all countries require it to be taught in the (lower) secondary grades.

▪ **Technology**

On average, technology-related topics - excluding computer instruction - accounted for 5%-6% of primary grade timetables [...]

▪ **Development or global education**

Development or global education is largely specific to industrialized countries. Comprising elements from education for sustainable development, human rights education, citizenship education, world studies, civics education, anti-racist education and peace education, it encourages learners to critically explore the relationship between North and South, understand global interdependences and work towards change in attitudes, values and behaviour (DEA, 1996). There is some evidence that development education is contributing to changing attitudes, thereby enhancing public support for development (McDonnell, Lecomle and Wegimont, 2003).

▪ # These subjects may also be categorised as life skills and receive attention in the area of non-formal and adult education (UNESCO, 2003).

▪ * No trend data are available for these subjects.

Source Benavot (2004a)

Except for the subject of technology, this study later shows that HRE substantively straddles most of these ‘subjects’ and conscious conceptual efforts have been made to provide for such integration, especially between democracy education, citizenship education and HRE.

Table 7 below shows interesting patterns but exhibits a few analytical weaknesses. For instance, it equates the recognition of education as a right with developing respect for human rights. Also, the severance of the values of democracy, citizenship and equality from the construction of HRE itself is problematic. However, what the table does highlight are the emerging patterns of curriculum statements around HRE as an expression of consensus and hegemony.

Table 7: Trends in Curriculum statements, 1980s to 2000s (Source: EFA report, 2005, Table 4.2)

Aims of education as set out in Article 29 of the Convention on the Rights of the Child	Trends in objectives of education drawn from curriculum documents of 108 countries, over two periods, mid-1980s and early 2000s
<i>The development of respect for human rights</i>	The number of countries emphasizing education as the fulfillment of a human right has increased. It is prominent in developing countries but the emphasis has declined in developed countries.
<i>The development of the child's personality, talents and mental and physical abilities to their fullest potential</i>	More countries now include development of the individual's capabilities, including skills and attitudes for critical thinking and problem-solving. In general, the development of personal capabilities, including emotional, creative and cognitive development, is given more attention at the primary level than in formal education as a whole. All world regions continue to put high priority on these non-cognitive skills. Attention to cognitive development and intellectual capacity also increased, with basic skills such as literacy and numeracy emphasized across all regions and over time.
<i>The development of respect for the child's parent, his or her own cultural identity, language and values, for the national values of the country in which the child is living</i>	The number of countries including religions and national identity as education aims declined slightly overall, but trends in the regions reflect different social and political situations. Religion is strongly emphasized in the Arab States and in South and West Asia, while more countries in Central and Eastern Europe place importance on national identity.
<i>The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes</i>	Greater attention is now being given to values, including democracy, citizenship and equality.
<i>The development of respect for the natural environment</i>	The number of countries including sustainable development as an aim of education tripled between the 1980s and the 2000s, albeit from a low base. The trend is particularly prominent in developing countries.

It is evident from these developments, demonstrations and analysis that HRE is an emerging field of inquiry (Tibbitts, 2002: 160) and its prevalence is closely tied to the proliferation of international and regional human rights instruments and standards and accompanied state legitimation (Suarez, 2006). It is perceived as the “promise of the third millennium” and “has gathered global momentum” (Baxi: 1997:142-154). It has also self-importantly been described as “operational plans ... (of an) emerging global educational philosophy” (Lenhart and Savolainen, 2002: 145) with which educational thinkers and practitioners should initiate substantive engagement. The basis of such engagement should be provided by a concept and conceptual historical analysis and conceptual cartography of HRE.

3.3 The Development of HRE

3.3.1 The Three-Phase Model

The list of educational formations associated with HRE is very long and therefore this exploration of the development of HRE is confined to Education for Democracy, Democracy Education, Civic Education, Citizenship Education, Political Education, Peace Education, International Education, Global Education, World Education, Moral Education, Environmental Education, Development Education, Multicultural Education and Anti-Racism Education. Though there are many more educational formations associated with HRE, the literature points to those listed above as either being the channels through which HRE is conducted, or themselves being channelled through the practice of HRE (see Lynch, Modgil and Modgil, 1992a and 1992b; Lynch, 1992; Tarrow, 1987; Tibbitts and Torney-Purta, 1999; and Andreopoulos and Claude, 1997; Tarrow, 1992: 30-31; Shafer, 1987: 192-193; and the Plan of Action for the World Programme on HRE, March 2005).

This study opts to periodize the development of HRE into 3 broad phases. The first, *pre – 1947 phase*, considers the roots of HRE from Greco-Roman times. The exploration of

this phase is not exclusively with reference to contemporary human rights denotations or nomenclature but also with reference to educational efforts and teachings that centre around civics, civic-mindedness and citizenship; democracy, justice and governance; and law, human rights, duties and responsibilities. Exploring the concept of HRE within the context of other ‘educations’ is done to trace the roots of HRE and its interrelations with these ‘educations’. This in turn will form the basis for probing the typology of these forms as they play themselves out in contemporary educational societies. The groundwork for a concept and conceptual analysis of HRE will not be complete without exploring these interrelations between HRE and other associated educations.

This period includes the ‘birth’ of civilization; the medieval period; the European Renaissance; the enlightenment; the advent of modernity; Huntington’s first wave of “democratic development” (Patrick, 1997: 23) from 1828-1926; slavery; colonialism and imperialism; the entrenchment of the positivist world-view; the first and second world wars; the birth and death of the League of Nations; and the formation of the United Nations. Though Huntington’s 3-wave notion of democratic development is referred to here, Said’s (2001: 569-592) critique and rejection of Huntington’s thesis has been considered.

The second phase, 1948 to 1994, reflects on the *formalization of HRE* as an educational effort aimed at legitimising the human rights universals which themselves are products of the frenzied standard-setting processes linked to the establishment of normative international provisions. It witnessed profound upheavals and developments across the globe, massive human rights violations; an array of unjust wars; the elusiveness of regional and world peace; Huntington’s second (1943-1962) and third (1980s and 1990s) waves of democratic development (Patrick, 1997: 23); an increasingly globalized economy; the gradation of unequal trade relations in favour of the ‘North’; the legitimization of environmental degradation and exploitation; the systemization of global inequality and poverty; and the emergence of ‘new’ democracies worldwide. HRE was calibrated in alignment with these developments and its conceptual framework was entirely tied to juridical rights articulations which in themselves were expressions, at least

in theory, of opposition to human rights violations. The UDHR was adopted in 1948 as the first HRE ‘curriculum’ based on an epistemology of diplomatic consensus which was ontologically supported by the perceived existence of a ‘universal moral order’. This was followed by a series of ‘syllabi’ captured as conventions, declarations, principles and covenants between 1948 and 2005. No wonder that even today HRE practitioners quixotically keep on demanding the ‘inclusion’ of HRE as a pre-packaged curriculum which is so distant from the realities of how education systems are structured, how they operate and whose interests are pre-configured within them.

The third phase (1995 to the present), *the proliferation of HRE*, starts with the proclamation of the UN Decade for HRE (1995-2004). The decade saw a concerted effort from the international community to canonise HRE into a legitimate and justifiable pedagogical formation and for the first time endeavour to provide a structured conceptual framework for HRE. The advent of a number of emerging democracies threw the spotlight on HRE, citizenship education, democracy education and multicultural education. The cyclical resurgence of racism and associated intolerance worldwide also brought anti-racism to the fore and together with a number of other educational endeavours blurred the topography of HRE. The dimensions of inequity and inequality within globalization became more expressive and created the conditions for the revival of social movements which generally operated outside the declarationist framework of human rights. As these developments took shape, the concept of HRE mutated in various directions but its essence remained honest to its declarationist entrenchments since 1948.

Following the 9/11 events the invasion and subsequent occupation of Iraq by American and British troops reshuffled the human rights encyclopaedia once more and placed the legitimacy of the UN under severe pressure. The role of education in relation to state security, disarmament, peace, narrow nationalism and patriotism came under review as the period of the UN Decade for HRE captured some of the worst human rights violations in the history of world. Deepening inequality among states and people, the escalation of poverty, the continued violence in the Middle East, the war on Iraq and its subsequent occupation by American and British troop are a few examples of these human rights

violations. There are many more. The conceptualisation of HRE surprisingly remained constant in its hegemonic and official trajectory but concerns started surfacing about its efficacy and the interests it serves. For instance, the link between human rights, market economies and neo-liberal policies leads some analysts to believe that human rights is serving global capital at the expense of the human rights of actual communities (see Baxi, 2002: 132-133). HRE, on this score, could be seen to be in the employment of global capital.

This period also witnessed the resurgence of citizenship education in Europe (Print and Smith, 2002) and Latin America (Tibbutts, 1999). The UN Decade for HRE and the subsequent adoption of the World Programme for HRE created a sustained impetus for the development of HRE. In addition to this, the historical conditions generated a ‘political and economic’ climate that allowed for an increase of formal ‘democracies’ from 79 to 117 during the 1990s (Print and Smith, 2002). Within these developments, citizenship, democracy and human rights education seem to constitute the most dominant educational forms within this vast family and complex typology of associated educational forms. Attempts to conceptualise these within a shared theoretical framework are commonplace but fraught with challenges.

3.3.2 Phase 1: The Roots of Human Rights Education (←1947)

The roots of HRE are in consonance with the origins of the concept of human rights in general. Most scholars trace the derivation of human rights to ancient Greece and Rome (Weston, 1984: 258) as embodied in the natural law doctrines of Greek Stoicism which then and during medieval times focused on duties as opposed to rights. Preceding Greek Stoicism, Aristotle raised issues related to justice but fell short in terms of thinking “of universal law governing all men alike in virtue of their common humanity” by justifying slavery (Lloyd, 1991: 77) and serfdom (Weston, 1984: 258). Further developments in the construction of the concept of human rights through medieval times, the European renaissance and enlightenment and the advent of ‘modernity’ witnessed the shift from

‘duties’ to ‘rights’ (Weston, 1984: 258) and also the concomitant configuration of the concept of HRE.

This incipient exploration of the roots or origins of the concept of HRE is premised on an understanding of HRE as an educational effort aimed at responding to the societal challenges explicated in the preceding section. As opposed to what Donnelly (2003: 71) wants us to believe, the roots of the conceptual meanings of human rights straddle geopolitical arrangements and developments across the globe. In his treatment of Islamic, Traditional African and Confucian-Chinese conceptions of ‘human rights’, Donnelly (2003: 71-88) erroneously equates conceptual meaning with linguistic expression and therefore fails to see the roots of ‘human rights’ as intercultural. If his notion of ‘human rights’ as a set of social practices excludes the possibility of traditional non-Western conceptions of human rights, it will ironically result in the negation of the Western conception of ‘human rights’ itself.

From the view of most HRE practitioners, HRE has principally developed since the founding of the United Nations (1945) and the adoption of the *Universal Declaration of Human Rights* (UDHR, 1948) and is generally regarded as a creature of the UDHR. However, the genesis of the notion of ‘human rights education’ can be traced back as far as 1789 when the French National Assembly proclaimed in the preamble to the *Declaration of the Rights of Man and of Citizens* that this “declaration being constantly present to the minds of the members of the body social, they may be for ever kept attentive to their rights and their duties”. Then again, if tracing the roots of HRE is an important element in historical conceptual analysis, it will probably be more accurate to also consider the developments of various strands associated with HRE such as multicultural, global, democracy, citizenship, moral and civic education.

The literature on HRE points to a growing acceptance of HRE as the “unifying factor which cuts across current efforts to produce informed and active citizens” (Tarrow, 1992: 32). This conviction is underwritten by the tendency to conflate or combine these various strands with HRE. For instance Enslin’s (2003) considerations of citizenship education in

post-apartheid South Africa deal in fact more with values education and HRE than citizenship education. Print and Coleman's (2003) analysis of citizenship education highlights the centrality of human rights whilst Kang (2002) and Sharma (1996) used HRE and democracy education in an amalgamated sense. The amalgamation of HRE, citizenship education and civic education is also evident in Tibbitts's (1997) analyses of case studies in HRE whilst Lynch (1992: 29) argued that the rooting of contemporary citizenship education resides in international human rights instruments. For Shafer (1987: 194) the historical basis of HRE exists in "global education, moral education, or civic and social education". Though all these strands exhibit their own distinctive features, the centrality of a component of HRE is beyond dispute and as such a historical conceptual analysis of HRE needs to consider the roots of at least some of these strands since the meaning of HRE is in some measure drawn from its use historically and its relation to associated strands.

Though the roots of citizenship education can be traced back to the Greco-Roman republics (Lynch, 1992: 25), its broader acceptance was established through the work of Dewey in the early parts of the previous century (*ibid*: 9). According to Kelly (1995: 169-190) education for citizenship is one strand through which education for democracy can be pursued in association with personal, social and moral education. Moral education is intrinsic to all the major educational theories which stretch from Plato to Dewey (*ibid*: 170). From this wider scope moral education is linked to various frameworks of morality. Compassion-based morality is reflected in the African, Greek and Oriental wisdom (Weil as discussed in Bell, 2002: 67). The concepts of justice, love, caring and sharing all form part of a compassion-based moral framework so central to social relationships (*ibid*: 66) that it is safe to deduce that some form of moral education has always been fundamental to traditional African, Greek and other societies and communities.

Interestingly, the idea of human rights rests heavily on the assumption that "there exists a rationally identifiable moral order" (Fagan, 2003: 3) that traverses cultural, historical and other boundaries. This moral universalism has its origins in the work of Aristotle and the Stoics and was the precursor to Kant's moral philosophy which is still residual in modern

justifications of human rights (*ibid*: 1-5). In this sense moral education inevitably reflected elements of contemporary HRE and citizenship education despite the fact that these notions might not have existed at that time. In fact Heater (1992: 189) wants us to believe that Zeno, the founder of Stoicism “inaugurated education for world citizenship” in 306 BC.

Stoic philosophy, based on the universality of human nature and the power of reason, argued that there exists a universal law of nature which can be discerned by reason. The spread of the Roman Empire (27 BC-476 AD) provided the vehicle for the dissemination of the “universalising doctrine of Stoic natural law ... and the new universal faith of Christianity” (Lloyd, 1991: 78). Roman law, Greek philosophy and Christian theology thus conjoin to spawn the “medieval scholastic doctrine of natural law” (*ibid*: 78) that formed the bedrock of the theory of natural rights of Grotius, Hobbes and Locke in the 16th and 17th century. Christianity also spread to Africa during medieval times, especially to the Axum civilization of Ethiopia who regarded biblical texts as true philosophy (Mokhtar, 2003: 235). The period between the 7th and 11th centuries also witnessed the expansion of the Islamic empire in Africa; the strengthening of egalitarian and democratic traditions (Hrbek, 2003: 4) based on Islamic principles; the incorporation of the Sahara and Sudan into the Islamic economic sphere; and the development of an Indian Ocean commercial network.

The European renaissance brought currency to the conviction that human beings have fundamental rights based on an adherence to natural law. This can simplistically be paraphrased as ‘law according to the will of God’. Grotius, Hobbes and Locke (Freeman, 2002: 18-22) represent the principal precursory exponents of the notion of human rights which were later articulated in the English Bill of Rights (1689), the American Declaration of Independence and Bill of Rights (1776 and 1791) and the French Declaration of the Rights of Man and of Citizens (1789). Subsequently the notion of the “rights of man” converged across the English channel but by the end of the 18th century the concept of natural rights was discredited as its theological basis was fading. The legal positivism of Austin (Bix, 2001) and the utilitarianism of Jeremy Bentham and John

Stuart Mill (Knowles, 2004: 38) eclipsed natural rights theory. Towards the end of the 19th and the beginning of the 20th century the science of society as expressed through the work of Marx, Weber and Durkheim replaced the concerns associated with the “rights of man” (Freeman, 2002: 30) at the same time that peace education was first formulated (Heater, 1992: 191). The ‘rights of man’ only resurfaced in response to the massive human rights violations of the Second World War.

During the aforementioned period Locke (1632-1704), whilst subscribing to a theory of natural rights, formulated educational theories and pedagogies through which the notion of justice is learned via the idea of property (Spring, 1999: 113). His social contract theory of government led him to propose that the family must prepare children until they are “able to know and to reason about the laws of the state” (*ibid*: 111). In essence he has been predicating some form of civic or citizenship education. Justice-via-property is also evident in Rousseau’s (1712-1778) work on education (*ibid*: 114-124) and his notion that children will become citizens by knowing the laws of the state is in close alignment with civic and citizenship education. This is not dissimilar to Plato’s (*ibid*: 8) understanding of education’s role “on creating a willingness on the part of the population to fight for the preservation of the state”. But Locke and Rousseau also forwarded an understanding that the social contract is not only preservationist in favour of the state, but that education is also aimed at resisting abuse of political power (*ibid*: 108-124). Thus moral education and citizenship education in this context integrate into a pedagogical formation that is about knowing laws and by extension rights and the development of reason in pursuit of a specific framework of morality. Herein we find the roots for the political literacy and legalistic approach that came to dominate the conceptual framework of HRE in later years.

Four strands related to HRE seem to have deviated from the political literacy approach at this historical juncture. They are social education, moral education, democracy education (also referred to as education for democracy) and multicultural education. For Kelly (1995: 170) moral and social education is subsumed under education for democracy which includes an exploration of “how pupils can most appropriately be initiated into a

democratic form of morality”. Moving beyond the political literacy approach, these forms of education purport to focus on principles, values, morality and knowledge that broadly constitute and frame democratic practices. However, recent trends have shown that democracy education with its overt focus on governance, political structures and political processes is firmly gripped by a political literacy agenda.

Multicultural education, on the other hand, developed distinctly from those pedagogical formations aimed at political literacy. It initially focused on “equal cultural representation and celebration of cultural differences” (Webster, 1997: 15) but later adopted a social reconstruction agenda. The origin of multicultural education is generally believed to reside in the assimilationist-pluralist debates “over the place of cultures in schools” in the 1920s (*ibid*: 15) and since then fierce debates have been generated over its merits and analytical foundations.

During the post First World War period (1920s-1930s) education for peace was translated into education about the League of Nation in European schools and civic and moral education was required by law in the Weimar German Republic of the 1920s (Heater, 1992: 197). Citizenship education gained its currency and conceptual grounding from the American constitution and the French declaration of the 18th century. The American version focused on rights and duties (*ibid*: 196) as an educational endeavour closely resembling central features of contemporary HRE. At the cusp of the 19th and 20th century (Rowe, 1992: 71), political education reared its head, claiming that knowledge about the processes of lawmaking and the “machinery of government” is important for an active citizenry. Alternatively this educational formation can be described as civic or citizenship education (*ibid*: 71). In response to the failures of citizenship education, law related education (LRE) focused on a ‘rights-and-duties-approach’ to the study of law (*ibid*: 72) that is in close alignment with the political literacy approach of contemporary HRE.

In direct opposition to Donnelly (2003) who disputes the claim that pre-colonial Africa had a concept of human rights, Mutua (2002: 74-81) provides a substantive alternative argument¹⁵ on “*Human Rights and the African Fingerprint*” proving that

... a brief examination of the norms governing legal, political and social structures in pre-colonial societies demonstrates that the concept of rights..., informed the notion of justice and supported a measure of individualism (ibid: 75).

Throughout the historical period represented within this phase, the peoples of the African continent were locked into an intercontinental network of economic and cultural exchanges. This included the Mediterranean, Asia, the Atlantic and Indian regions (see Ki-Zerbo and Niane, 2003: 254-261). Since the European renaissance, Islamic and Christian-inspired activities on the continent increased. Despite these developments, traditional African societies continue to foster rights “not as a fence to protect the individual from the community, but rather as rules for living together” (Martin, Gitta and Ige, 1997: 442). This was done through indigenous education, Islamic education and Afro-Christian education in pre-colonial Africa (Habte and Wagaw, 2003: 678). The intergenerational teaching of traditional values and rights in African societies can be regarded as a forerunner to contemporary HRE. The impetus for this is found in African moral philosophy with its emphasis on a compassion-based notion of justice and community (see Bell, 2002: 59-84). The processes by which this take place as African oral traditions are vividly described by Callinicos (1996: 92-93).

The development of a Western-educated elite in Africa as a result of missionary schooling and religious education, gave rise to Ethiopianism and an intellectual revolution in the 19th century. Resistance against humiliation because of discrimination and challenging injustices were two of the main driving forces for Ethiopianism (see Ajayi, 2003: 22). Horton, Blyden and Johnson spearheaded the intellectual revolution in West Africa “which in turn propagated ideas about the dignity of the African race” (*ibid*:

¹⁵ See also Bennett (1995: 1-10) whose analysis in *Human Rights and African Customary Law* concluded that traditional African societal arrangements provided for a system of ethics that serves the goal of human dignity in the same way in which human rights tries to serve the goal of human dignity.

22). Within Ethiopianism and the intellectual revolution rights were thus framed in resistance politics and the awareness and educative activities that of necessity accompanied these processes, represented HRE in one form or another. Martin, Gitta and Ige (1997: 440) are of the opinion that the “modern international human rights movement” has its roots in the anti-slavery movement of the early 19th century which ran parallel to Ethiopianism and the West African intellectual revolution.

Following the abolishment of slavery in 1824, the scramble for Africa in the 1880s and beyond resulted in the entrenchment of colonialism from 1880-1935. The fight against injustices thus continued and resistance to colonialism was built on an ideological basis with the ideals of sovereignty and a “new moral order” as its central pillars (see Boahen, 2003: 32). Notions of human rights were framed within this resistance framework and the fight against colonialism can thus also be perceived as a fight for sovereignty and human rights. In the aftermath of colonialism nation building was high on the agenda of African states. This nation building:

... involves the acceptance of other members of the civic body as equal fellow-members of a ‘corporate’ nation – a recognition of the rights of other members to a share of common history, resources, values and other aspects of the state – (Elaigwu and Mazrui, 2003: 439).

The formal notions of rights have thus taken shape in response to colonialism and were fundamentally framed by the experiences of liberation, state formation and nation building. More importantly for the casing of human rights, Shivji (2000: 38) with reference to Mazrui, points out that “post-colonial Africa has a triple heritage of law ... indigenous/ customary law, Islamic law, and the legal and judicial systems which came with Western acculturation”. This observation is important since the tensions between these configurations of law and human rights standards will become a central point of controversy in the latter half of the 20th century. Education for liberation and resistance and prophetic teachings (see Boahen, 2003: 25-32) focused on sovereignty and the restoration of dignity which is markedly different from the political literacy approach to HRE in Western countries at that time.

The Second World War and the emergent decolonisation of Africa gave rise to the establishment of the United Nations in 1945 which in relation to Africa can either be perceived as “a collective imperial power, ... an ally of liberation, ... or a partner in development” (Kouassi, 2003: 872). The adoption of the UDHR three years later formalised HRE into a distinct category that later on eclipsed many associated variants simply because of its political legitimacy that is tied to an array of international human rights instruments. The preceding genesis of HRE embodies three fundamental shifts relating to the conceptualisation of human rights and HRE.

First, the Aristotelian conception of rights which has been underwritten by St Thomas of Aquinas, excluded the ideas of ‘freedom and equality’ since it justified slavery and serfdom (Weston, 1984). Stoicism which, on the hand was founded in the late 4th century BCE, propagated the idea of a universal law governing “all men alike in virtue of their common humanity” (Lloyd, 1991: 77). This shift represents the basis of the development of ‘natural law based on duties’ which came under question during the European renaissance as rulers failed to exercise their responsibilities according to natural law. Yet still the teachings of Socrates through Plato’s dialogues, Plato’s work in the Academy and Aristotle’s educational endeavours at the Lyceum focused on the duties of citizens towards the state. The ‘civicness’ of such teaching is apparent and preceded the teaching of Zeno, the founder of Stoicism who, according to Heater (1992: 189) started the drive for education for world citizenship.

Second, within the theory of natural law the shift in emphasis from duties to rights was underpinned by the decline of feudalism; the beginning of the European renaissance; the rejection of religious intolerance; and the rejection of political-economic bondages (see Weston, 1984). The rebellion and revolution of the 17th century in England followed by almost similar events in North America and France in the 18th century augmented the notion of human rights through declarations and Bills of Rights. These were essentially influenced by developments such as the discoveries of Galileo and Newton that were constitutive of the ‘Age of Enlightenment’ at the same historical epoch when the

foundationalist epistemologies of Descartes and Bacon, the natural law theory of Locke and Hobbes and the philosophies of Voltaire and Rousseau developed into discursive practices that were centred around positivist world-views. Distinct associated formations of HRE emerged during this period which might be labelled as moral education, civic education, citizenship education and education for democracy. Subsequently a number of other formations saw the light in the lead-up to the 1948 adoption of the UDHR, especially peace education. The makings of the political literacy approach are already evident in these developments.

Third, the precedents of HRE on the continent of Africa reside in the intergenerational, indigenous and religious education of traditional societies. During the periods of slavery and colonialism, human rights were framed within resistance politics and the notions of sovereignty and human dignity. The trajectory followed on the continent of Africa in relation to HRE is therefore markedly different from that of Western Europe and North America with the restoration of dignity and nation building as its guiding principles.

Traces of pedagogical formations associated with HRE during this phase can also be found in parts of the world other than Europe, North America and Africa. Kang (2002: 316) registered the development of HRE through grass roots education in South Korea prior to Japanese colonization in 1910. Dev (1999: 115) reflected on HRE in Indian schools as having its genesis in the Fundamental Rights and Economic Programme adopted by the Indian National Congress in 1931 whilst others like Talesra, Pancholy and Nagda (2000) would trace the roots of HRE within Indian culture as far back as 5 000 years. In China ‘character cultivation’ was introduced in schools after the 1911 revolution that ended the “feudal monarchical system which had lasted for over 2 000 years” (Chen and Reid, 2002: 58).

It is clear that from its early days HRE was framed by the political and economic milieu of societies at their various historical stages. This trend continues up to the present and is most notable in the development of HRE since 1948. During this period the development of HRE in the Asia Pacific region, Latin America and Africa gained momentum though it

will be erroneous to assume that HRE is exclusively a pedagogical formulation of post-colonial Africa, 'modern' Asia and a liberated Latin America. These regions have rich histories of pedagogical formations associated with HRE that offer innovative alternatives for present day frameworks of HRE (see Martin, Gitta and Ige on Africa, 1997: 436-454).

3.3.3 Phase 2: The Formalization of Human Rights Education (1948-1994)

This section and section 3.3.4 will draw heavily on international provisions and recommendations to analyse the definitional structure of HRE. Direct references to declarations, covenants and conventions will be made to illustrate the salient features of the concept of HRE. In addition renditions on HRE within reputable texts will be employed to develop further analytical points.

The period between 1948 and 1994 witnessed a number of defining events in relation to the development of HRE. First, the concept of HRE became formalised as a linguistic expression with particular reference points in a number of important international human rights instruments as opposed to the 'loose' educational configurations preceding it. Second, some of its articulations were captured as legally binding imperatives on nation states. Third, the United Nations, especially through the work of UNESCO, began structuring HRE as a pedagogical formation in its own right. Fourth, the development of the concept of HRE took place in the context of the aftermath of the Second World War and the beginning of the Cold War. Fifth, HRE spectated on the paradigm debates in the methodology of the sciences and the subsequent paradigm and policy shifts in the social sciences and education. Sixth, apart from massive and systemic human rights violations, HRE also observed the fall of the Berlin Wall and the Iron Curtain; the phenomenon of emerging democracies; the beginning and end of formal Apartheid in South Africa; the inequitable tendencies of globalisation; a number of unjustifiable wars; and the entrenchment of global inequality and poverty, and so on.

More than ninety percent of the more than ninety-two international and regional formulations of HRE as a human right (UN: 1999) were constructed during this period. These formulations were to a large extent also inhabited by an emerging definitional structure for HRE, which, for many HRE practitioners, represents a distinct category of pedagogical activities that warrants serious consideration and deserves elevated standing within education circles. Establishing the legitimacy and currency of HRE has been a central preoccupation for those who either genuinely believe in the pedagogical value of HRE and those who view the field as a wealth-generating space; an economic and entrepreneurial endeavour; and a mechanism for ideological, cultural, political and economic expediency.

Whatever may be said, since 1948 HRE has developed its own pedagogical spin which became firmly entrenched across the world. Beginning with the 1974 UNESCO ‘Recommendation Concerning Education for International Understanding, Co-operation and Peace, and Education Relating to Human Rights and Fundamental Freedoms’ (1974 UNESCO Recommendation) and including the ‘Vienna Congress on the Teaching of Human Rights’, the Malta International Congress of 1987 and the Tunis Forum of 1992, the development and entrenchment of HRE seems to exhibit a structured trajectory that motivated Andreopoulos and Claude (1997: 3) to observe that:

Human rights education is not a passing teaching fad. It is not a whimsical intervention from designer seminars mulling over dreams for the twenty-first century. Human rights education is an international obligation with a half-century history.

The above passage comes from the most comprehensive text yet on human rights education, *Human Rights Education for the Twenty-First Century* and reflects the dominant belief that HRE was ‘created’ by the Charter of the United Nations in 1945 and the UDHR in 1948. It also underscores the legalistic notion that obligations in relation to HRE are more important than pedagogical considerations and motivations.

The 1948 UDHR is regarded as the surrogate of all subsequent human rights provisions and “treated as quasi-sacred text by its supporters and as a clumsy piece of bad philosophy by its critics” (Freeman, 2002: 34). Not only is it the authority on which many other declarations, principles, guidelines, resolutions, recommendations, covenants, conventions and protocols are based, it also represents for many HRE practitioners a central curricular and pedagogical text. It was adopted by the General Assembly of the United Nations on 10 December 1948 with 48 country votes in favour and 8 abstentions. The countries were mainly “from Europe and North and Latin America, with a few states from Africa and Asia” (*ibid*:35).

As a curricular and pedagogical text, most NGOs, independent state agencies and governments themselves, regard the UDHR as the starting point of HRE.

Whether one is a kindergartener or a professional in the field, human rights education quite often starts at the same place: the Universal Declaration of Human Rights (UDHR). Composed with the leadership of Eleanor Roosevelt and ratified by the full General Assembly of the United Nations in 1948, this document defines, as much as any document can, what human rights are. It seems to be an unspoken standard to begin any article or other text regarding human rights education with a reference to the UDHR; and with good reason. The UDHR is perhaps the single most important document in the creation of a foundation for human rights, and indeed, human rights education (Campbell, 2001:17).

The above relationship between HRE and international human rights instruments is commonplace and the most dominant. This relationship is however hubristic and interdependent. It is hubristic since human rights universals, through diplomatic consensus, call for their own legitimacy to be entrenched through HRE. Further, it is interdependent since HRE is framed as a human rights universal itself and as such it is ‘created’ by the same human rights provisions it ought to promote through advocacy, public awareness and education and training. The existence and legitimacy of human rights universals and HRE thus stand in a deterministic relationship with one another. This relationship has been forged ever since the instructional formulation of the preamble to the UDHR below.

"...The General Assembly proclaims this Universal Declaration of Human Rights... to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms..."

The exact aims of education are outlined in article 26:

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding among all the nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace."

In line with the UDHR and the UN Declaration on the Elimination of all Forms of Racial Discrimination (1963) the International Convention of the Elimination of all Forms of Racial Discrimination (1965) states in article 8:

All effective steps shall be taken immediately in the fields of teaching, education and information, with a view to eliminating racial discrimination and prejudice and promoting understanding, tolerance and friendship among nations and racial groups, as well as to propagating the purposes and principles of the Charter of the United Nations, of the Universal Declaration of Human Rights, and of the Declaration on the Granting of Independence to Colonial Countries and Peoples...

Likewise the International Covenant on Economic, Social and Cultural Rights of 1966 states that education should be:

...directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms...(it)...shall enable all persons to participate in a free society, promote understanding, tolerance and friendship among all nations, and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace... (Article 13).

This configuration of HRE remained dominant throughout the 1970s and the 1980s and was strategically underwritten by the 1974 UNESCO recommendation concerning

Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms. This recommendation is wide-ranging and provides definitional frameworks for ‘education’, ‘human rights’ and ‘international understanding’ coupled with a range of methodological and pedagogical guidelines for HRE. Apart from the pedagogical considerations, this recommendation set the trend for the declarization of HRE where the notion of HRE is constantly cross-referenced with educational constructions in declarations, conventions and covenants as evidenced in the following paragraph:

(This recommendation) ... is directed to the implementation of Article 26, para. 2, of the Universal Declaration of Human Rights and Article 13 ... of the International Covenant on Economic, Social and Cultural Rights. The Recommendation reaffirms, in particular, the responsibility of Member States to encourage and support any activity designed to ensure the education for all for the advancement of justice, freedom, human rights and peace. It applies to all stages and forms of education and determines general guidelines and specific actions in order to ensure better understanding of human rights. Among the principles set out in the Recommendation are that education should be so conceived as to promote "understanding and respect for all peoples, their cultures, civilizations, values and ways of life including domestic ethnic cultures and cultures of other nations"; "awareness of the increasing global interdependence between peoples and nations"; and understanding of "the inadmissibility of recourse to war for the purposes of expansion, aggression and domination, or to the use of force and violence for purposes of repression" (Principle III). In compliance with the Recommendation, Member States of UNESCO are urged to "take steps to ensure that the principles of the Universal Declaration of Human Rights and of the international Convention on the Elimination of All Forms of Racial Discrimination become an integral part of the developing personality of each child, adolescent, young person and adult by applying these principles in the daily conduct of education at each level and in all its forms" (Principle V) (UNESCO, undated [a]: 2).

The one-dimensional character of the conceptual framework and definitional structure of HRE is this recommendation’s major weakness since it is unable to shed the declarationist tendency so pervasive in HRE. It thus represents the first formalised attempts to screen out alternative and eclectic conceptions of HRE. Its ultimate aim in articles 1 (a-c) and 3 is to return us to the construction of human rights and HRE as

captured within declarations and other human rights instruments. Between the landmark 1974 recommendation (Torney-Purta, 1987: 231) and the Montreal Declaration of 1993, a number of international conferences and congresses on HRE took place. Regional developments on HRE within formations such as the European Union, the Organisation of American States, the Council of Europe and the Organisation of African Unity gradually took off but it was the Council of Europe that became a pacesetter as far as HRE is concerned. Since 1978 with the adoption of resolution (78) 41 on the *Teaching of Human Rights*, the Council of Europe became an important standards generating body on HRE. In this regard Tarrow (1987: 23) noted that:

According to the Deputy Director of Education, Culture and Sport of the Council of Europe, the common core of knowledge of human rights education should include:

The main categories of human rights, duties, obligations and responsibilities (the ideas of rights should be matched with responsibilities to others, to the community and to humanity as a whole);

The main international declarations and conventions on human rights, e.g. the Universal Declaration of Human Rights, the Declaration of the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedom, the American Declaration of the Rights and Duties of Man, the Universal Islamic Declaration of Human Rights and the Banjul (Africa) Charter of Human and People's Rights;

People, movements and key events in the historical and continuing struggle for human rights (e.g. Gandhi, King, Mandela; civil rights movements, women's movements);

The various forms of injustice, inequality and discrimination' (e.g. racism, sexism, terrorism and genocide)

Shafer (1987: 191) also further documented practical pedagogical activities on human rights during this period in Europe and the United States.

UNESCO (undated [b]: 1) understands “human rights education [as] an integral part of the content and purpose of quality education for all and is seen within the framework of

the fulfilment of the right to education”. The Integrated Framework of Action on Education for Peace, Human Rights and Democracy “updated the 1974 Recommendation and presented a contemporary view of the problems of education for peace, human rights and democracy” (*ibid*: 1). This framework was preceded by the Montreal Declaration which was a result of an international congress held in Montreal, Canada.

The Congress was organized by UNESCO in conjunction with the Canadian Commission for UNESCO and in close cooperation with the United Nations Centre for Human Rights (now the Office of the United Nations High Commissioner for Human Rights). The main aim of the Congress was to contribute to the elaboration of future actions to be taken by UNESCO "... for the promotion of human rights in the political, economic and cultural circumstances that have recently emerged and that call for fresh consideration and debate". Its objective was to highlight the achievements and identify the obstacles to overcome in the field of human rights education; to introduce education for democracy as a complementary aspect; and to encourage the elaboration of tools and ideas, in particular educational methods, pedagogic approaches and didactic materials, so as to give a new impetus to education for human rights and democracy. The Congress adopted the World Plan of Action on Education for Human Rights and Democracy, which proposes seven major strategies for concerted actions to promote education for human rights and democracy, including certain activities to be carried out by UNESCO. The Congress concluded that education for human rights is an integral part of education and that the right to human rights education is itself a human right. The Plan was noted in the Vienna Declaration and Programme of Action (Part II, para. 81) adopted by the World Conference on Human Rights (Vienna, Austria, June 1993). (UNESCO, undated [c]: 1)

The Montreal Declaration formalised the conceptual links between HRE, Citizenship Education and Education for Democracy. In later years, the Council of Europe initiated a programme on *Education for Democratic Citizenship based on the Rights and Responsibilities of Citizens* (2000). Thus the discursive route carved out by UNESCO in 1993 later on resulted in an amalgamation of HRE, Citizenship Education and Education for Democracy. Others like Lynch (1989) and Tarrow (1992) would like to include multicultural education in this stable as well. These developments dovetailed with the emergence of new democracies, the end of the cold war, the increased mobility and migration of people, the refugee question; the challenged of displaced people; and the

economic and cultural logic of globalisation. HRE, Citizenship Education and Education for Democracy are perceived as appropriate pedagogical responses to these developments.

Three months after the development of the Montreal Declaration, the World Conference on Human Rights adopted the Vienna Declaration and Programme of Action in June 1993. This conference

...underlined the importance of human rights education, training and public information for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding and peace. The Vienna Declaration and Programme of Action emphasized that education for human rights is itself a human right and a prerequisite for the realization of the universal ideals of democracy, social justice and development. The Vienna Declaration and Programme of Action underlined that "Governments, with the assistance of intergovernmental organizations, national institutions and non-governmental organizations, should promote an increased awareness of human rights and mutual tolerance" (Part II, Paragraph 82). In order to encourage educational and training activities in the field of human rights, the Conference recommended the proclamation of the United Nations Decade for Human Rights Education (1995-2004) (UNESCO, undated [d]: 1).

The most important development at the Vienna Conference has been the acceptance and registration of HRE as a human right in itself. The moral and legal imperative around the importance of HRE has thus been affirmed as reflected in paragraph 33 of the Vienna Declaration and Programme of Action (VDPA, 1993).

The World Conference on Human Rights reaffirms that States are duty-bound, as stipulated in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights and in other international human rights instruments, to ensure that education is aimed at strengthening the respect of human rights and fundamental freedoms. The World Conference on Human Rights emphasizes the importance of incorporating the subject of human rights education programmes and calls upon States to do so. Education should promote understanding, tolerance, peace and friendly relations between the nations and all racial or religious groups and encourage the development of United Nations activities in pursuance of these objectives. Therefore,

education on human rights and the dissemination of proper information, both theoretical and practical, play an important role in the promotion and respect of human rights with regard to all individuals without distinction of any kind such as race, sex, language or religion, and this should be integrated in the education policies at the national as well as international levels. The World Conference on Human Rights notes that resource constraints and institutional inadequacies may impede the immediate realization of these objectives.

The VDPA thus translated the Montreal Declaration into an international concern and provided it with the status of being morally binding on member states. Up to this point sufficient momentum has been created for the VDPA to recommend the proclamation of the United Nations Decade for Human Rights Education (1995-2004). Subsequently, the UN General Assembly carried this recommendation in resolution 49/184 in 1994.

A noticeable shift took place in 1993 with the adoption of the Montreal Declaration and the VDPA. The Montreal Declaration introduced recommendations for educational strategies whilst the VDPA expanded the content of education in article 79 and 80 to include:

Human rights, humanitarian law, democracy and rule of law as subjects in the curricula of all learning institutions in formal and non-formal settings...(it should also) include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights.

Most noteworthy of these formulations is the inclusion of ‘development’ and ‘social justice’ as content areas for HRE. This represents a major shift from previous formulations since it captured and reaffirmed ‘development’ and ‘social justice’ as outcomes of a HRE endeavour, though it lost its critical frame within a declarationist construction of HRE. The Montreal Declaration took as its starting point the 1974 Recommendation and other recommendations generated at congresses on human rights and democracy education in Vienna (1978), Malta (1987) and Tunis (1992). The VDPA in article 81 is in turn built on the Montreal Declaration and accumulatively these recommendations and plans of action formed the basis for the UN Decade for HRE (1995-2004). Despite these quasi-conceptual shifts, assiduousness has been applied to

ensure that the construction of HRE is in alignment with the normative principles of human rights instruments as stressed in article 80 of the VDPA.

These declarationist constructions of HRE view the UDHR as a pre-packaged curriculum framework with the ICCPR and ICESCR and subsequent instruments as pre-defined syllabi as if these diplomatic outcomes have been designed for pedagogical purposes. They also ensued within the context of the decolonization of Africa and the end of Apartheid in South Africa; the wave of ‘democracy’ that accompanied the end of the cold war; the “end of Marxist-Leninist governments in Europe” (Martin, Gitta and Ige, 1997: 438) in 1989; Huntington’s second (1943-1962) and third (1980s and 1990s) wave of “democratic development” (Patrick, 1997: 23); the re-emerging democracies of Latin America (Misgeld and Magendzo, 1997: 469); and the emerging democracies in Africa and Central and Eastern Europe. These developments constituted the necessary political, economic and cultural conditions for the proliferation of HRE across the world in the next phase.

The most striking feature of the development of HRE in this phase is not its formalised construction through United Nations Agencies but the speed at which this construction achieved hegemonic status by de-legitimizing ‘other’ forms of HRE praxis¹⁶. For example, though Martin, Gitta and Ige (1997: 440-441) tried to formulate a definition of human rights in Africa, they end up showing, as a positive development, that HRE on the African continent aspired to become declarationist¹⁷. This happened primarily through the work of the rapidly increasing number of donor-driven NGOs and civil society organisations. They (Martin, Gitta and Ige 1997: 436-454) also chronicled the post-colonial development of HRE in Africa as responses to massive human rights violations with professionals, churches and unions at the epicentre of the struggles against despotic regimes and in response to the economic failures of post-colonial Africa. The adoption of the African Charter of Human and People’s Rights in 1982 provided broader impetus for

¹⁶ Suarez and Ramirez (2004) document the explosion of HRE over the past few decades.

¹⁷ Indabawa, (2001) presents a declarationist curriculum on Lifelong Human Rights Education for Africa.

the development of HRE which was firmly rooted in anti-colonial principles but still remained mostly confined to the activities of civil society organisations.

In Latin America, reports (Brazil, 1986; Chile, 1991; El Salvador, 1993) about government-inspired atrocities in the era of political repression and dictatorship contributed to the impetus for advancing moral education and HRE (Misgeld and Magendzo, 1997: 2-3; Candau, 2004: 62-77). This immense input into the development of HRE worldwide has resonance with the South African experiences as reflected in the work of the Truth and Reconciliation Commission. Moral Education and HRE in Latin America and Democracy Education and HRE in South Africa are thus responses to a history of state terror rooted in a “moral perception of politics” (*ibid*, 5). The genesis of these pedagogical formations resides in the responses to political oppression against the Apartheid regime in South Africa and against dictatorships in Latin America. In both instances HRE intersected with popular education and a rich non-declarationist history thus underlies the present day formulations of HRE in these regions.

In a survey of HRE in the Southern African Development Community (SADC), Keet (2005) also reflected on the non-declarationist genesis of HRE in many of these countries. However, in the subsequent phase it will become clear that these forms have been assimilated into the mainstream conceptual framework for HRE. For instance, Misgeld and Magendzo (1997) and Candau (2004) provide refreshing non-declarationist takes on HRE in Latin America which is largely undermined by the *Inter-American Report on HRE (2003)* since it neglects an exploration of possible non-declarationist conceptions of HRE. What is thus on offer is a hegemonic, ahistorical, de-contextualised and sanitized version of HRE rooted in declarations, conventions, covenants and treaties.

As is the case with Latin America, the Asia Pacific Region has constructed many innovations in relation to HRE. The acknowledgement of the existence of configurations of HRE within the cultural histories of many peoples around the world is the basis on which the non-declarationist nature of some forms of HRE is constructed (see Sharma, 1996;). Swee-Hin (1996:174) also reflects on developments in the Asia-Pacific region in

relation to HRE and documents a “values education” approach to HRE employed in the Philippines. However, his cyclical arguments return to the mantra of “universally accepted human rights” (*ibid*: 174) as reflected in declarations and conventions. Similar to experiences on the African continent, this tune is most notably performed by Asia-Pacific NGOs. A conceptual schism thus seems to be played out between UN agencies, international, regional and local NGOs and education authorities as far as the construction of HRE is concerned.

Four main patterns can be distilled during this phase. *First*, the mainstream construction of HRE was hermetically sealed within the parameters and conceptual framework of the United Nations and its agencies. Major developments in this regard have taken place and by the turn of the 1990s the definitional structure of HRE was firmly entrenched. *Second*, the political climate generated by historical events opened up vast territories for the expansion of HRE. These territories, it was assumed, presented virgin spaces for HRE to flourish and the historical, cultural and other contexts barely had an influence on the hermetically-sealed construction of HRE. Alternative constructions of HRE operated outside the mainstream trajectory. *Third*, the levels of vulnerability experienced by societies within the context of decolonization, the end of the cold war and the overthrow of repressive regimes provided fertile ground for the uncritical assimilation of HRE into pedagogical structures and processes. *Fourth*, the polemics between various constructions of HRE favour the mainstream version which has been propagated as the benchmark framework for HRE.

3.3.4 The Proliferation of HRE (1995→)

Since 1995 the framework for HRE has been embodied in the proclamation of the United Nations Decade for Human Rights Education (UNDHRE), 1995-2004 (UN General Assembly: Res. 49/184). This framework and guidelines (1997: GA/A/52/469/Add1) include recommendations on definitional issues relating to HRE; principles of HRE; and refer to (article 16 [I]) pedagogies that include “critical analysis” and the “participatory method”. However, the guidelines (article 10 and 16 [f]) reaffirm the tendency to

constrain HRE to human rights provisions and direct HRE to analyse human rights problems in congruence with “human rights standards” as is evident in the following passages from the international plan of action for UNDHRE.

1. *The normative framework for the Decade shall be based upon the provisions of the international human rights instruments, with particular reference to those provisions addressing human rights education, including article 26 of the Universal Declaration of Human Rights, article 13 of the International Covenant on Economic, Social and Cultural Rights, article 29 of the Convention on the Rights of the Child, article 10 of the Convention on the Elimination of All Forms of Discrimination against Women, article 7 of the Convention on the Elimination of All Forms of Racial Discrimination, paragraphs 33 and 34 of the Vienna Declaration and paragraphs 78-82 of its Programme of Action.*
2. *In accordance with those provisions, and for the purposes of the Decade, human rights education shall be defined as training, dissemination and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes and directed to:*
 - (a) *The strengthening of respect for human rights and fundamental freedoms;*
 - (b) *The full development of the human personality and the sense of its dignity;*
 - (c) *The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;*
 - (d) *The enabling of all persons to participate effectively in a free society;*
 - (e) *The furtherance of the activities of the United Nations for the maintenance of peace (United Nations, 1998: 3).*

These passages embody the dominant belief that HRE is about the teaching of the constructions of human rights within international human rights instruments. This line of argument is further augmented by paragraph 3 (*ibid*: 4) that states that the plan of action:

... shall further be directed towards creating the broadest possible awareness and understanding of all the norms, concepts and values enshrined in the Universal Declaration of Human Rights, the

International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other relevant international human rights instruments.

And further (paragraph 5, *ibid*: 4):

A comprehensive approach to education for human rights, including civil, cultural, economic, political and social rights and recognizing the indivisibility and interdependence of all rights, as defined by the United Nations, shall be adopted for all activities under the Decade.

The concept of HRE in the UNDHRE is thus tied to the imaging of human rights within international instruments. The beginning of the UNDHRE was overlaid by the adoption of the UNESCO Declaration and Integrated Framework of Action on Education for Peace, Human Rights and Democracy (Paris, 1995). Together with the Montreal Declaration of 1993, the 1995 UNESCO Declaration and the Plan of Action for the UN Decade for HRE 1995-2004, constitute for some commentators a “kind of world-wide educational policy” (Lenhart and Savolainen, 2002: 145). HRE has thus become a discursive formation in the real Foucauldian sense and represents a “historically specific system of meaning which form the identities of subjects and objects” (Howarth, 2002: 9)”. On the one hand, the genealogy of HRE has tended to exclude its own alternative configurations. On the other, its archaeology, those rules of formation that “structure discourses” (*ibid*: 49), are almost exclusively determined within the institutions and practices of the United Nations and its agencies aided by the processes of NGO co-option.

Globalization, neo-liberalism and the dramatic increase in formal democracies across the world provided the historical, political and economic milieu for the launch of the UNDHRE which translated into a massive increase in pedagogical activity around human rights across the world. This pattern drew its design from the proliferation of human rights instruments between 1948 and 2004. The Human Rights Education Association (2003) lists more than 675 HRE initiatives in Africa, the Middle East, the Asia Pacific Region, Central and Eastern Europe, Western Europe, Latin America and the Caribbean and North America. Lohrenscheit (2002: 179) confirmed this tendency in her observation

that a search on the Internet will “yield over 5,000 sites” with HRE as the keyword. Two years later the same search yielded 1.8 million sites. Furthermore, as of December 2002, the UN Office of the High Commissioner for Human Rights (www.unhchr.ch) received 88 reports on HRE from member-states which include Africa (18), Arab countries (7), Asia-Pacific (12), Europe and North America (34) and Latin America and the Caribbean (17).

These recent developments with regard to HRE followed patterns and trends that have been set as far back as 1968 with the call for HRE to be implemented in formal education at an international conference on human rights arranged by the United Nations in Teheran. The period following this conference can be described as the era of the “universalization” of the importance of HRE as it became a fundamental discussion point within the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other United Nations agencies. These advancements were coupled with a series of international conferences from 1974 to 1994 (United Nations, 1999: 50-122) on HRE and the implementation of formalised HRE programmes in Europe in the 1980s. The Council of Europe Committee of Ministers adopted a resolution (78) on the Teaching of Human Rights in 1978 as part of a trend that found expression in recent developments such as the conferences on HRE in Europe (Finland, 1997), Africa (Senegal, 1998), the Arab States (Morocco, 1999), Asia and the Pacific (India, 1999) and Latin America and the Caribbean (Mexico, 2001). These developments took place within the ambit of the UNDHRE and in the midterm evaluation (A/55/150, 7 September 2000) of the UNDHRE, the United Nations High Commissioner for Human Rights (UNHCR) reported on 218 responses to questionnaires on the decade. The UNDHRE, as reflected within these evaluative processes, is mainly described as a “useful anchor/umbrella and catalyst mechanism for HRE” (E/C.4/2003/101, 2003: 5).

Shortly after the United Nations World Conference Against Racism (WCAR) in Durban, South Africa, the attacks on the Twin Towers in New York and the Pentagon in Washington on 11 September 2001 resulted in a shift as far as HRE is concerned. The ensuing war on terror has been described as the *War on the Bill of Rights* (Hentoff, 2003)

and the *War on Our Freedoms* (Leone and Anrig, 2003). HRE came under increasing pressure to align itself with matters of security, terrorism, patriotism and narrow nationalism. In a publication by the International Work Group for Indigenous Affairs (2002: 8) concerns are expressed that the “terrorist syndrome” may well “degenerate into more oppression”. As this anticipation came to be realised in the years following the attack on the Twin Towers, human rights and HRE education have adopted a brand new “anti-terrorist” and also, paradoxically, an anti-human rights encyclopaedia in some parts of the world. For instance, in an interesting article Avery (2002) explores the implications of 9/11 on *Teaching Tolerance* in the United States of America (USA). Further, Spies *et.al* (2004) reflects on the struggle against conservative and preservationist forces over the *Social Studies Standards in Minnesota*.

The 9/11-tragedy has not halted the proliferation of HRE across the world but merely customized its conceptual framework and approach to respond to these events from an ideological and political perspective that is framed within the parameters of the terrorist syndrome¹⁸. Tibbitts (2002: 7) also refers to this proliferation of “human rights education programming” whilst Lenhart and Savolainen (2002: 145) speaks of HRE as “world-wide educational discourse”. This discursive regime of HRE is tied to what Donnelly (2005: 158-168) describes as the “penetration of human rights” into international politics in the 1990s and what Menand 111 (2005: 169) refers to as the “explosion of interest in and a declaration of faith in international standards of human rights” over the last years of the twentieth century. Mainstream HRE clearly sources its legitimization from these processes as an attachment to a discursive trajectory that is designed and constituted outside the sphere of pedagogy. The superimposition of HRE from this location and space onto institutional and societal pedagogical practices resulted in the alienation and marginalization of alternative forms of HRE and this probably represents one of the major weaknesses of HRE.

¹⁸ See Saxon (2005) for an apologist account on *Philosophy in a Time of Terror: Searching for an Appropriate Jurisprudence*.

Though the overall assessment in the report on the midterm review of the UNDHRE points to major shortcomings as far as implementing the UNDHRE is concerned, it also reflects a steady increase of activities on HRE as defined within the UNDHRE. The shortcomings of the UNDHRE are articulated against a declarationist conception of HRE with a discursive structure that excludes alternative configurations of HRE. Within the processes and activities of the UNDHRE, the declarationist conceptions of HRE replaced most other forms of HRE in a massive calibration exercise that directed nation-states and organisations to align their conceptual framework of HRE with the normative basis of the United Nations. Thus, though the UNDHRE has certainly fuelled the practice of particular forms of HRE it has jettisoned others and its primary ‘achievement’ has been the assimilation and reconfiguration of various pedagogical modes into the mainstream conception of HRE. For example, it has become common in recent literature to cluster HRE, citizenship and democracy education (British Council, 2001). Also, many associated formations of HRE such as peace education, consciously and deliberately highlight their HRE alignment in the modern conceptions of themselves (Harris, 2004: 10).

As the UNDHRE drew to a close on 10 December 2004, steps were already afoot to put follow-up processes in place. A second decade was proposed (E/CN.4/2003/101: 7) because of the perceived shortcomings of the first decade and because the “international community has increasingly expressed consensus on the fundamental contribution of human rights education to the realization of human rights” (UN/GA/A/59/525/Rev.1, March 2005). Thus on 10 December 2004, the General Assembly in resolution 59/113 proclaimed the World Programme for Human Rights Education (WPHRE) of which the first phase (2005-2007) is focussing on primary and secondary school systems.

The conceptualization of HRE in the Plan of Action for the WPHRE (UN/GA/A/59/525/Rev.1, March 2005) represents an almost uneventful continuity with the construction of HRE in the UNDHRE as articulated in paragraphs 2 and 3.

Paragraph 2: Provisions on human rights education have been incorporated in many international instruments, including the Universal

Declaration of Human Rights (article 26), the International Covenant on Economic, Social and Cultural Rights (article 13), the Convention on the Rights of the Child (article 29), the Convention on the Elimination of All Forms of Discrimination against Women (article 10), the International Convention on the Elimination of All Forms of Racial Discrimination (article 7), the Vienna Declaration and Programme of Action (Part I, paras. 33-34 and Part II, paras. 78-82) and the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001 (Declaration, paras. 95-97 and Programme of Action, paras. 129-139).

Paragraph 3: In accordance with these instruments, which provide elements of a definition of human rights education as agreed upon by the international community, human rights education can be defined as education, training and information aiming at building a universal culture of human rights through the sharing of knowledge, imparting of skills and moulding of attitudes directed to:

- a) The strengthening of respect for human rights and fundamental freedoms;*
- b) The full development of the human personality and the sense of its dignity;*
- c) The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;*
- d) The enabling of all persons to participate effectively in a free and democratic society governed by the rule of law;*
- e) The building and maintenance of peace;*
- f) The promotion of people-centred sustainable development and social justice.*

Despite the almost identical formulations of HRE in both the UNDHRE and the WPHRE, two interesting shifts are noticeable. First, the notions of education for sustainable development and social justice certainly provide a much sharper critical construction of HRE. These notions seem to invite a critical analysis of human rights instruments but are curtailed by a contradictory and constraining provision in paragraph 10 that directs the plan of action to draw on “the principles and frameworks set by international human rights instruments”. “Social justice” thus means that which can be inferred from these instruments. This tendency inhibits the capacity of HRE to critically reflect on these

human rights articulations as political constructions and thereby contributes to the inherent conservatism of HRE. Second, pedagogical considerations are more clearly articulated in the WPHRE than in the UNDHRE in paragraphs 17, 18 and 19 though it is debatable whether the pedagogical claims such as “improved quality of learning achievement” can be sustained within a HRE programme. Paragraph 17 articulates the processes of HRE that include:

- (a) *“Human rights through education”*: ensuring that all the components and processes of learning, including curricula, materials, methods and training are conducive to the learning of human rights;
- (b) *“Human rights in education”*: ensuring the respect of the human rights of all actors, and the practice of rights, within the education system.

Whilst paragraph 17 reflects on HRE processes, paragraph 18 translates HRE into a central educational policy discourse.

Therefore, human rights education in the primary and secondary school systems includes:

- (a) *Policies — developing in a participatory way and adopting coherent educational policies, legislation and strategies that are human rights-based, including curriculum improvement and training policies for teachers and other educational personnel;*
- (b) *Policy implementation — planning the implementation of the abovementioned educational policies by taking appropriate organizational measures and by facilitating the involvement of all stakeholders;*
- (c) *Learning environment — the school environment itself respects and promotes human rights and fundamental freedoms. It provides the opportunity for all school actors (students, teachers, staff and administrators and parents) to practise human rights through real-life activities. It enables children to express their views freely and to participate in school life;*
- (d) *Teaching and learning — all teaching and learning processes and tools are rights-based (for instance, the content and objectives of the curriculum, participatory and democratic practices and methodologies, appropriate materials including the review and revision of existing textbooks, etc.);*
- (e) *Education and professional development of teachers and other personnel — providing the teaching profession and school leadership, through pre- and in-service training, with the necessary knowledge, understanding, skills and competencies to facilitate the learning and*

practice of human rights in schools, as well as with appropriate working conditions and status.

Paragraph 18 moves HRE from being the subject or content of educational policy to being an educational policy framework itself. Moreover, paragraph 19 shifts the conceptual framework of HRE towards the ambit of educational outcomes and thus completes the process of developing HRE as an educational policy construction.

By promoting a rights-based approach to education, human rights education enables the education system to fulfil its fundamental mission to secure quality education for all. Accordingly, it contributes to improving the effectiveness of the national education system as a whole, which in turn has a fundamental role in each country's economic, social and political development. It provides, among others, the following benefits:

(a) Improved quality of learning achievements by promoting child-centred and participatory teaching and learning practices and processes, as well as a new role for the teaching profession;

(b) Increased access to and participation in schooling by creating a rights-based learning environment that is inclusive and welcoming and fosters universal values, equal opportunities, diversity and non-discrimination;

(c) A contribution to social cohesion and conflict prevention by supporting the social and emotional development of the child and by introducing democratic citizenship and values.

Apart from these shifts, the WPHRE also presents an integrated strategy for advancing HRE in paragraphs 10-14 that focuses on previous plans, the Education for All targets, sustainable development, the Millennium Development Goals and literacy:

10. *The plan of action draws on the principles and frameworks set by international human rights instruments such as the Universal Declaration of Human Rights, the Convention on the Rights of the Child and related guidelines adopted by the Committee on the Rights of the Child (in particular, general comment No. 1 (2001) on the aims of education), the 1993 Vienna Declaration and Programme of Action and the Declaration and Integrated Framework of Action on Education for Peace, Human Rights and Democracy. It also draws on international declarations and programmes on education.*

11. *The Dakar Framework for Action on Education For All: Meeting Our Collective Commitments, adopted at the World Education Forum in 2000, the major international platform and collective commitment to the achievement of the goals and targets of Education For All (EFA), reaffirmed a vision of education supported by the Universal Declaration of Human Rights and the Convention on the Rights of the Child and geared towards learning to live together. In the Dakar Framework, education is considered key “to sustainable development and peace and stability” (para. 6), by fostering social cohesion and empowering people to become active participants in social transformation. Goal 6 of the Dakar Framework is to improve all aspects of the quality of education, ensuring their excellence so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills. It provides the basis for a concept of quality education that goes beyond reading, writing and arithmetic, and which, while necessarily dynamic, is strongly rights-based and entails democratic citizenship, values and solidarity as important outcomes.*
12. *A rights-based quality education encompasses the concept of education for sustainable development as contained in the Plan of Implementation of the World Summit on Sustainable Development. Education is seen as a process for addressing important questions such as rural development, health care, community involvement, HIV/AIDS, the environment, traditional and indigenous knowledge, and wider ethical issues such as human values and human rights. It is further stated that the success in the struggle for sustainable development requires an approach to education that strengthens “our engagement in support of other values — especially justice and fairness — and the awareness that we share a common destiny with others”. The World Programme for Human Rights Education would create synergies with the United Nations Decade of Education for Sustainable Development (2005-2014), coupling efforts to address issues of common concern.*
13. *One of the Millennium Development Goals adopted by the international community on the occasion of the United Nations Millennium Summit in 2000 is the promotion of universal access to primary education, which is still a major challenge. Although enrolment rates have been increasing in several regions, the quality of education remains low for many. For example, gender biases, threats to the physical and emotional security of girls and gender-insensitive curricula can all conspire against the realization of the right to education (A/56/326, para. 94). This*

plan of action aims at contributing to the achievement of this Millennium Development Goal by promoting rights-based quality education.

14. *The plan of action is also placed within the context of action of Member States and others to promote the universal right to literacy, in particular within the framework of the United Nations Literacy Decade (2003-2012), literacy being a key learning tool towards the fulfilment of the right to education.*

This necessary integrative strategy has not been as clearly articulated in previous constructions of HRE. It brings together the most important normative standards for HRE that have been generated over the past 12 years by the United Nations machinery. No other normative frameworks are considered.

Albeit limited, the conceptual structure of HRE has, beyond doubt, progressed towards a critical pedagogical construction. However, the conceptual incongruity of HRE has, at least in part, always resided in the entrenchment of a particular declarationist construction of HRE against the backdrop of efforts to provide it with a sharper and more critical pedagogical edge. This is clearly reflected in paragraph 2 of the WPHRE as referenced on page 79. Apart from the uncritical and therefore anti-educational risks of a declarationist construction, HRE should, according to paragraph 20 also perform an assimilative function by influencing the shape and identity of other pedagogical formations according to its own image.

All efforts taking place in the school system towards peace education, citizenship and values education, multicultural education, global education or education for sustainable development do include human rights principles in their content and methodologies. It is important that all of them, using this plan of action as a reference, promote a rights-based approach to education, which goes beyond teaching and learning and aims at providing a platform for systemic improvement of the school sector in the context of national education reforms.

A significant development during the period of the UNDHRE is recommendation 2002/12 of the Committee of Ministers of the Council of Europe to member states on

education for democratic citizenship (Adopted by the Committee of Ministers on 16 October 2002 at the 812th meeting of the Ministers' Deputies). The recommendation:

1. *Affirms:*

- *that education for democratic citizenship is fundamental to the Council of Europe's primary task of promoting a free, tolerant and just society,*

- *and that it contributes, alongside the Organisation's other activities, to defending the values and principles of freedom, pluralism, human rights and the rule of law, which are the foundations of democracy;*

2. *Declares:*

- *that education for democratic citizenship should be seen as embracing any formal, non-formal or informal educational activity, including that of the family, enabling an individual to act throughout his or her life as an active and responsible citizen respectful of the rights of others;*

- *that education for democratic citizenship is a factor for social cohesion, mutual understanding, intercultural and inter-religious dialogue, and solidarity, that it contributes to promoting the principle of equality between men and women, and that it encourages the establishment of harmonious and peaceful relations within and among peoples, as well as the defence and development of democratic society and culture;*

- *that education for democratic citizenship, in its broadest possible sense, should be at the heart of the reform and implementation of educational policies;*

- *that education for democratic citizenship is a factor for innovation in terms of organising and managing overall education systems, as well as curricula and teaching methods;*

In a confluence of trajectories, the shift in HRE in relation to citizenship education and democracy education resulted in the construction of *education for democratic citizenship and human rights*. Amongst human rights education practitioners there is now general consensus about the conceptual and practical interlocking of HRE, democracy education

and citizenship education¹⁹. Drawing on the normative frameworks presented in an array of international and regional instruments, this amalgamated formation became an assimilative framework for all other associated educational forms. Thus, to borrow from Said's (2001: 429) observation on the dominance of the Western construction of human rights, HRE has given itself "an internationalized and normative identity with authority and hegemony to adjudicate the relative value" of all other related forms of education. Conceptual formulations and practices of other associated educations reside outside this discursive formation of HRE, of which the parameters have been drawn by an array of UN normative standards.

3.4 Conclusion

This chapter dealt with the historical conceptual development and analysis of HRE with reference to a number of related educational formulations. These formulations and the relationships among them have not been explored to the fullest. The purpose of this chapter was solely aimed at tracing the roots of HRE and to consider and reflect upon its changing definitional and conceptual frameworks. The precursors to HRE and its foundations vary from region to region and though it started off as a multitude of forms, one particular formulation certainly gained hegemonic status through the structures and processes of the United Nations. There is within the current WPHRE a clear definitional structure that is undoubtedly declarationist and uncritical and also acts as the benchmark for other related educational activities.

This chapter also relates to section 2.4 of the research process presented in Chapter 2 which relate to the *literature review and conceptual historical analysis*. The literature that has been consulted provided the necessary data for this phase of the study and the object of the descriptive, comparative and interpretive analysis referred to in section 2.5. Though these strategies, within the ambit of conceptual historical analysis, have been useful to explore the historical trajectory of the concept of HRE, much more needs to be done to complete the cycle of concept analysis. Educational formulations were presented

¹⁹ The continuing discussion on the HREA listserv (<http://www.hrea.org/lists/hr-education>) underwrites this assertion.

in this chapter which require further analysis as intrinsic to a concept analysis of HRE. This will be done in later chapters.

The next chapter sets off the process of conceptual mapping for HRE which is taken further in all of the ensuing chapters. Conceptual mapping is a method of presenting various conceptual frameworks and narratives on a social space as a way of elucidating the meaning-making influences of meta- and mini-narratives on the concept of HRE. A concept analysis of HRE must be informed by the denotations of HRE that are carried by and employed within the definitional structures of the narratives and paradigms.

CHAPTER 4
**A CONCEPTUAL CARTOGRAPHY OF HUMAN RIGHTS EDUCATION:
PARADIGMS AND PHILOSOPHICAL ORIENTATIONS**

4.1 Introduction

As part of a conceptual historical analysis Chapter 3 explored the development of the concept of HRE; reflected on its rapport with associated pedagogical formations and explored the interrelationship with broader historical processes that shaped its meaning over time. Both the historical and spatial frames of meaning elucidation are thus employed in this study to provide for substantive conceptual engagement with the notion of HRE. This and consequent chapters will map the conceptual cartography of HRE (see section 2.6) as a way to explore how various paradigms, philosophical orientations, discourses and theoretical frameworks assign differentiated meanings to the concept of human rights and HRE (see section 4.7; Chapters 6 and 7).

The in-depth analysis of each of the major philosophical orientations within this chapter is necessitated by the importance of developing a solid conceptual cartography of HRE. As already demonstrated in section 2.6, the wide-ranging meanings of the concept of HRE and the relationships between them can only be illuminated through conceptual cartography which in turn requires a sound appreciation of how philosophical orientations and theoretical frameworks act as fundamental meaning-making influences. This chapter is essentially structured in the following way. It begins by analysing the basic propositions and critique of these paradigms and then extracts its conceptual implications for education and HRE.

Though the notion of ‘paradigm’ is mostly associated with world-views which, “within the domain of various scientific fields, facilitate the activity of study and research” (Edgar and Sedgwick, 2004:267), it also refers to conceptual models “as a set of concepts

and propositions that integrate them into a meaningful configuration” (Fawcett, 1989: 2). ‘Paradigms’ thus refers to both conceptual frameworks for research methodological considerations and general sociological perspectives. It further also refers to the philosophical backgrounds that shape the way in which phenomena are perceived and explained. HRE, as a phenomenon, is viewed differently within different conceptual frameworks. These frameworks can be mapped in various ways and are choreographed within diverse theoretical traditions. They include a range of possibilities stretching from the universal narratives of human rights instruments to the mini-narratives based on contextualised understanding. Moreover, it traverses various philosophical and theoretical orientations from Greek Stoicism to the various post-modern injunctions. Conceptual cartography is used as a tool to present the various conceptual frameworks that inform the meanings and shifts in meaning of HRE. Though a historical account of HRE is central to understanding the concept of HRE, it is not sufficient. Likewise, a typological and definitional analysis of HRE is only possible as a consequence of conceptual cartography. The various conceptual frameworks each presuppose a variety of meanings of HRE and these frameworks in essence represent the diverse habitats of the meaning of HRE.

The four broad conceptual frameworks, i.e. paradigms and philosophical orientations that will be discussed are positivism, interpretivism, critical theory and post modernism as they predominantly influence the meaning-making processes related to the concept of HRE. The pre-suppositions of these frameworks will be articulated in order to establish their implications for understanding the concept of HRE. Conceptual frameworks are presented in diverse ways and are known by bewildering designations and labels. They are sometimes referred to as paradigms (Kuhn, 1970), philosophical positions (Pring, 2000), views (Carr and Kemmis, 1986), rationalities (Giroux, 1981), theoretical frameworks (Henning, 2004) and models of social science (Fay, 1975: 13), all with their distinct meanings and framings. An even more puzzling array of perspectives derived from the feminist, religious and cultural frameworks engage with these broader philosophical “positions” in a multitude of ways in addition to theoretical constructs generated within the post-modern and postcolonialist embrace. For the purposes of this study, the terms paradigm, theoretical framework, conceptual framework and theory are

substantively synonymous though they only differ from one another as referents within the structural hierarchy of knowledge (see Fawcett, 1989).

4.2 Knowledge and Interest

Though the conception of the scientific endeavour in relation to human needs and interest has always tacitly been acknowledged, the most appropriate starting point for constructing and articulating these theoretical frameworks is found in Habermas's work on *Knowledge and Human Interest* (1972). In response and contributing to what has become known as the *Positivist Dispute in German Sociology* (Adorno, 1976), Habermas argued that knowledge "was created in communities of inquiry, guided by sets of rules or conventions for warranting propositions and theories ... expressive of three deep-seated anthropological interests of the human species, in control, in understanding and in freedom from dogma" (Young, R. 1990: 32). These interests inform our fixation with various branches of knowledge (Holub, 1991: 9) and influence our research-methodological approaches to inquiry. Moreover, they guide our thinking about education theory and practice. The technical interest correlates with "control", the practical with "understanding" and the emancipatory interest with "freedom from dogma". Subsequent to but not determined by Habermas's treatise on *Knowledge and Human Interest*, Fay (1975) explored the various models in relation to *Social Theory and Political Practice* focussing on the relationship between theory and practice. Giroux (1981) on the other hand, demonstrated the implications of these "rationalities" for education in *Ideology, Culture and the Process of Schooling*. Carr and Kemmis (1986), in similar vein, reinterpreted the knowledge-interest distinctions for the purposes of accentuating their bearing on educational theory and practice in *Becoming Critical*.

Essentially, for Habermas, all knowledge is constructed in terms of three fundamental "interests". The research theoretical frameworks that correlate with these "human interests" can be mapped as Positivism (technical interest: empirical-analytical sciences), Interpretivism (practical interest: historical-hermeneutic sciences) and Critical Theory (emancipatory interest) (Giddens, 1985: 127). Habermas's position on "knowledge

constitutive interests” did not go unchallenged and his difficulty in defending the “status” of these interests as *quasi-transcendental* in the Kantian sense, made him turn to the paradigm of language (Holub, 1991: 10) in his later work on a *Theory of Communicative Action*. His subsequent intellectual endeavours certainly exhibited shifts as he discarded some of the notions in *Knowledge and Interest* (Giddens, 1985: 137). However, his distinction of the aspects of societal life that generate “knowledge constitutive interest”, remain a useful tool for categorising the various theoretical frameworks and their implications for HRE. The debates within the philosophy of science and sociological theories is of cardinal importance to human rights and human rights education since they posit diverse frameworks for analysing, understanding and practising human rights and HRE.

Despite the usefulness of Habermas’s knowledge-interests mapping, Pring (2000:89) cautioned that “any map could have been drawn differently, making further distinctions and blurring others”. In close comparison to Pring’s sentiments, Paulston (Paulston and Liebman, 1993: 13-14) presents us with a ‘postmodern’ map that situates “paradigms and theories on the spatial surface of paper” where the boundaries are not fixed and the relationships are infinite (see section 2.6).

4.3 Positivism: The empirical-analytical framework²⁰

4.3.1 The Origins of Positivism

Also referred to as the classical research paradigm, “Positivism” is not a very informative label and includes a variety of schools of thought that view experience and reason as the bedrock for epistemological claims. “Epistemology” refers to theories of knowledge and the basic tendency of positivism is the search for a foundation on which to justify knowledge claims. This resulted in an epistemological orientation called “Foundationalism” which essentially “consists of two branches, Cartesian Rationalism and

²⁰ Some of the ideas in this section were presented in my M.Ed thesis: Aksienavorsing en Positivisme: ‘n Epistemologiese Bespreking (1996), University of the Western Cape.

Baconian Empiricism. Descartes and Bacon, though subscribing to different epistemological positions, laid the basis in the 17th century for the development of Comtean Positivism in the 19th century.

The early positivists' primary concerns were not confined to epistemological frameworks, but aimed at developing a unified method for science. Bacon for instance attempted a "reconstruction of philosophy" (Rohmann, 2000: 34) and was primarily concerned with advancing a "new methodology for the sciences" (Mouton, 1987: 3). He criticised Scholastic philosophy as theoretical and rejected the deductive model of scientific research. The goal of philosophy and science was to understand and control nature and the theoretical explanations necessary to achieve this goal are best developed by an inductive model of scientific research by which general hypotheses are derived from concrete observations and rigorous testing. This inductive reasoning, according to Bacon, should also form the basis for the methodology of the social sciences with the aim of social reform and progress (Mouton, 1987: 3). Subsequently, the ideal of the methodological unity of the social and natural sciences and the adherence to a foundationalist epistemology formed the bedrock of the development of Positivism in the 19th century.

The term "Positivism" was first coined by Claude Henri Saint-Simon in the early 19th century and later further developed by Auguste Comte. Saint-Simon believed that all sciences would become *positive*, i.e. based on a foundationalist epistemology capable of producing verified and empirically generated knowledge. Though Saint-Simon emphasized Empiricism as the primary epistemological framework, Comte, on the other hand, held the view that both Empiricism and Rationalism are crucial epistemological principles ..."science depends upon reason and observation duly combined" (Bryant, 1985: 14). Comte also broadened the aim of science to produce general theories under which all phenomena can be explained as opposed to simply verifying facts. The work of Comte, known as the chief exponent of Positivism, can historically be placed between 1830 and 1842 and is sometimes regarded as simply a systemization of the existing positivist ideas of that time that include Rationalism and Empiricism (Bryant: 1985: 11).

However, it was only between 1907 and 1929, with the establishment of the Vienna Circle, that the different positivist trajectories were unified under Logical Positivism, later known as Logical Empiricism (Mouton, 1987: 11-12).

4.3.2 Epistemology: Knowledge, Certainty and Objectivity

The scientific credibility of Positivism rests on the scientific method to generate certainty about knowledge claims. This certainty is generated by a foundationalist epistemology which refers to the belief that in order for an item to be labelled “knowledge”, it had to be securely established by showing that it has a *secure foundation* (Phillips and Burbules, 2000: 6). Rene Descartes claimed that “reason” (Rohnmann, 2000: 333) is this secure foundation and by using rational faculties argued “what could not possibly be rationally doubted and seemed indubitable true should be accepted as true” (Phillips and Burbules, 2000: 6). This rationalist position, adhered to by Spinoza and Leibniz as well, embraced mathematical logic as the only trustworthy method for obtaining truth. On the other hand, Francis Bacon argued that all knowledge derives from experience, i.e. the direct observation of phenomena. Locke and Hume have developed this epistemological explanation (Empiricism) further in the 17th and 18th centuries. Both Rationalism and Empiricism constitute foundationalist epistemological frameworks which is captured by Doniela (1984: 12) in the following statement:

Human cognitive powers are said to consist of two sources or faculties: reason (rationalism) as thinking or intuition, and the senses (empiricism) as they are involved in the perception of everyday visible, audible, touchable and so on objects. Rationalism claims that reason as a type of cognition is far superior to the senses. This claim of reason's superiority has been responsible, historically, for the conflict between rationalism on the one hand and empiricism on the other. Empiricism ... rejected the rationalist claim by asserting that all knowledge comes from sense experience.

A foundationalist epistemology presupposes a particular observational stance for the researcher since it advocates that knowledge should be generated uncontaminated from the values and beliefs of the researcher. Observation cannot happen without theory though the knowledge generated should correspond with an empirical reality and be

tested against empirical facts before qualifying as scientific knowledge. This foundationalist epistemology is the basis on which knowledge claims are made, which confers the status of “certainty” onto these knowledge claims.

“Objectivity” in the positivist tradition, is derived from various levels. First, knowledge is “objective” because it correlates with an independent reality. Language, the medium in which knowledge is articulated, acts as a direct representation of this reality in a nominalist tradition i.e. reality is constituted by individual “facts” and “objects” autonomous from observer interpretation. Second, the qualities of the inquirers allow them to identify their value judgements by employing a methodology that can shield research from human interpretation. Fay (1975: 20-21) captured this positivist belief as follows:

One can grasp the laws which govern the world – social as well as natural – only if one throws off these adolescent habits of interpreting the world in terms of one’s own needs and values, and adopts the mature stance of neutrality vis-à-vis one’s social world, studying its workings as they are and not how one wishes them to be or how one thinks they ought to be. Only then will the mechanisms which determine this social world reveal themselves as they are. It is science and only science, which adopts this stance, and it does so because it only employs concepts which are rooted in intersubjectively evident observations, because it employs techniques of experimentation which are reproducible, because it utilises reasoning processes which are rigorous and uniformly applicable, and because it accepts explanations only when they predict outcomes which are publicly verifiable. But the usefulness of science lies not only in the fact that it provides an objectively true account of how the world functions, but also in the sort of account that it gives.

“Neutrality” and “objectivity” are thus achieved through verification, or in the Popperian tradition, falsification. However, verifiability does not indicate “truthfulness”. It simply puts forward a criterion to determine the scientific status and meaningfulness of knowledge i.e. a statement is scientific if it is empirically verifiable or a statement is meaningful only if it can be tested empirically. Since value judgements are not empirically verifiable, they are in fact meaningless and unscientific.

4.3.3 Ontology and Explanation

The “sort of account” that Fay refers to in the above quotation, became known as the “deductive-nomological” explanation, the “covering law model” and the “hypothetico-deductive model” of explanation (see Hempel, 1965; Popper, 1959; and Nagel, 1961). Central to this explanation is the assumption that the world is constituted by causal patterns which can be used to explain phenomena and occurrences.

In critically reflecting on this notion of scientific explanation, Fay (1975: 21) observed that scientific investigation...

gives us causal laws of the type, if C then E under situation X, in which C, E and X are variables which are specified in terms of observational properties or in terms of some relation to observational properties. Moreover, science fits these causal laws into a deductive chain of wider generality, so that a system of causal laws is formed wherein widely divergent variables are related to one another in a clearly specified and definite way. It is through such systems that one begins to grasp how apparently unrelated phenomena are intimately connected, such that through the manipulation of one variable a whole host of predictable outcomes will occur. It is this ability to predict results that is the basis of the power which scientific knowledge gives to men.

The usefulness and meaningfulness of knowledge are thus determined by its potentiality and functionality for prediction and control which for Fay (1975) results in ‘technological politics’ and for Giroux (1981: 9) gave rise to “technocratic rationality” which takes as “its guiding interest the elements of control, prediction and certainty”. Furthermore, positivism, in its quest for a unitary science, holds the view that the social sciences can be conceived as a body of knowledge comparable to that of the natural sciences. This tendency resulted in what Habermas (McCarthy, 1984: 41) described as “Scientism”.

The ontological underpinnings of the covering law model assume a specific nature of reality as constituted by concrete atoms and granules which can be uncovered by empirical observations. This independent granular reality can be translated into precise

descriptions and explanations by employing language in a nominalist sense to present an atomistic world-view in law like hypotheses and generalizations.

4.3.4 The Critical Rationalism of Karl Popper

Karl Popper is generally not viewed as a positivist and Phillips and Burbules (2000) are at pains to describe his orientation as postpositivist in *Postpositivism and Educational Research*. For others, like Fay (1975: 13), Habermas (1976: 203), Lloyd (1983: 13) and Gellner (1986: 58), Popper's theoretical positions were infused with a positivist residue. Though it is useful to treat his orientations as different from logical positivism and naïve empiricism, to my mind Popper represents the most sophisticated formulations of the positivist tradition, especially his efforts to retain empiricism as a determining facet of epistemology and the logical conclusion that "falsification" (replacing verification) is unworkable without "granular metaphysics" which is a positivist ontological position.

Popper's first contact with the Logical Positivist of the Vienna Circle was in 1926 and since then he has written a number of articles critiquing the Baconian variation of induction. He was (1976a: 88) certainly of the opinion that his treatise in *Logik der Forschung* in 1934 represented the death of positivism ... an extinct philosophical species. According to Popper (1989b: 1) he solved the problem of induction, which is premised on the development of valid law-like statements based on accumulated observations and experiments, in 1927. The assumption that a series of observations of phenomena X causally result in phenomena Y does not necessarily mean that it will always be the case. Theories, accumulated law-like statements, can therefore not be inferred from observations and cannot rationally be justified by observations. Furthermore, for Popper (1976a: 80) there is a direct symmetry between induction and verification because both assume that theories can be unequivocally proved by observation and experimentation. Verifiable evidence thus serves the same purpose of induction, that is, to formulate law-like statements that are universal and able to explain past and future events.

Since the verification principle of logical positivism has been used as a demarcation criterion to distinguish between science and non- or quasi science as well as a criterion to determine the meaningfulness of scientific statements, it conflates the verifiability of a statement with its meaningfulness and scientific character. Popper (1989a: 40) rejects the verification principle as a crude demarcation criterion and a misplaced arbiter of meaningfulness. In rejecting the verification principle, Popper also discarded induction as a scientific method. He argued that a statement could not be inductively verified as a universal law because a singular observation to the contrary will falsify the statement. Scientific progress thus moves deductively.

Progress consisted in moving towards theories which tell us more and more - theories of greater content. But the more a theory says the more it excludes or forbids, and the greater are the opportunities for falsifying it ... Scientific progress turned out not to consist in the accumulation of observations but in the overthrow of less good theories and their replacement by better ones. This view implied that scientific theories, if they are not falsified, for ever remain hypotheses or conjectures (Popper, 1976a: 79).

Popper built the deductive method of science around “conjectures and refutations” and falsification or testability.

The critical method, the method of trial and error, (consists of) proposing bold hypotheses, and exposing them to the severest criticism, in order to detect where we have erred. We start our investigation with problems. The solution, always tentative, consists in a theory, a hypothesis, a conjecture (1976a: 86).

A hypothesis remains conjectural since the future holds the possibility for its falsification. Theories develop because scientists frame hypotheses (conjectures) in response to a problem-situation deductively. The scientist then sets off to falsify the conjecture and progressively eliminates shortcomings in the hypothesis through increased empirical content. If a hypothesis withstands various tests and efforts at falsification, it is conditionally accepted as a corroborated hypothesis. Empiricism, according to Popper can be retained because it differs from the naïve inductive empiricism of logical positivism. For Popper (1976b: 299), all observation is “theory-impregnated” in which

the scientist plays an “intensely active role” (1989b: 342). He thus rejects the value-free empirical observations of logical positivism and since hypothesis precedes observation, this method is deductive.

In science only observation and experiment may decide upon the acceptance or rejection of scientific statements, including laws and theories. The principle of empiricism can be fully preserved, since the fate of a theory, its acceptance or rejection, is decided by observation and experiment - by the result of tests. So as long as a theory stands up to the severest test we can design, it is accepted; if it does not, it is rejected. But it is never inferred, in any sense, from empirical evidence. Only the falsity of the theory can be inferred from empirical evidence, and this inference is a purely deductive one (Popper, 1989a: 54).

Popper’s “epistemology without a knowing subject” underpins his critical method of conjecture and refutations and the retention of deductive empiricism. Knowledge constitutes hypotheses and two competing hypotheses or theories which claim equal validity, are judged on the basis of their verisimilitude (level of truthfulness). The hypothesis (conjecture) which withstood the highest number of falsification efforts or refutations, has developed a higher verisimilitude because it offers, by implication, additional explanations. It thus represents a better estimation of the “truth” though never absolute...verisimilitude is a relative index of truth. Knowledge develops thus in an evolutionary way as the verisimilitude of hypotheses increase. The knowledge gained from this process is “objective” because it is derived from methodological objectivity.

The so-called objectivity of science lies in the objectivity of the critical method (conjectures and refutations). This means, above all, that no theory is beyond attack by criticism; and further, that the main instrument of logical criticism - the logical contradiction - is objective (Popper, 1976b: 90).

Knowledge, for Popper, is essentially conjectural and never absolute though it can be objectively generated through the critical method. Within this Popperian version of an “anti-foundationalist” epistemology, “certainty” also becomes relative.

Absolute certainty is a limiting idea, and experienced or subjective certainty depends not merely upon degrees of belief and upon evidence, but also upon the situation - upon the importance of what is at stake (Popper, 1989b: 79).

Thus, as Popper will have it, absolute certainty is impossible but theories with high verisimilitude can exhibit practical functionality and usage because of their high level of certainty. Certainty, for him (1989b: 80), is a highly qualified notion.

There is no clash between the thesis that all objective knowledge is objectively conjectural, and the fact that we accept much of it (objective knowledge) not merely as "practically certain", but as certain in an extraordinarily highly qualified sense; that is, as much better tested than many theories we constantly trust our lives to.

In arguing that there can “always be a certainty which is still more secure” (Popper, 1989b: 9), knowledge and certainty are forever conjectural. The teleological element of scientific endeavour is the search for “truth”. For these purposes, according to Popper (1989b: 44) “truth is correspondence with the facts (or with reality); or more precisely, that a theory is true if and only if it corresponds to the facts”. There is however, no criterion for truth.

We search for truth, but may not know when we have found it; we have no criterion of truth, but are nevertheless guided by the idea of truth as a regulative principle.

Popper’s notion of truth as a regulative principle provides for an acceptance that progression can be made towards truth through conjectures and refutations and the enhancement of the verisimilitude of theoretical hypotheses that will bring us closer to an “independent reality”. The development of verisimilitude is a more realistic aim for science (Popper, 1989b: 57).

While we cannot ever have sufficiently good arguments in the empirical sciences for claiming that we have actually reached the truth, we can have strong and reasonably good arguments for claiming that we may have made progress towards the truth.

These epistemological propositions of Popper are central to his ontological pluralism...his three world thesis. World 1 (the independent reality) interacts with world

3 (world of objective knowledge) through mediation by world 2 (world of consciousness). The world of objective knowledge, world 3, houses theories, hypotheses, scientific arguments and scientific problems and represents an estimation of world 1, the independent reality, through language and communication.

Since descriptions must fit the facts and are regulated by the principle of truth, Popper adheres to a “correspondence” theory of truth...descriptions must correspond with facts regulated by the principle of truth. His theory is also nominalist since language in world 3 can at least in theory accurately represent the independent reality of world 1 based on the progress relating to the verisimilitude of hypotheses.

Though Popper’s ideas indeed represent a disjuncture with that of logical positivism, his ontological, epistemological and methodological presuppositions echo so many fundamental positivist assumptions, that it is probably more accurate to describe his work as a very sophisticated exposition of positivism, rather than anti-positivist or post-positivist. As Lloyd (1983:13) puts it:

Insofar as Popper defended (the) package of notions, which coalesced around the empirical testing of theories, the fact/value distinction within science, the unification of natural and social scientific methods, and the rejection of wholism, he can be considered as a kind of positivist.

Therefore, Burbules and Phillip’s (2000) treatise on post-positivism with Popper as the central actor represents a series of risks for educational research in the anti-positivist tradition. However, as discussed below, Popper’s critical rationalism does break substantively with the fundamental doctrines of logical positivism though he is unable to escape positivist presuppositions in total.

In summation, though Popper has criticised all the basic tenets of positivism, his Critical Rationalism carts such fundamental positivist residue that it can be described as positivist. In Kuhnian terms and as paraphrased by Bernstein (1985: 21): “Evidence that may appear to falsify an existing paradigm may turn out to be accounted for by adjusting or modifying the paradigm without abandoning it”. The project of Popper, instead of

abandoning the positivist paradigm, ultimately resulted only in a refinement of its ontology, epistemology and methodology. Others, however, would suggest that Popper at least “saved what was valuable in the positivist tradition” (Morrow and Brown, 1994: 72).

4.3.5 Critique of Positivism

Though the above section alluded to a critique of positivism, this section will develop it further as a basis for discussing the concept of human rights education within a positivist frame. Since the early and mid 20th century, positivism came under increased attack for its exposition on the nature of science and its implications for social sciences which exhibited a diverse accumulation of anomalies in its discourse. The discussion on interpretivism and critical theory will articulate these anomalies further on the basis of the three arguments below:

First, Thomas Kuhn (1970) confirmed the misleading positivist notion of the nature of scientific progress. The replacement of one theory by another is not determined by the accumulation of facts or falsification and rational choice. The assumption that scientific knowledge is in a continuous state of accumulation and growth is erroneous since scientists exhibit irrational resistance towards new theories because of their vested interest in the given theory as normal science. Choices between theories are made on the basis of paradigmatically confined notions of knowledge, objectivity and truth that construct different scientific realities for different incommensurable paradigms. The application and meaning of these concepts are determined by its operational paradigm which in turn is informed by values, beliefs and assumptions. Therefore all facts are value and theory-laden and the positivist argument for objective knowledge cannot be sustained.

Second, in service of its project to uncover an independent and objective reality through deductive-nomological explanations, verification and falsification and conjectures and refutations, positivism must anchor knowledge and postulate “absolute and certain

grounds for truth” (Morrow, 1994: 65) as ways to “mirror” that reality. This foundationalist epistemology requires a commensurate atomistic (granular) ontological viewpoint and the presuppositions of the interrelationship between a foundationalist epistemology and a granular ontology has proven to be logically indefensible. Notions such as the methodological unity of the natural and social sciences, the existence of facts independent of theories, the confirmation of theories by appeal to facts and the ontological correspondence between facts and reality could no longer be sustained.

Third, positivism posits two problematic dualisms, these are the value-fact dualism and theory-practice dualism. In discussing the value-fact distinction in relation to the ends-means dualism, Fay (1975: 49) argues that “the choice of the ends to be pursued is thought to be a choice requiring a value judgement, but that the question as to the best means to a prescribed end is thought to be a factual question”. Within the realm of technological politics, positivists will argue that means are neutral and value-free mechanisms for reaching an end. However, as Fay argues (1975: 52), if any course of action can be: “either a means or an end, then it must be the case that even so-called means reflect the values and life-commitments of the person who supports it”. This point is also stated in Habermasian (Holub, 1991, 38) terms: “alternative means and ultimate ends are not applicable to social processes, since none of these terms can be isolated. In the realm of practical life technical parameters acquire meaning through life references”. Knowledge is socially embedded and the dualism between facts and values is therefore erroneous and limiting. The implosion of this dualism also undermines the positivist theory-practice distinction.

In essence, the positivist project aimed at articulating an ontological, epistemological and methodological framework for application in all scientific inquiry, including social inquiry. This has resulted in the hegemonic positivist orientation in the social sciences and education such as functionalism and behaviourism. As will be discussed later, explaining the concept of “human action” requires a radical break from positivism and its fact-value, theory-practice and means-end dualisms and a rejection of the ontological, epistemological and methodological scaffolding of these dualisms.

4.3.6 Positivism, Education and HRE

In the preceding sections I have presented positivism and its Popperian variant as a paradigm that reflects a dominant world-view of social theory linked to the perceived successes achieved in scientific progress. This world-view has permeated most disciplines and educational theory itself became closely aligned to the positivist endeavour. Kemmis (1996: 204-206) for instance, points out how a “functionalist view of the task of education” resulted in curriculum configurations faithful to the positivist tradition whereas Griffiths (1998:46) argues that the “formulation of knowledge which corresponds to an external reality” within the fact-value dichotomy of positivism has trapped many educational researchers.

According to Giroux (1981: 9), the technical rationality of positivism has been the “major constitutive interest that has governed the underlying principles in educational theory, practice and research in the United States”. This pattern was long in the making as the hegemony of the positivist theoretical framework took hold on the social sciences fuelled by the apparent scientific and technological progress so evident in our everyday lives. The temptation to model social theory on positivist principles became too great given the fact that positivism “took on the role of religion” (Pring, 2000: 90). A positivist temple was opened in 1867 in London to reflect the almost religious belief in the benefits which a “proper study of society could bring” (*ibid*, 91). It is therefore no surprise that many attempts were made to translate positivism into educational theory. O’Connor’s *An Introduction to the Philosophy of Education* and Skinner’s behaviourist theory of education (Ozmon and Craver, 1986: 175) are examples of positivist educational theory. Carr and Kemmis (1986: 55-61) also reflect on the pervasiveness of positivism in education as constituted by efforts to reconfigure education and an “applied science”.

A positivist conception of educational theory argues that educational institutions can be studied scientifically because social facts exist as physical facts do, and people can be categorised into types from which verifiable generalisations can be generated. Further,

positivist educational theory propagates that the aims and values (ends) and the means of reaching those ends are logically distinguishable. The pervasiveness of such educational thinking is aptly described by Giroux (1981:37-41) as he shows how, by using a Gramscian analysis of hegemony, “technical rationality has become the prevailing cultural hegemony” in education and argues “that the way classroom teachers view knowledge, the way knowledge is mediated through specific classroom methodologies, and the way students are taught to view knowledge, structure classroom experiences in a way that is consistent with the principles of positivism” (*ibid*: 52). Michael Apple (1993) demonstrates how curricular form and the logic of technical control exhibit fundamental positivist tendencies in education. Young, R. (1990: 20) further explains how positivist notions led to a “view of pedagogy as manipulation, while curriculum was divided into value-free subjects and value-based subjects where values were located decisionistically”. Positivist tendencies are exposed in Bowles and Gintis’s (1976) research on the “correspondence principle” in *Schooling in Capitalist America*, and Maxine Green (1999: 24) aptly captures the technocratic model of teaching as “a discrete and scientific understanding ...that often translates into the regulation and standardization of teacher practices and curricula”.

In addition to the above, a range of studies within the sociology of education and educational theory has shown that educational practice is permeated with positivist principles and that educational research struggles to rid itself of a positivist residue. Degenhardt (1984: 251) alerts us to the fact that positivist educational thinking “perpetuates anti-educational thinking ... and discourages valuable ways of thinking about education” whilst Griffiths (1998: viii), referring to educational research, warns that the “positivist model, using experimental, scientific, quantitative methods, is definitely in the ascendancy once again”. A recent case in point is Phillips and Burbules’s (2000) account of educational research as a classic example of an adherence to positivist principles under the rubric of postpositivism with the ultimate aim of cataloguing or registering educational research as a “scientific” endeavour. One can safely say that in the broader schema, HRE as a pedagogical formulation, is profoundly influenced by positivist notions.

The genealogy of human rights and human rights education has been discussed in the preceding chapters. For now, two brief inferences on positivism, human rights and HRE are drawn. First, at the same historical juncture of 1830-1842 when Auguste Comte was systemising the positivist philosophy of science, John Austin (1790-1859) presented a view of law known as “legal positivism”. In a radical break from a tradition that treated jurisprudence as a branch of moral or political philosophy, Austin offered a view of law as “an object of scientific study, dominated neither by prescription nor by moral evaluation” (Bix, 2003: 3). Austin’s legal positivism asserts that it is possible to have a morally neutral descriptive theory of law. Prior to Austin, the work of Hobbes and Locke in 17th century England focuses essentially on natural law theory - their work is frequently quoted in treatise on the history of human rights. Legal positivism rejects all notions of a natural theory of law or naturalism and in the mould of positivism, argues that legal validity is independent of moral notions or constraints. Independent legal validity derives its authority from social convention, social facts and separation of law and morality. This line of reasoning posits human rights in particular ways and therefore represents far-reaching implications for human rights education. For instance, if the validity of rights as law-like codifications is seen as independent of moral notions and values, human rights education will become instrumentalist i.e. a means to a particular end. This dichotomy, as this study argues, reduces human rights education to simply being a mediator or conduit of human rights universals.

Second, if human rights are captured in a “morally neutral descriptive” theory of law, the experiences of human rights violations which invoke emotions and value judgements will be relegated to anonymity and the micro-politics of people’s struggles will barely have an influence on the human rights discourse. Human rights education in this sense will either become nonsensical or redundant and at best will simply signify a popular form of legal education disseminating a “morally neutral descriptive” body of knowledge.

No doubt, there are an unsurprisingly high number of dominant forms of human rights education that operate on this positivist basis and this will be discussed in later chapters.

What is becoming clearer, is that notions of the nature of reality and truth and its epistemological underpinnings all, in one way or the other, inform our understanding of human rights and human rights education.

4.4 Interpretivism: The Historical-hermeneutical Framework

4.4.1 Introduction

The outcome of the positivist dispute in German sociology between Popper and Adorno and taken further between Habermas and Albert; and the convergence of the positivist critique elsewhere was a re-examination of the methodology of the social sciences (Holub, 1991: 46) brought about by the positivist critique inherent in hermeneutics. This convergence of critique against positivism which spans phenomenological, hermeneutical and analytic philosophical accounts of human actions, sought to replace scientific notions of prediction and control with interpretive notions of understanding, meaning and action. RJ Bernstein (1979: 113-114) captured this convergence aptly in the following passage:

From the philosophy of language we have learned to appreciate how language is embedded in practices and shaped by intersubjective constitutive rules and distinctions. From the theory of action we have learned that a proper analysis of human action involves references to those social practices and forms of life in which actions can be described and explained. From the analysis of social and political reality, we have come to see how this reality itself consists of practices and institutions that depend on the acceptance of norms about what is reasonable and acceptable behaviour. From the postempiricist philosophy and history of science, we have learned how misleading and simplistic the empiricist theories of science are, and how central are interpretation and understanding even in the hard natural sciences.

Bernstein's articulation above refers to fundamental anomalies within positivism in relation to the notions of language and human action and represents a rejection of the positivist notions of objectivity and neutrality. In short, it rejects positivism as a framework to guide social theory and educational thinking and to explain human behaviour and points to the centrality of interpretation in social inquiry. The convergence

of critique against positivism was preceded by various traditions such as German hermeneutics, existentialism and phenomenology. This convergence was not only articulated from an anti-positivist stance, but represented a new intellectual orientation long in the making. The influence of continental philosophy, as the German tradition was also referred to, has initially been limited as the positivist tradition was dominant in Britain and elsewhere in the world for the most part of the 20th century. The exportation of the logical positivism of the Vienna Circle and its Popperian variant ensued in the wake of the Second World War and had major influences on Anglo-American philosophy which contributed to the hegemonic stature of positivism. Theoretical physicists of the Marburg school in Germany (such as Carnap and Einstein) who were exiled from Germany during the Second World War, contributed to this tendency and the authority of the positivist account of the social sciences stood firm. According to Skinner (1985: 5), Popper and his disciples “probably exercised the most powerful influence upon the conduct of the social disciplines”. On the other hand, the isolation of the neo-Kantian philosophers of the South-West German school (such as Heidegger and Gadamer) meant that the positivist critique resident in hermeneutics and phenomenology as strands of interpretivism, was only fully appreciated in other parts of the world in the latter half of the 20th century and since then essentially undermined the positivist stronghold of English-speaking social philosophy (Skinner, 1985, 6).

Interpretivism has its roots in hermeneutics which refers to the “art of interpretation which aims to disclose an underlying coherence or sense in a text, or a text-analogue, whose meaning is in one way or another unclear” (Connerton, 1976: 102) and by extension uncovering the “meaning of social action and existence as a whole” (Rohmann, 2000: 174). Stated differently, hermeneutics denotes a “theory and method of interpreting human action and artefacts” (Morrow and Brown, 1994: 93). The term “hermeneutics” derives from the Greek word for “interpretation” associated with the tasks of Hermes, the winged figure in Greek mythology, who acted as messenger of Mount Olympus and interpreted the messages of the Oracle of Delphi (Rohmann, 2000: 174). He was thus the mediator between Zeus (God) and mortals. The field of hermeneutics began as an interpretation of biblical texts but was later also applied to secular text.

In the 19th century Wilhelm Dilthey (1976), in response to the positivist project, argued that the method of the natural sciences that focuses on deductive-nomological explanation (*erklaren*) could not be employed to that of the social sciences that focuses on understanding (*verstehen*). Understanding is a prerequisite for explanation in the social sciences and it is possible to develop reliable knowledge of historical experiences. Frederick Schleiermacher who preceded Dilthey in the 19th century, is generally known as the founder of modern hermeneutics and was the first to “universalise the question of understanding” (Holub, 1991: 51). Dilthey built on Schleiermacher’s ideas and in his paper *The Rise of Hermeneutics* (1900, published in Connerton, 1976) traced the development of the formal hermeneutic method back to pre-Renaissance periods. According to Dilthey (1976: 106) understanding is the “process by which, from signals given as sense-data, we perceive a psychic structure whose expressions they are”. On the other hand, “skilled understanding of permanently fixed expressions of life is called exegesis or interpretation” (Dilthey (1976: 106). Thus, the hermeneutic tradition is clustered under “interpretivism”. However, interpretivism includes a variety of positions “ranging from German hermeneutics to British analytical philosophy” (Carr and Kemmis, 1986: 87).

The hegemonic nature of positivism pushed hermeneutics to the background but a succession of German social theorists including Dilthey, Rickert, Simmel and Weber “sought to extend and elaborate the idea of hermeneutic interpretation into an alternative epistemological basis for the social sciences” (Carr and Kemmis, 1986: 86) towards the end of the 19th and beginning of the 20th century. Hermeneutics were further developed by the work of Heidegger and Gadamer in the 20th century and Gadamer’s work has subsequently been regarded as the “most important development in 20th century hermeneutics” (Holub, 1991: 50) since it provided for an ontological turn in hermeneutical sciences. Interpretivism, as a framework for inquiry, is however not confined to the hermeneutics of Heidegger, Gadamer and their predecessors but includes the analytic-philosophy of Wittgenstein and the works of Charles Taylor and Pitkin (see Bernstein, 1979: 112). Paul Ricoeur who shifted methodologically from existential

phenomenology to hermeneutic interpretation during the 1960s, is also a distinguished philosopher in the interpretivist mode (Dauenhauer, 2002: 1).

4.4.2 An Interpretive Theoretical Framework

The basic premise of interpretivism is that human action and social phenomena can best be explained by interpreting the subjective meaning of social actions. A social science of human actions can thus only proceed on the basis of interpretive categories with an unavoidable hermeneutic element. Hermeneutics as a theory of interpretation and understanding has moved through the romantic ideal of recovering the “true” meaning of the texts as expressed in the 19th century work of Schleiermacher and Dilthey towards understanding as fundamentally ontological, as exhibited in the work of Heidegger and Gadamer in the 20th century (see Holub, 1991). This has shifted the hermeneutical interest to include more than the written text or speech, swung its focus away from communication with the “other”, and moderated the hermeneutical agenda of Dilthey that focused on the separation between the natural and social sciences. In essence, hermeneutics adopted “understanding” as our “way of being-in-the-world” (see Gadamer, 1976).

According to Gadamer (1976: 117) the basic hermeneutical rule is “that we understand the whole in terms of the detail and the detail in terms of the whole”. This circular relationship conventionally resulted in forward and backwards movements within the hermeneutic circle with the aim to resolve what is strange about the text and to uncover its meaning. However, for Heidegger this circle describes understanding as the interplay “between the movement of tradition and the movement of the interpreter” (Gadamer, 1976: 119). This interplay is a process of education in which the interpreter produces tradition and therefore the circle of understanding “is not a methodological circle, but describes an ontological structural element in understanding” (Gadamer, 1976: 120). Stated differently by Holub (1991: 52): “we are not concerned with understanding something. Rather understanding is grasped as our way of being-in-the-world, as the fundamental way we exist prior to any cognition or intellectual activity”. The enquiry

therefore shifts ontologically from “understanding as knowledge about the world” to “being-in-the-world”.

The ontological direction given to “understanding” allows Heidegger and Gadamer to argue that temporal distance is not something that must be overcome since “time is no longer primarily a gulf to be bridged, because it separates, but is actually supportive ground of process in which the present is rooted” (Gadamer, 1979: 122). This represents another break with conventional hermeneutics because the historicity of the interpreter is not seen as an obstacle to understanding. Instead, this historicity within which the notion of ‘prejudice’ is operational, allows ‘prejudice’ to be understood not as “a hindrance to understanding but [as] a condition for the possibility of understanding” (Holub, 1991: 57). According to Gadamer (1979: 132) our prejudices constitute the horizon of a particular present but this horizon is built upon historical horizons and “understanding is always the fusion of these horizons which we imagine exist by themselves”. This “fusion is the task of effective historical consciousness” (Gadamer, 1979: 132-133). Gadamer’s views did not go unchallenged and Habermas (Holub, 1991: 66) criticized his notions as lacking a critical dimension where “agents appear as passive recipients caught in an endless stream of their heritage”. Further as Skinner (1985: 5) has noted, Gadamer provided the basis for a conclusion that “we ought not to think of interpretation as a method of attaining truths at all, but ought rather - in the words of Paul Feyerabend’s title - to be ‘against method’”.

The apparent divergence within theories of interpretation, led Ricoeur (1976: 194) to remark: “there is no general hermeneutics ...but only disparate and opposed theories concerning the rules of interpretation”. According to Ricoeur (1976: 194) it is useful to view these diverse and disparate theories within a framework of polarised opposition in hermeneutics styles. On the one pole, hermeneutics is understood as the manifestation and restoration of meaning, and on the other, it is “understood as a demystification, as a reduction of illusion”. Stated differently, the first pole refers to the hermeneutics of faith to recover a meaning whilst the second refers to the hermeneutics of suspicion where

interpretation systematically erodes the layers of deceptive realities to unmask false consciousness.

Ricoeur's distinction is useful since it presents the hermeneutical methodology from the perspective of the purpose of social inquiry in a dialectical interplay between the hermeneutics of faith and that of suspicion. In analysing Marx, Nietzsche and Freud's notions of religion, Ricoeur came to the conclusion that these three masters of suspicion posited that while "religion was perceived to be a legitimate source of comfort and hope when one is faced with the difficulties of life, in reality religion was an illusion that merely expressed one's wish for a father-God" (Robinson, 1995: 2). The suspicion of religion and culture is then further applied to the act of communication "under the rubric of a hermeneutics of suspicion" (*ibid*). For Ricoeur (1979: 202) the three masters postulate "three convergent procedures of demystification" by the "invention of an art of interpreting" (*ibid*: 200).

Ricoeur's further work is aimed at setting forth the essential "constituents of all actions" (Dauenhauer, 2005: 4) as the "proper object of the social sciences" within the fold of interpretivism. To do so Ricoeur argues that discourse and action is analogous:

Action is analogous to discourse because, to make full sense of any action, one has to recognize that its meaning is distinguishable from its occurrence as a particular spatial-temporal event. Nevertheless, every genuine action is meaningful only because it is some specific person's doing at some particular moment. Second, action has 'illocutionary' characteristics that closely resemble the speech acts in discourse. Each type of action has constitutive 'rules', rules that make an action a specific type of action. (Dauenhauer, 2005: 5)

Both action and discourse are inherently interactions and therefore subject to interpretation. Accordingly, what is applicable to the interpretation of discourse is also applicable to the interpretation of action. Through this argument Ricoeur brought together texts and actions as subjects of interpretive inquiry. From this follows the conviction that social actions are constituted by "the inter-subjective and common meanings embedded

in social reality” (Charles Taylor, 1985: 52). These meanings need to be explored through an interpretive approach to social science with an unavoidable hermeneutical element.

Heidegger, Gadamer and Ricoeur were primarily concerned with hermeneutics as a strand of interpretive social science whilst prior to their work Max Weber (1864-1920) postulated the whole ambit of sociological endeavour to be an interpretive one. For Weber, sociology is a “science which attempts the interpretive understanding of social action” (Rohmann, 2002: 426) through interpretation in terms of their subjective meaning. Subsequently, and encompassing the developments within hermeneutics and sociological theory, the perennial debate about the applicability of positivism within the social sciences resulted in the consolidation of an interpretive social science as both an anti-positivist project as well as an alternative intellectual direction. This direction is demonstrated in Winch’s *The Idea of Social Science* (1958), Geertz’s *The Interpretation of Cultures* (1973) and Taylor’s *Interpretation and the Sciences of Man* (1985).

4.4.3 Human Actions and Meaning

Fay (1975: 71) is of the opinion that the idea of an interpretive approach to social science from the viewpoint of analytic philosophy “starts with the fact that a large part of the vocabulary of the social sciences is comprised of action concepts”. What humans do and say is largely constitutive of human behaviour and these actions have significance and meaning for those who perform them. To paraphrase Ricoeur, actions have an illocutionary character with constitutive rules that make it of a specific type. These rules, as Carr and Kemmis (1986: 88) put it, are “intelligible to others only by reference to the meaning that the individual actor attaches to them”. Taylor (1976: 160) argued further that this meaning is different from linguistic meaning and the interpretive or hermeneutical necessity for social science resides in the axiom that a “certain notion of meaning has an essential place in the characterization of human behaviour”.

“Action concepts”, as used by Fay, refer to the terms we use to signify human behaviour as “doings” rather than “happenings” so that “jumping” is an action concept in contrast to

“falling” (1975: 71). In this sense, actions, because the actors assign meaning to them, require us to go beyond observation so that through interpretation we are uncovering the actors’ motives, reasons and intentions as a means to understand its subjective meaning. Taylor (1976: 162), in arguing for a meaning different from linguistic meaning, speaks of “experiential meaning ... meaning for a subject, of something, in a field”. Extrapolating from this, meaning is in relation to other meanings in a field in the same way that the constitutive rules of action determine the nature of the action in relation to a social context. Meaning is thus bedrocked by social practices and human actions and does not simply refer to a mental activity. Bloor (1983: 8) referring to Wittgenstein states that the real source of ‘life’ in a word or sentence is provided, “not by the individual mind, but by society, ...they are animated with meaning because of the social practices of which they are an integral part”. For Wittgenstein, with his “anti-positivist insistence that the meaning of an utterance is a matter of its use, and thus the understanding of any meaningful episode – whether an action or an utterance – always involves us placing it within its appropriate ‘form of life’” (Skinner, 1985:7). Meanings and actions thus have a profound social character and describing actions necessitates allusion to social practices because the intention of an action can only be understood in relation to the practice constitutive to it.

The interplay between meanings and social practices brings forth another dimension which Fay (1975: 77) termed “constitutive meaning” with reference to the “shared assumptions, definitions and conceptions which ... constitute the logical possibility of the existence of a certain social practice”. Thus apart from uncovering the meaning actors assign to an action by discovering its motives and intentions, an interpretive social science also aims at grasping the constitutive meanings of a particular social practice.

4.4.4 Epistemological and ontological considerations

In an interesting article on agricultural education, Woods and Trexler (2001) explore the implication of an interpretive paradigm for agricultural education research that looks beyond the dominant mode of inquiry (positivism) that may “inhibit our innovation and

development of intellectual pursuits” (*ibid*: 68) because of its epistemological, ontological and methodological orientations. Whilst a positivist epistemology is foundationalist in either an empiricist or rationalist sense, aimed at explaining and presenting a reality that exists independently of human actions and is susceptible to understanding, interpretivism contends that reality is socially constructed. Taylor (1976: 157-159) argues that though the epistemological basis of positivism with its notion of ‘unquestionable certainty’ has lost credibility, the “machine criterion (of computer-influenced theories of intelligence) provides us with our assurance against an appeal to intuition or interpretation” as the most contemporary expression of a positivist epistemology. He further argues (*ibid*) that the appeal to model the “science of man” on this epistemology has been very attractive and was taken up in various forms in different sciences. However, this orientation, in essence, cannot make provision for an inquiry or understanding based on interpretation.

The epistemological and ontological basis of interpretivism is radically incompatible with that of positivism. Reality, for positivism, is fragmented, tangible, given and measurable, whilst for interpretivism it is multi-layered, holistic and constructed through human interaction. A positivist conception of knowledge regards facts as correspondence with the truth in law-like regularities as opposed to an interpretivist understanding of events through interpretation that is influenced by social context. For interpretivism, human actions are logically different from other events and are constituted through understanding and agency on the part of the actors themselves, which require a hermeneutical approach to inquiry. Gadamer (1976: 122) refers to understanding not as a “superior knowledge of the subject” but rather “understanding in a different way, if we understand at all” with the aim of “fusing the present with the historical horizon” as understanding evolves. As understanding evolves through interpretation and re-interpretation it captures human actions as descriptions at different levels and at different phases.

For Fay (1975: 72), these descriptions reveal elements of explanation since descriptions of actors’ intentions refer to the meaning the acts have for the actors. Peters (1975: 3)

refers to “his reason explanation” which is supported by Svenaeus (2002: 121-130) in his interesting notes on the relationship between explanation and understanding in the *Hermeneutics of Medicine*. Further, as Taylor (1976: 174) points out, descriptions of actions within a social reality are descriptions of practices and these “cannot be identified in abstraction from the language we use to describe them, or to invoke them, or carry them out”. Therefore, no distinction exists between language and the social reality it describes since language is constitutive of reality and determines the nature of reality. The social construction of reality happens through and within language. This is in direct opposition to the nominalist view of language in positivism as a representation of reality.

The social construction of reality and language as constitutive of this reality, inverts the positivist notions of objectivity and neutrality since meaning is necessarily social. Rather meaning is linked to a consensus theory of “truth” where objectivity is derived as understanding of concurrence.

4.4.5 The inversion of dualisms

The dualisms of theory-practice, facts-values and means-end so central to positivism, are rejected within interpretivism. Theory and practice are conceptually linked since the aim of interpretivism is to gain understanding by interpreting the meanings of social actions assigned to actions by the actors themselves. A reduction of problems of communication between “those whose actions are being interpreted and those to whom the interpretive account is being made available” (Carr and Kemmis, 1986: 91) is at the heart of interpretivism and what can count “as truth is that which creates the possibility for increased communication” (Fay, 1975: 82). The meanings generated are meanings for the actors and the “agreement in the concepts used to describe and explain actions”, is a “necessary, though obviously not a sufficient, condition for truth” (*ibid*: 83). The epistemological stance of interpretivism on a consensus theory of truth, creates the conceptual and dialectical link between theory and practice where “the validity of a theory is partially defined by its ability to remain intrinsically related to and compatible with the actor’s own understanding” (Carr and Kemmis, 1986: 92). Further, there are no

uninterpreted facts since we grasped their meaning through the concepts we employ to interpret them and thus the dualism of facts-values also disappear in view of the fact that interpretation brings along the beliefs and values that constitute our social reality. Similarly, means as technical mechanisms to achieve a value-based end, are decided upon through collective interpretation and consensus and consequently means can be ends and ends can be means, both subjected to interpretive categories and therefore this dichotomy also collapses.

4.4.6 Critique of Interpretivism

A few strands of critique of interpretivism are discernable from the literature. First, the unsurprising counter-arguments from a positivist perspective view the inability of interpretivism to generate generalizations as a fundamental weakness that negates the scientific notions of truth and objectivity and as such is of little scientific value. The relativism and subjectivism inherent in interpretivism are unable to generate “valid” knowledge.

The second strand of critique relates to an acceptance of the basic foundation of interpretivism but point to some inadequacies. The focus of interpretivism on understanding as opposed to explanation, “excludes from social scientific enquiries the explanation of certain features of social reality which are of the utmost importance” (Carr and Kemmis, 1986: 94). In essence, according to this argument, interpretivism assigns a limited purpose to social inquiry. But even understanding within interpretivism is restricted to uncovering the subjective meanings that construct social reality and neglects the exploration of social structure which is a result of these meanings “ and in turn produces particular meanings ... that limit the kinds of actions that it is reasonable for individuals to perform” (*ibid*: 95). Fay (1975: 83-85) further argues that interpretivism neglects quasi-causal accounts and functional explanations in addition to offering an inadequate account of structural conflict within a society and the nature of historical change.

The third strand relates to the inherent conservatism of interpretivism since in a time of upheaval “the interpretive model would lead people to seek to change the way they think about what they or others are doing, rather than provide them with a theory by means of which they could change what they or others are doing, and in this way supports the status quo” (Fay, 1975: 91). Preceding Fay’s critique of the conservatism of interpretivism, Habermas (Holub, 1991: 65-66) has argued that the ontological hermeneutics of Gadamer maintain “a dangerous pretension to superiority” and thus has limited potential for an emancipatory or anti-conservative interest. Stated differently, ontological hermeneutics presents an unquestionable order of existence for understanding as our way of being-in-the-world and as such does not allow for critical reflection with the ultimate result of adherence to tradition and authority.

4.4.7 Interpretivism, Education and HRE

What Sarup (1978: 13-23) refers to as the “new sociology of education” takes knowledge as socially constructed with the aim to challenge aspects of school-knowledge that “are treated as absolutes” by adopting an interpretive view of social science influenced by social phenomenology. Giroux (1981: 11-12) points out that this new sociological movement and the free school movement emerged after 1960 united in their opposition to positivist tendencies within education. For Giroux (*ibid*) the interpretive stance has a number of implications for education. First, educational institutions are not value-free but their organisation and practices are tied to the interests, perceptions and experiences of “those who produced and negotiated its meaning”. Second, educators and students are viewed as “producers of values and truths”. Third, modes of pedagogy were developed “that stressed experiences and interpersonal relations”.

Carr and Kemmis (1986: 84-65) list Keddie’s study “of the ways in which classroom knowledge is defined and organised in schools” as a prime example of interpretive research following the publication of Michael Young’s *Knowledge and Control* in 1971. In essence an interpretive account of education differs radically from positivism on epistemological, ontological and methodological grounds. Interpretivism has made

inroads into educational thinking on the back of the new sociology of education since the 1970s and interpretive methods such as semiotics and hermeneutics took root in educational research. However, Giroux (1981:12) notes as a fundamental critique of interpretivism that “questions of power, ideology and the ethical nature of the existing society disappeared in a metaphysical mist fuelled by a rather naïve optimism in the power of consciousness to change social reality”.

Despite the criticism levelled against interpretive educational theory, it provided the basis on which a radical or critical pedagogy was emerging in the same vein as Habermas’s employment of hermeneutics for his emancipatory agenda.

The previous sections sketchily discussed natural law theory and the emergence of legal positivism within the broad development and establishment of positivism and its implications for human rights education. Human rights, conventionally housed within the discipline of law, have inevitably not escaped the paradigm debate between positivism and interpretivism. It is therefore no surprise that scholars such as Stavropoulos (2002) explore the implications of the debate and argue that Ronald Dworkin’s work, which includes *Taking Rights Seriously* (1977), is the best elucidation of interpretivism²¹ in the field of law.

Whereas natural law theory relies on humans’ responsibility to God to observe the law of nature, legal positivism believes in a “morally neutral descriptive” theory of law which objectively captures these legal provisions. For natural law theory human rights are given whilst for legal positivism human rights are those “morally neutral” articulations that are captured in human rights law. Both these arguments are flawed. The first is flawed because human rights cannot be justified simply on a theological basis. The second is flawed because it fails to give account of the interpretive processes that generate human rights articulations.

²¹ See also Marmor (1995) on *Law and Interpretation*.

In contrast to these propositions interpretivism views human rights law as interpretive of human rights history. Following from this schema, HRE considers human rights as interpretive categories from the perspective of those claiming their rights and articulates the meaning that these actors assign to human rights. Human rights universals are merely representing a phase within interpretive cycles and are subjected to the understanding of social actors. HRE, in the interpretive mould, is aimed at uncovering the subjective meanings attached to human rights and its practices and attempts to explain the political and other processes that codify human rights in particular ways.

4.5 Critical Theory

4.5.1 Introduction

At more or less the same period that the various strands of positivism were brought together in the logical positivism of the Vienna Circle, the Institute of Social Research was founded in Germany in 1923. It became the home of the Frankfurt school whose scholars developed the most coherent and far-reaching critique of positivism. The institute was first headed by Carl Grunberg as director to develop a research programme focussing *inter alia* on the labour movements and the nature of the capitalist economy (see Bronner and Kellner, 1989 and Held, 1980) with Marxism as its theoretical basis. When Horkheimer became director in 1930 the institute undertook to develop a theory of society which culminated in 1937 in his programmatic statement for the institute when he set out the idea of a “Critical Theory” (Horkheimer, 1976: 206-224).

The term ‘critical theory’ has various meanings but loosely refers to the tradition of thinking of the Frankfurt school and the later work of Jurgen Habermas. Initially the school included Fromm, Horkheimer, Marcuse, Ardorno and others and dealt with a range of topics and issues that exhibited a reconstructed understanding of Marxism. The currency of the Frankfurt school thinking reached its height during the 1960s and 1970s (see Held, 1980: 1) because it offered an interesting reading of Marxism. However, since it was rarely studied in the Anglo-American world, misunderstandings of its fundamental

propositions were commonplace. The critical theorists employed a variety of intellectual strands including those associated with Kant and Hegel and the hermeneutics of the 19th and 20th century. In fact, Habermas used the hermeneutic tradition to formulate his critique against positivism and found in Gadamer an ally as far as his debate with positivism was concerned. The work of the institute was hampered by the turbulence and instability of the two world wars and the institute first moved to Geneva and later to Columbia University in New York. The historical context in which the Frankfurt School was founded – the Soviet revolution, its total degeneration and its influence on Europe; the collapse of the left wing political parties in Germany; the emergence of Stalinism, Nazism and Fascism; the repression of socialist movements; the capitalist crises; - directly and indirectly influenced the agenda of critical theory. As the leading contemporary exponent of critical theory, Habermas was not yet born when the institute was founded and joined as Adorno's assistant in the 1950s after the institute was re-established in Frankfurt in 1953 during the post-war period. It was from this base that he was launched into his first major public debate known as the "Positivist Dispute in German Sociology". Subsequently he entered into debates with Gadamer, Lyotard and Luhman through which he formulated, in a remoulded way, his critical theory of society with the practical intention of emancipation.

Connerton (1976: 14) is of the view that the development of critical theory can be divided in two stages, i.e. "a creation of the early thirties" and "a discovery of the late sixties". The inaccessibility of critical theory to the English-speaking world was partly because of historical circumstances, language and the texts themselves and its influence in the English-speaking world only gained momentum in the 1960s. The re-discovery of critical theory in the post second world war era also heralded its "rejuvenation" most prominently through the work of Habermas (*ibid*: 15).

4.5.2 What is Critical Theory?

Critical theory draws on a variety of philosophical and theoretical orientations and exhibits within itself diverse tendencies and inclinations. Though the members of the

Frankfurt schools were many it is safe to regard Horkheimer, Adorno, Marcuse and Habermas as the main figures within critical theory. Sourcing from a wide range of theoretical and philosophical positions such as Kant, Hegel, Marx, Weber, Lukacs, Heidegger and Gadamer and Anglo-American thought, especially linguistic philosophy (Held: 1980: 16), they aspire to develop a “critical perspective in the discussion of all social sciences”. No doubt, Marx’s *Critique of Political Economy* formed the theoretical bedrock for early critical theorists (see Held, 1980; Connerton, 1976; Morrow, 1994) and Marcuse is often credited as an original Marxist thinker (Mukherjee and Ramaswamy, 2000: 378) influenced profoundly by Lukacs’s interpretation of Marxism. In his later life he became the mentor to “the American and European New Left and the student protest movements of the 1960s” (Rohmann, 2002: 83).

Like most umbrella terms and designations, “critical theory” is resistant to being defined and a précis of its major strands is almost impossible. Connerton (1976: 13-38) provides a useful 4-phase framework within which to situate the critical theory phenomenon. *First*, the Frankfurt school argues that the power of ideology extends beyond the range of discursive propositions as a move away from Marxist analysis. Ideology-critique now also operates in social psychology and also within a critical sociology of the arts. For Marx ideology-critique was employed to challenge ideological concepts like labour and commodity as discursive propositions by focusing on the disjuncture between claim and reality. Critical theorists argued, against the background of German fascism, that social conditions are transferred to the individual creating an “authoritarian personality” with the family as psychological agents of society. Thus, ideology-critique is extended to the discipline of social psychology. *Second*, the self-reinforcing qualities of infra-structure indicates that the increase of the forces of production have become a means to justify the status quo, unlike Marx’s anticipation of it as a “historically explosive force” (*ibid*: 26). The relationship between the forces of production and the relations of production has been reconfigured and instead of providing a critique of the power structure of society, “they provide a basis for its legitimation” (*ibid*: 26). Thus moving away from focusing on the contradictions between productive forces and productive relations, Horkheimer and Adorno, in response to positivism, moved their focus to instrumental reasoning which

they see as a threat that might culminate in fascism. They therefore replaced the critique of political economy with the “critique of instrumental reason”. *Third*, the disappearance of a revolutionary proletariat ‘made’ liberation ‘redundant’ in an affluent society and the focus on political economy is therefore ineffectual as a critique of society. The object of critique is therefore “not primarily late capitalism ... but technical rationality” (*ibid*: 28) because a society fashioned on instrumental reason and technical efficiency is “potentially self-undermining” (*ibid*: 29). *Fourth*, Habermas employed hermeneutics to argue for communicative action as opposed to instrumental action since instrumental reason has the interest of control which is contradictory to a project that tries to eliminate communicative distortions. The theory of communicative competence assumes “that the anticipation of a form of social life in which autonomy and responsibility are possible are prefigured in the structure of speech itself” (*ibid*: 32).

The general trends of critical theory are somewhat discernable in the writings of main exponents of the Frankfurt school. Habermas (1989, *The Tasks of a Critical Theory of Society*) himself is of the view that the Frankfurt school was “essentially dominated by six themes until the early 1940s” (*ibid*: 292) viz. forms of integration of postliberal societies; family socialization and ego development; mass media and mass culture; the social psychology behind the cessation of protest; the theory of art; and the critique of positivism.

Horkheimer (1976) in *Traditional and Critical Theory* argues against the Cartesian (positivist) notion of “knowing” which dissects the purpose of science from science itself and argues for a critical theory of society which “has as its object men as producers of their own historical way of life in its totality” (*ibid*: 222). Pollock (1976) in *Empirical Research into Public Opinion* castigates the “positivistic-atomistic conception of public opinion” and suggests “that the nature of public opinion must not be defined, but studied” (235). Adorno (1976) in *Sociology and Empirical Research* posits that “ideologies, the necessary false consciousness, are an element of social reality, with which anyone who desires knowledge of the reality itself must become acquainted” (*ibid*: 256) but at the same time these ideologies must be criticized as truth claims. Further in *Cultural*

Criticism and Society (1976), Adorno argues that “culture has become ideological not only as the quintessence of subjectively devised manifestations, but even more as a sphere of private life” (*ibid*: 271) but private life “drags on only as an appendage of social processes”. In *Repressive Tolerance* (1976) Marcuse makes two salient points. First he forwards an argument that tolerance and protection from cruelty and aggression are pre-conditions for a humane society. However, progress towards it has been arrested by violence and suppression on a global scale and people “are educated to sustain such practices as necessary for the preservation of the status quo” (*ibid*: 302). Second, in arguing that the dialectical proposition of the whole, which determines the truth, can lead to progressive movements turning into that which they defy, he shows how the exercise of political rights such as voting in a society of total administration, serves to strengthen this administration “by testifying to the existence of democratic liberties which in reality, have changed their content and lost their effectiveness” (*ibid*: 303). Habermas (1976) contends that science has become a technological force and “research, technology, production and administration have coalesced into a system which cannot be surveyed as a whole, but in which they are functionally interdependent” (*ibid*: 333) in *Theory and Practice in a Scientific Civilization*. He, like others mentioned above insists on the critique of ideology in opposition to the deployment of technological rationality.

Held (1980: 379) is very critical of Connerton’s (1976) 4-phase theory about the development of critical theory as comprising “a path of cumulative and progressive developments”. In his *Introduction to Critical Theory* (1980) it is apparent that critical theorists of the Frankfurt school have engaged in class, class conflict and political economy; the culture industry; psychoanalysis; philosophy of history; critique of ideology; dialectics; historical materialism; discourse, science and society; knowledge, interest and action; and the hermeneutic sciences. He (*ibid*: 379) is however highly critical of commentators who do not appreciate the differences among the Frankfurt school theorists and the fundamental divergence inherent within the group.

In slight deviation from Connerton, Morrow and Brown (1994: 85-111) put forward a 3-tiered problem shift within the development of critical theory. First its interest in

explaining the lack of resistance by the German working class; second its interest in the nature of capitalism and society; and third the work associated with Habermas. However, they concur with Connerton in tracing the strands within critical theory through Hegelian-Marxism, hermeneutics, political economy, social psychology and cultural studies but provide a much broader framework of the influences on and of critical theory. These include linguistic philosophy; social phenomenology and ethnomethodology; pragmatism and symbolic interaction; the French traditions of structuralism and post-structuralism; and the French Social Theories of Touraine, Bourdieu and Foucault. This particular broad take on Critical Theory is now widespread as a

Catch-all phrase for a divergent set of theories that distinguish themselves from conventional or traditional theories. Critical theory designates a range of 'isms' including Marxism and post-Marxism, semiotics and discourse analysis, structuralism and post-structuralism, ideology-critique of all varieties, deconstruction, feminism, queer theory, psycho-analysis, postcolonialism, postmodernism, as well as successors of the Frankfurt School Critical Theory (Simons, 2004: 12)²².

Despite critical theory's recalcitrance towards summary, I will, in the following section, attempt to give an account of its major propositions of which there are ten. *First*, its eclectic approach drawing from a wide range of intellectual traditions not only for the purposes of constructing a critical theory of society but to signify and demonstrate the importance of a multi-disciplinary approach and providing a synthesis of political theory, psychology, sociology, cultural theory, anthropology, history and philosophy which can give rise to an interdisciplinary theory of society. *Second*, its grounding in Marx's critique of political economy, the critique of capitalism and the questioning of fundamental orthodox Marxist assumptions. *Third*, the central role assigned to the dialectical approach and the extension of the application of ideology critique. The dialectical tradition that had its genesis in Hegelian-Marxism projects critical theory as a self-critical endeavour, open to challenges and modifications.

²² It is almost impossible to categorise some thinkers in relation to Critical Theory and Postmodernism. The overlaps are evident in Bertens and Natoli (2002): *Postmodernism: The Key Figures* and Simons (2004): *Contemporary Critical Theorists*.

This dialectical tradition *fourthly* resulted in a unified opposition to instrumental reasoning that facilitated the emergence of a profound critique of positivism and scientism. *Fifth*, and related to the preceding point, technological administration and management manifested as a result of the coalition between science, technology, industry and administration in an “interlocking circular process” (Habermas, 1976: 331) that undermines rationality because of its ideological nature. *Sixth*, though Horkheimer and Adorno put forward a mode of critique in the *Dialectic of Enlightenment*, Habermas rejected this notion and suggests a critique grounded in *Universal Pragmatics* whose task it is to “identify and reconstruct universal conditions of possible understanding” (Morrow and Brown, 1994: 151), i.e. communicative action through which emancipatory reason can develop. *Seventh*, against all the “relativistic and nihilistic excesses” associated with postmodernism, critical theory “maintains a nondogmatic perspective which is sustained by an interest” which seeks an “emancipatory alternative to the existing order” (Bronner and Kellner, 1989:2). *Eighth*, Ray (1993: xii) aptly describes the need for critical theory to grasp “the structures which make some outcomes (and struggles) more likely than others, which implies a focus which has always been central to critical theory, namely the relationship between social inequalities and the management or regulation of potentially destabilizing conflicts”.

Ninth, the hegemonic nature of and organic contradictions within instrumental reasoning constitutes and produces ‘a crisis’ that can generally be described as the ‘conspiracy’ between science, politics and social administration that reproduces the status quo and legitimises the present social and economic order²³. From this, critical theory derives its interest “in the liberation of mankind” which is bound to ancient truths such as the “materialist theory of society” whose impetus is generated by an “interest in the individual”²⁴. *Tenth*, following Simons’ (2004) line of reasoning in the preceding quotation on page 124, critical theory encompasses the concerns raised by postmodernism about the totalization of human experiences through grand narratives and foundationalism. French intellectual thinking thus combines with the Frankfurt school to

²³ This line of argument is presented in Horkheimer’s *Notes on Science and the Crises* (1989).

²⁴ See Marcuse (1989) in *Philosophy and Critical Theory*.

broaden the ambit of critical theory to include Kristeva, Cixous, Lyotard, Derrida, Baudrillard, Foucault and Bourdieu (Simons, 2004: 15) The most likely conclusion of this broadened ambit of critical theory coupled with a preponderance of continuities and discontinuities between modernism and postmodernism, is reflected in Giroux's and McLaren's attempts to argue for a Critical Postmodern Pedagogy. This will be discussed in later parts of this study. Also, many of the French thinkers mentioned will be discussed under the umbrella of postmodernism.

4.5.3 Ontological and Epistemological Considerations

Hegelian-Marxism provided the starting point for the epistemological and ontological considerations for critical theory. Hegel's main thesis is "that social reality is absolutely historical and can be understood only as a totality of contradictory elements" (Morrow and Brown, 1994: 94). In this sense hermeneutics plays a central role in methodology since determining social reality as rooted in history requires an interpretive mode of reasoning. Marxism thus becomes critical hermeneutics but for the reason that ideology masks social reality, ideology-critique became the central interpretive tool. As such Horkheimer insisted that "a critique of knowledge, presented as a dialectical critique of ideology, must locate all thought in historical context, uncover its rootedness in human interest and yet avoid relativism and be distinguished from scepticism" (Held: 1980: 176).

Held (1980) further expounds the ideas of the Frankfurt School exponents and argues that if dialectics is unconcluded it is therefore a critical method "for it reveals incompleteness where completeness is claimed" (*ibid*: 177) i.e. it is a materialistic dialectic according to Horkheimer. Leaving its epistemic foundations unfinished, the dialectical method is a continuous reconceptualization of knowledge that replaces or transcends previous "moments of truth" by incorporating a rejuvenated and altered consciousness in a cyclical process. For Held (1980) the notion of ideology-critique is central to Horkheimer's epistemological stance since immanent criticism, i.e. "criticism that confronts the existent in its historical context" (*ibid*: 183), is aimed at an appraisal of the rift between ideas that

operate on an ideological level and reality. Coupled with the notion of ideology-critique is the notion of praxis which simplistically refers to the fusion of theory and practice that is constitutive of Horkheimer's epistemological and ontological orientation. Truth claims can only reside in practice and theories are dependent on their truth claims with reference to it being tested and verified in practice. These theories, however, are historically determined and their correctness or incorrectness will be proven within history.

Held (1980) further contends that for Adorno "knowledge is embedded in tradition" (*ibid*: 214) and acts of interpreting and theorising are essential to unlock the meanings of objects in relation to history and its relation to other objects. As a deviation from Horkheimer, Adorno did not believe that history is capable of arbitration between knowledge and truth claims. Within his notion of "negative dialectics" he proposes that truth and knowledge claims reside within the relation between concept and object. i.e. assessing the level of commensurability between a concept and the reality it tries to capture. Marcuse argues further that critical theory seeks to grasp the world in its reified and fetishized immediacy (Held, 1980: 244) and truth claims are those endeavours that mediate between appearance and essence - their verification is dependent on historical struggles for its confirmation.

The linguistic turn in philosophy in the 20th century, which refers to the shift from the philosophy of consciousness to a philosophy of language, pushed forward the idea that consciousness is linguistically ordered with language operating as a structuring agent. The implications of this turn for critical theory have been explored in detail by Habermas, confirming the social construction of reality, albeit in a modified way. A critical realist ontological stance contends that social structures are produced by human agents and rejects a correspondence theory of truth. However, it is possible to identify causal mechanisms that gave rise to these structures and as such these structures represent a reality outside of discourse, partially knowable only through discourse which within language, creates a representation of this reality. Knowledge, as mediated by our interpretations and as socially constructed, points to a social ontological stance which

Morrow and Brown (1994: 154) assigned to both Habermas's *Theory of Communicative Action* and Giddens's *Theory of Structuration*.

A number of central concepts such as praxis, dialectics and reflexivity underpin the ontological and epistemological orientation of critical theory in addition to a particular understanding of the relationship between theory and practice which I discuss below by using Winter's (1987: 1989) formulations. Though Winter (1987; 1989) is primarily concerned with action research and is critical of Habermas's "ideal speech situation", he articulated a number of principles grounded in critical theory that refer to dialectic, reflexivity, praxis and theory and practice (research and action)²⁵. Since Winter's earlier work, his principles for action-research are regarded as firmly rooted in an *emancipatory or critical* paradigm, "based on the Frankfurt School of Critical Theory" (Zuber-Skerrit, 1996: 1).

The classical approach to the relationship between theory and practice either views it as a deterministic relationship such as those associated with an applied notion of science (positivist) or an evaluative relationship in Popper's version of positivism. Within the dialectical tradition, unity and complexity is theorised to highlight contradictions but for Popper a theory which "involves a contradiction is ... entirely useless as a theory" (1989a: 319). For critical theory, the relationship between theory and practice can be described as a reflexive dialectic.

Theory and practice are not two distinct entities but two different and yet interdependent and complementary phases of the change process ...[The] mutual questioning between theory and practice is strictly unending. This means that practice cannot simply reject theory because it must recognize that practical decisions will always be open to question. Similarly, theoretical critique cannot simply confront practice with an authoritative interpretation of events because it must recognize that theory itself will always be open to question, that the outcome of one phase of practical development will be a need and opportunity for further theoretical work (Winter, 1989: 66-67).

²⁵ See Habermas' critique of action research in Young (1990: 149-151) where he argues that action-research is only one possible procedural realization of hermeneutic and critical insight, not *the* educational research paradigm.

Within critical theory, the ontological and epistemological stance questions the basis on which knowledge claims are made. For positivism this basis is foundationalist and language is employed to reflect an independent reality. But since critical theory adheres to the notion of the “social construction of reality” that is mediated through and assembled within language which at the same time constructs ideological concepts to capture a reified and fetishised reality, ideology-critique, reflexivity and dialectics must operate in tandem as epistemological as well as methodological principles, because it stops inquiry from becoming relativistic.

However, reflexivity is constrained by ideology if ideology is seen as epistemological and as such the space for reflexivity is closed down because ideology is overwhelming. But ideology operates through language and “is constitutive of what, in our societies, ‘is real’” (Thompson, 1985: 5). Therefore, we cannot proceed without acknowledging that ideology stands in a dialectical relationship to theory in order to generate the operational space for reflexivity.

For dialectics, individuals are the products of their social world and this world is structured as a series of contradictions²⁶. These contradictions are transplanted or duplicated within individual consciousness. It is thus these contradictions that are exposed by dialectics that allow people

creative space for their own interpretations and decision-making. When they act, therefore, they do not simply reproduce their environment; they change it. Hence, although we started by saying that individuals are the product of their social world, we can also say that the social world is created by individuals' actions. We can make both statements simultaneously because "action" is not "behaviour" (the effect of a cause) but "praxis" (the creative implementation of a purpose) (Winter, 1989: 51).

Change or transformation, within the emancipatory agenda of critical theory, is thus axiomatic because contradiction (between thesis and anti-thesis) presupposes a new

²⁶ This insight is derived from the numerous works of Horkheimer, Adorno and Marcuse.

resolution or synthesis based on the interdependent epistemological and methodological principles of reflexivity, dialectic and ideology-critique. Ideology-critique for critical theory is modelled on Freudian psychoanalysis that requires depth hermeneutics to uncover the meanings individuals ascribe to their actions and situations and this self-understanding “is constitutive of social and political reality” (Bernstein, 1979: 200).

4.5.4 Critical Theory, Education and HRE

Since the 1980s critical theory not only provided the basis for the development of a critical theory of education, i.e. critical pedagogy, but its major tenets have been developed into a distinct educational discourse. Maxine Green (1999: 14) referring to Baudrillard’s description of “the shadow of silent majorities in an administered and media-mystified world”, deplores the political, economic and cultural dimensions that created this silence and provided the catalyst for educational thinkers to turn to neo-Marxist “scholarship for clues to a critical pedagogy” (*ibid*: 24). In an interesting analysis of Habermas’ notions and its implications for education, Young, R. (1990: 99-125) tries to show how the theory of communicative action with its emphasis on minimising distortions in communication, presents a radically new approach to teaching and learning as a critical pedagogy. Morrow and Torres (2002: 2-3) provide us with a comparison between Freire, one of the most influential critical educators, and Habermas and conclude that “they share a conception of the human sciences, the crises of modern societies, theory of the subject, and pedagogical practice”.

Rex Gibson (1986: 6) argues that teachers should be interested in critical theory not only because “it enlarges our understanding of how we may rationally justify educational action” but also because “it attempts to explain the origins of everyday practices and problems” and questions the organisation and configuration of education by asserting that people should be able to “determine their own destinies”. He also argues (*ibid*: 16-18) that critical theory has not gained much currency in educational thinking, especially those of teachers because of its “threatening nature” in questioning authority, hierarchy, power and domination.

Critical pedagogy is not easy to define and in fact, no generic definition can be applied to the term. Though characterised by a multiplicity of approaches, critical pedagogy does exhibit a particular orientation to educational theory and practice that are interwoven with this array of approaches. Exploring the historical context of critical theory, Giroux and Freire (1986: xiii) argue that early forms of radical educational theorising almost exclusively focused on the reproductive link between schooling and work. Three sets of theories of reproduction are identifiable²⁷. First the economic-reproductive model most commonly associated with Bowles and Gintis (1976; 1988) and Althusser (1971) which focuses on the relationship between schooling and the economy. Second, the cultural-reproductive model of Pierre Bourdieu which focuses on the “mediating role of culture in reproducing class societies” (Aronowitz and Giroux, 1986: 79). Third, the hegemonic-state reproductive model based on the work of Gramsci that directs its attention to the relationship “between the state and capitalism and ...the state and schooling”. These theories, though providing valuable insights, have been criticised for their deterministic view of ideological domination; lack of reflection on race and gender; the downplaying of human agency; concentration on overt resistance; limited attention given to the psychological processes that “reproduces itself in the psyche of human beings” (*ibid*: 104); failure to move beyond the language of critique (Giroux and Freire, 1986: xiii); and their contention that all forms of oppressions are necessarily class related (*ibid*: xiii).

In response to these shortcomings, Giroux and Freire (*ibid*: xiv-xvi) put forward the central positions of a critical pedagogy as follows. First, the scope of pedagogical practices resides in the broader notion of education, not only schooling, and the construction of meaning and social practices in popular culture, mass media, trade unions, the family and other structures are all subjected to pedagogical engagement and political analysis. Second, the voice, subjectivity, and experiences of subordinate groups are emphasised. Third, for Critical Pedagogy experiences are historical and constructed

²⁷ See Aronowitz and Giroux (1986).

by gender-, race- and class- “specific ideologies” that interplay with systems of power “that point to both the persistence of oppressive structures and ideologies and the possibilities for struggle and social change”. Fourth, theories of psychoanalysis and feminism employed within critical pedagogy point to cultural politics as inclusive of everyday experiences, interest, desires and needs which broadens critical pedagogy’s interest in various forms of oppression and emancipation. Fifth, counter-hegemonic practices so crucial to the agenda of emancipation are identified through historical inquiry that challenges dominant ideologies and practices.

McLaren (1989: 159-191) also provides a useful overview of the foundational principles and major concepts of critical pedagogy. The principles include the relationship between schools and politics; schooling as cultural politics, the interplay between schools and economics and the centrality of social empowerment; the historicity of curriculum as experience; and curriculum as constituted by interests. The major concepts underpinning critical pedagogy are aligned to those that dominated the interest of critical theory such as the social construction of knowledge as the backdrop against which to employ understandings of knowledge-constitutive interests; class; culture; cultural forms; hegemony; ideology; and prejudice. In addition Foucault’s notions of power-knowledge, discourse and cultural politics stand in proxy to explore the relationship between power and knowledge and the socio-cultural dimension of the curriculum. Critical theory further builds on reproduction and correspondence theory in a way that allows it to transcend its determinism by focusing on human agency as understood within resistance theory and an employment of the concept of cultural capital.

For Leistyana and Woodrum (1999: 3) “critical pedagogy is primarily concerned with the kinds of educational theories and practices that encourage both students and teachers to develop an understanding of the interconnecting relationship among ideology, power and culture”. The institutional forms and practices which people on one hand constitute through their actions, are on the other hand influential in determining their lived experiences in an interconnecting web of ideology and power relations which ultimately shape culture. In this sense culture partially represents all forms and levels of

vulnerability created by asymmetric power relations in terms of gender, class, race, age, HIV/AIDS status, sexual orientation and the other categories of discrimination articulated in human rights instruments. These arrangements are hegemonic in that they present the dominant framework through which a social reality that is masked by ideology is engaged. Schools and other educational institutions and pedagogical practices such as the electronic media, produce a certain typology of knowledge and configure educational practices in particular modes through which this culture is produced and historically developed. It is through praxis and critical reflection to which these patterns are exposed that ultimately lead to conscientization.

Morrow and Torres's (2002: 140) comparison of Habermas and Freire highlights a number of principles related to critical theory and Critical Pedagogy:

- The *thesis of critical literacy*, which argues that critical consciousness depends crucially on a form of literacy that facilitates “structural perspective” for understanding social reality, a process that formally parallels the notions of communicative competence and collective learning that underlie Habermas's theory of society.
- A *dialogical understanding of the pedagogical practices* required for acquiring critical communicative competence, as illustrated practically in Freire's account of the methodology of thematic investigation and illuminated by Habermas's account of the logical and linguistic character of the “general interpretations” involved in social knowledge.
- The *generalizability of the basic principles of Freirean pedagogy* to formal and nonformal settings in all types of societies...a suggestion consistent with Habermas's general distinction between reflexive and non-reflexive learning.
- The *intimate interrelationships between reflexive learning, the formation of critical citizenship and the potential revitalization of democratic public spheres* in diverse settings.

Though Morrow and Torres's account of Freire's and Habermas's orientations makes for interesting and useful analogies, the historical grounding of Freire (1972: 25) within the

working class in third world Brazil, prompted him to view the *Pedagogy of the Oppressed* as similar to a pedagogy of liberation which, despite fundamental parallels with Habermas's educational project, sets out pedagogical principles not envisaged by Habermas²⁸. Freire, in his *Pedagogy of Hope* (1992: 9) captures one of the primary tasks of a progressive educator as unveiling "opportunities of hope" which in the context of critical theory, inhabits the space within contradictions that can only be exposed by a reflexive dialectic. This is necessary, according to Freire (1993: xi) because we have to "recognize multiple constructions of power and authority in a society riven by inequalities [and therefore] there must be a growing recognition of new forms of subjectivity and new strategies of emancipatory praxis which are derived from non-Western settings..." Furthermore, a strategy to change the structures of power radically, requires critical pedagogy to build networks across differences since the inability to do so only "serves to preserve the structures of domination and exploitation" (Darder, 2002: 27).

For the past two decades HRE practitioners attempted to provide a conceptual convergence between HRE and critical pedagogy (Flowers, 2004: 119). "HRE as Empowerment" and "HRE and Transformation" (Tibbitts, 2002) became popular phrases to signify the purpose and ultimate aims of HRE in alignment with the vision of critical pedagogy. In South Africa these developments are reflected in the configuration of the People's Education of the 1980s and early 1990s (Keet and Carrim, 2005). Elsewhere, Popular Education represented the precursors of contemporary HRE (Magendzo, 2002) as was the case in Latin America. The language of critical pedagogy, especially its Freirein version, has gradually permeated the thinking of at least a handful of HRE practitioners. Thus the formalised construction of HRE in recent normative frameworks includes the notions of empowerment and social justice (WPAHRE, 2005). As long as these formulations excluded the Freirein praxis of "conscientization", they were acceptable within the diplomatic arena of the United Nations. There is sufficient evidence to suggest that Freirein notions within HRE were to a large extent only 'misused' for their symbolic value in providing legitimacy for HRE to be accepted within informal and

²⁸ See Morrow and Torres (2002).

community-based educational practices. These Freirein notions are playing their role as a consciously constructed bridge between the intergovernmental diplomacy of HRE and its practical educational translation.

Abraham Magendzo (2002: 4), a leading HRE practitioner in Latin America, tried to make the first formalised effort to link HRE and critical pedagogy.

We could affirm with no doubt that Human Rights Education is one of the most concrete and tangible expressions of critical pedagogy. Both, Critical pedagogy and Human Rights Education are very much interested to observe power structures outside and inside the educational system. Critical pedagogy is mainly interested to examine how the educational structure and the curriculum interact and shape knowledge. Human Rights Education is essentially concerned with how educational structure and the curriculum has an effect on moulding the "subject of rights".

Magendzo (2005) is further of the opinion that HRE is the “normative and ethical support for peace and citizenship education” and that HRE should be regarded as the ultimate configuration of political education. Critical pedagogy and HRE

... should and could contribute to change by integrating, penetrating and infusing education and curriculum with social justice, empowerment and with social, cultural and political issues such as poverty, discrimination, peace, gender, racism, etc. (Magendzo, 2002).

If Magendzo is referring to the dominant formulations of HRE, his statements will require substantial qualification because the present formulations and practices of HRE will not meet the necessary critical pedagogical requirements. However, if he is referring to an alternative conception of HRE, his efforts can be registered as part of an emancipatory formulation of HRE. However, in the broader scheme of things such a formulation of HRE will remain conceptually questionable as long as the definitional structure of HRE is conceptually linked to human rights universals.

Stated differently, a declarationist construction of HRE renders an emancipatory and empowerment agenda impossible, despite Magendzo's (*ibid*) insistence. The "[im] possibility of HRE" is succinctly addressed in Baxi's (undated) "chaotic notes" and his critical treatise on human rights and HRE (1997, 2002). Baxi's critique of the contemporary "human rights hegemony" provides a useful starting point for considering a critical formulation of HRE that may have conceptual synergies with critical pedagogy. Claude (1996, 197-206), to some extent, entertained the critical stance towards human rights and HRE as reflected in the work of Magendzo (2002; 2005) and Baxi (1997, 2002). However, the critical pedagogical formulation of HRE has been arrested and negated by the formalization of a declarationist HRE across the world.

4.5.5 Critique of Critical Theory and Critical Pedagogy

The educational formulations derived from critical theory are captured in the development of critical pedagogy whose central exponents such as Dewey, Freire, Giroux, Apple, McLaren, Torres, Shor, Macedo, Aronowitz and others, have written extensively on the subject. For now it is useful to note that the theses of critical theory did not go uncontested. These contestations are captured by Morrow and Torres (2002: 163) who identify five types of attack against critical theory and critical pedagogy:

- (1) From the direction of positivist educational theory, it has been rejected as impractical, romantic, and without any empirical basis;*
- (2) From the Marxist left, it has been condemned for idealism, subjectivism, and romanticism, a perspective most common in Latin America;*
- (3) From the direction of conservative hermeneutic and phenomenological approaches, it has been received with ambivalence because of its 'Westernizing' politicisation of education at the expense of the lifeworld and tradition;*
- (4) In the name of radical environmental critiques it has been charged with normative anthropomorphism; and*
- (5) Under the labels of postmodernist, poststructuralist, and postcolonial theory, it has been questioned for its modernist rationalist bias, normative universalism, conception of an autonomous subject, and lack of attention to questions of difference.*

4.6 Postmodernism

4.6.1 Introduction

Lyotard, the French thinker “most readily associated” (Tormey, 2004: 152) with the term ‘postmodernism’ uses the term ‘modern’ to designate “any science that legitimates itself with reference to a metadiscourse ...an explicit appeal to some grand narrative” (Lyotard, 1999: xxiii). He describes the ‘postmodern’ as “incredulity toward metanarratives” (*ibid*, xxiv). The designation ‘postmodernism’ was first use in the 1870s (Appignanesi and Garratt, 2003: 3) and later on found currency in the fields of architecture, art and literature. Despite the fact that postmodernist links can be traced to the work of Nietzsche in the 19th century, especially those associated with *genealogy*, the “sea-change in cultural as well as in political-economic practices” (Harvey, 1990: vii) under the rubric of postmodernism occurred around 1972.

Postmodernism has been defined as a “body of thought” and “a way of practising” (Usher and Edwards, 1994: 1); a “historical condition” (Harvey, 1990: viii); a philosophical movement and a cultural phenomenon with features such as:

The challenging of convention, the mixing of styles, tolerance of ambiguity, emphasis on diversity, acceptance of innovation and change, and stress on the constructedness of reality (Beck, 1993: 1).

Lyotard (1999: 79-82) is of the view that the postmodern is part of the modern and needs to be understood according to “the paradox of the future (post) anterior (modo)”. But postmodernism is also against modernism, and thus in “cohabitation with its sworn enemy (modernism) as a room-mate” (Bauman, 2002: 355). Jameson (1999: xvi), in his foreword to Lyotard’s *The Postmodern Condition*, indeed argues that Lyotard sees postmodernism not as that “which follows modernism, but rather as a cyclical moment that returns before the emergence of the ever new modernisms in the stricter sense”, which is not that different from the notion of *high modernism* of the Frankfurt school.

Apart from Lyotard, thinkers associated with postmodernism include Derrida, Foucault and Rorty but this stable may include Nietzsche, Heidegger, Gadamer, Kuhn and even Habermas. A range of theoretical constructs are employed within postmodernism such as poststructuralism, deconstructionism, neopragmatism, perspectivalism, postanalytic philosophy and hermeneutics (see Beck, 1993: 2; Edgar and Sedgwick, 2004: 294-297; and Rohmann, 2002: 310-311).

4.6.2 What is Postmodernism?

Postmodernity is a style of thought which is suspicious of classical notions of truth, reason, identity and objectivity, of the idea of universal progress or emancipation, of single frameworks, grand narratives or ultimate grounds of explanation. Against these Enlightenment norms, it sees the world as contingent, ungrounded, diverse, unstable, indeterminate, a set of disunified cultures or interpretations which breed a degree of scepticism about the objectivity of truth, history and norms, the givenness of natures and the coherence of identities. This way of seeing, so some would claim, has real material conditions: it springs from an historic shift in the West to a new form of capitalism – to the ephemeral, decentralized world of technology, consumerism and the culture industry, in which the service, finance and information industries triumph over traditional manufacture, and classical class politics yield ground to a diffuse range of identity politics. Postmodernism is a style of culture which reflects something of this epochal change, in a depthless, decentred, ungrounded, self-reflexive, playful, derivative, eclectic, pluralistic art which blurs the boundaries between ‘high’ and ‘popular’ culture’, as well as between art and every-day experience (Eagleton, 1996: vii).

Though Eagleton makes an interesting distinction between postmodernity and postmodernism, these two terms will be used interchangeably in this study. Postmodernism is a widely used term that connects with poststructuralism and postindustrialism in a powerful configuration of sentiments and thoughts that “determined the standards of debate, defined the manner of ‘discourse’ and set parameters on cultural, political and intellectual criticism” (Harvey, 1990: viii). Since the

constitutive meaning of ‘postmodernism’ resides within an understanding of ‘modernity’ and ‘modernism’, the need to explore the meaning of ‘modernity’ and ‘modernism’ is inevitable.

‘Modernity’ refers to the period that captured the advances in scientific progress from the 17th century onwards and “enlightenment” thinking that placed the conditions of human progress within the sphere of rationality and technological development. Autonomous thinking and intellectualization became the hallmark of the practices of scientists, philosophers and scholars and these constituted the intellectual framework of the nascent modernity with ‘modernism’ as its cultural expression. Holub (1991: 136) argues that modernity for Habermas means the development of the enlightenment ideals of objective science with cognitive-instrumental rationality; universal morality with moral-practical rationality; and autonomous art with aesthetic-expressive rationality.

Thus ‘modernity’ represents a particular era in historical development with enlightenment thinking as its catalyst and technological and industrial development as its consequences. In similar epochal vein, ‘postmodernity’ refers to a historical era that is associated with the contemporary developments of the information explosion, economic and cultural globalization, global communication, advanced media technology, total media practices and dramatic developments in information and communication technology. Though ‘modernity’ and ‘postmodernity’ may be described in epochal terms, ‘modernism and ‘postmodernism’ are oppositional attitudes in any epoch (Usher and Edwards, 1994: 9; Lyotard, 1999: 79-82).

The advances associated with ‘modernity’ and ‘enlightenment’ such as the industrial developments did not translate into a political and moral framework for the emancipation of humanity as promised within the enlightenment discourse. Instead increased militarism, the subjugation and oppression of people across the world and the increase in social and economic inequality in the 20th century, provided credence to the notion that the enlightenment is driven by a “logic of domination and oppression” (Harvey, 1990: 13

referring to Horkheimer and Adorno, *The Dialectic of Enlightenment*. 1972) that is embodied in technical-instrumental rationality.

The surface order created by instrumental rationality's knowledge and science was expressed in an ontological adherence to a single reality as expressed through modernism's art, literature and architecture. The development of modernity based on instrumental rationality entrenched capitalism as an economic arrangement and shifts within the internal arrangement of capitalist production only resulted in swings within modernism. Thus, in the aftermath of the Second World War, high modernism presented a reality through art, literature, architecture and high culture that coalesced neatly with a capitalist version of the enlightenment. The enlightenment dream of human emancipation disappeared as social organisation and economic practices increasingly resembled the managed arrangements and un-freedoms of capitalism.

It was in this context that the various counter-cultural and anti-modernist movements of the 1960s sprang to life. Antagonistic to the oppressive qualities of scientifically grounded technical-bureaucratic rationality as purveyed through monolithic corporate, state, and other forms of institutionalised power, the counter-cultures explored the realms of individualised self-realization through a distinctive 'new left' politics, through the embrace of anti-authoritarian gestures, iconoclastic habits, and the critique of everyday life (Harvey, 1990: 38).

The above passage describes some forms of anti-modernist and pro postmodernist expressions. These developments marked the beginning of the shift from modernism to postmodernism. Postmodernism, against this background, refers to a combination of philosophical orientations, theoretical frameworks and practices that challenge the legitimating power of the meta-narratives of the enlightenment; rejects the exclusionary tendency associated with notions that underscore the hierarchy of knowledge; and question the possibility of a uniform epistemological and ontological framework. Philosophical frameworks and paradigms such as positivism and Marxism are premised on their distinct epistemological and ontological orientations that represent the variations to the "meta-narratives" against which postmodernism defines its stance. Though difficult

to summarise because of its diverse meanings, there are some features of postmodernism that can contribute to a definitional framework.

First, for Lyotard (1999: xxiii) ‘postmodernism’ refers to the “condition of knowledge in the most highly developed societies”. The term ‘postmodernism’ designates “the state of our culture following transformation which, since the end of the 19th century, have altered the game rules for science literature, and the arts” (*ibid*: xxiii). The prime catalyst for altering these game rules is the decline of the meta-narratives which can no longer be the appeal-structure for the legitimation of knowledge claims. Bauman (2002: 351) refers to these narratives as modernity’s quest for an “incontestable authority” with the aim to “install an artificial order”. Rohmann (2002: 310) describes postmodernism as an artistic and critical tendency “characterised by eclecticism, relativism and scepticism, the rejection of intrinsic meaning and reality, the repudiation of progress and cultural cohesion, and an ironic embrace of ambiguity”.

Second, depthlessness and play are significant features of the postmodern condition with the “breaking down of the hierarchical barriers between high and popular culture, art and everyday life leading to a stylistic promiscuity favouring eclecticism and the mixing of codes; parody, pastiche and irony” (Usher and Edwards, 1994: 12).

Third, Baudrillard (2002: 362-365) views the consumer society as a postmodern condition that favours consumption over production.

The phenomenology of consumption, the general climatization of life, of goods, objects, services, behaviors, and social relations represents the perfected, “consummated,” stage of evolution which, through articulated networks of objects, ascends from pure and simple abundance to a complete conditioning of action and time, and finally to the systematic organization of ambiance which is characteristic of the drugstores, the shopping malls, or the modern airports in our futuristic cities.

On a broader level, Smith (1995: 2) describes the postmodern condition as material circumstances “marked by communications technology, changes in the global economy and the commodification of culture” whilst Vattimo (2002: 367) links the ‘postmodern’

to “a society of generalized communication ... a society of the mass media”. In addition, the mass-consumer society drives “the mobilization of fashion, pop art, television and other forms of media image ... that have become part and parcel of daily life under capitalism” (Harvey, 1990: 63). It is thus the hegemony of the market economy that determined postmodernism’s trajectory into the arena of cultural production. It is within this context that Jameson pronounced on postmodernism as the “cultural logic of late capitalism” (Jameson, 1991).

Kemmis (1996: 2002) provides a useful set of key transformations that designate the postmodern condition. First, the transformation of the “content and forms of contemporary *culture* – including dramatic changes in the nature of the media” reflects the anti-modernist stance of various contemporary cultural expressions. Second, a shift occurred in the “*content and form of economic structures and interrelationships*” that are reflected in the ascendancy of the production of information and culture over the production of goods and the global “control of the means of production”. Third, the form and content of “*political life*” has changed and these changes relate to the “decline of the nation-state with the rise of transnational economic structures” and the “emergence of social movements”.

Pring (2000: 110) uses the characteristics of modernism as a possible way of explaining postmodernism. He argues that postmodernism is against the following modernist assumptions:

First,...there is the ideal of a complete and scientific explanation of physical and social reality. Second, in pursuit of this ideal, the progressive development of knowledge can be divided into its intellectual disciplines, based on their distinctive concepts, verification procedures and modes of enquiry. Through such diverse and disciplined study and research, bodies of knowledge are built up from indisputable premises. Third, these bodies of knowledge provide the secure knowledge-base for social action and improvement. Fourth, there is thus a ‘grand narrative’ which we have subscribed to, namely, the ‘enlightenment’ view that reason, in the light of systematically researched evidence, will provide the solutions to the various problems we are confronted with. Fifth, the

educational system is crucial to the initiation of young people into these different bodies of knowledge and forms of rationality.

Thus, juxtaposing modernism and postmodernism with one another became a standard way of defining their premises. In *Postmodernism and Feminism*, Waugh (1998: 178) provides a comprehensive account of the various meanings of postmodernism that include: the “new kinds of literary meanings arising out of but moving beyond those of cultural modernism”; “a range of aesthetic practices involving playful irony, parody, self-consciousness and fragmentation”; the “pervasive cynicism about the progressivist ideals of the Enlightenment”; and “repudiations of foundationalism”.

Another valuable description is that of McLaren (1995: 187) who views ‘postmodernism’ as simultaneously referring to “the state of consumer culture, complexes of metropolitan moods, and new trends in contemporary theories of the social subject”. It is these “new trends in contemporary theories of the social subject” that will be referred to in the ensuing discussion on ontological and epistemological considerations which in turn frame a critical postmodern understanding of HRE and its possibilities.

4.6.3 Postmodernism: Ontological and Epistemological Considerations

Ontological and epistemological discourses are the kind of constructions against which postmodernism rebels since it assumes a “fix, universal reality and method of inquiry” (Beck, 1993: 5). However, it would be useful to explore the postmodernist stance in relation to these questions comparative to the theoretical frameworks that were discussed earlier. Anderson’s (2003: 12) articulation of the postmodernist epistemology in a *Feminist Epistemology and Philosophy of Science* is a useful starting point.

It embodies a sceptical sensibility that questions attempts to transcend our situatedness by appeal to such ideas as universality, necessity, objectivity, rationality, essence, unity, totality, foundations, and ultimate Truth and Reality. Its stresses the locality, partiality, contingency, instability, uncertainty, ambiguity and essential contestability of any particular account of the world, the self, and the good.

Postmodernism logically views reality as an incredibly complex construction that does not exist independently of human activity. Reality is constructed through our cultural norms, interests and needs. This social construction of reality “relativizes claims to knowledge and authority” (Smith, 1995: 2) and the meta-narratives are but one expression of knowledge claims amongst a sea of equal claimants. Reality thus consists of an infinite number of macro and mini narratives that represent contextualised experiences within the context of ephemerality. For postmodernists there are no perpetual, universal, collective or consensus truths. Meta-narratives cannot provide the habitat for truth claims since they invariably screen out the possibility of the construction of mini-narratives and as such are totalising. Postmodernists therefore “insist on the plurality of ‘power-discourse’ formations (Foucault), or of ‘language games’ (Lyotard)” (Harvey, 1990: 45) within a context of flux, fragments, difference, and chaos (Best, undated: 1).

Postmodernism subscribes to the ambiguity and ambivalence of meaning and promotes tolerance and diversity but the postmodern “celebration of difference and contingency has not displaced the modern lust for uniformity and certainty” (Bauman, 2002: 354).

Thus postmodernism is all-inclusive ... all claim of truths and knowledge are accepted. Deconstructing the framework that operated as an arbiter of truth claims within the discourse of the enlightenment is one of the key epistemological positions of post-modernism. Foucault, for instance, deconstructed this discourse through the notion of the “political production of truth” (Cherryholmes, 1988: 33) and through an exploration of the relationship between truth telling, truth and power (Foucault, 2001: 170). This he does by arguing that a discursive practice, “as a body of anonymous, historical rules, always determined...the conditions of operation of the enunciative function” (Foucault, 1972: 117). A discursive practice thus “govern (s) what may be said, in what mode, what is considered valid, what is considered appropriate to be circulated and who may say what in a given setting” (Simons, 2004: 188). These conditions, since they are determined by rules, are thus permeated with the notion and operation of power.

If truth is discursive and discourses are historically situated, then truth cannot be spoken in the absence of power and each historical arrangement of power has its own truths (Cherryholmes, 1988: 34).

The discursivity of ‘truth’ makes it “a system of ordered procedures for the production, regulation, distribution, circulation and the operations of statements” (Foucault quoted in Simons, 2004: 188). For Foucault, power, truth and knowledge stand in a particular relationship with one another and in the final passage of *Discipline and Punish* (1979: 308) he states that he “end (s) a book that must serve as a historical background to various studies of the power of normalization and the formation of knowledge in the modern era”. Power, “those asymmetries by which some people are rewarded and indulged or deprived and sanctioned by others” (Cherryholmes, 1988: 35), is everywhere and “permeates the entirety of reality and thereby becomes its essence”²⁹. Power is thus “constitutive of reality” and “discourses of knowledge are in fact an expression of power relations and themselves embodiments of power”³⁰. Power passes through people and institutional practices such as those associated with the prison and the judiciary (Foucault, 1999: 136). In fact, power and knowledge do not merely constitute a relationship with one another. They are constitutive of each other because:

... they imply one another...there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time a power relation (Foucault quoted in Simons, 2004: 190).

Knowledge and the trajectory of rationality are thus determined by the power relations in society which constrain the expression and articulation of micro-political concerns as constructed within a range of perspectives or mini-narratives. Whilst Foucault concentrated on the power/knowledge relation as an epistemological concern, Derrida emphasized:

²⁹ See Edgar and Sedgwick (2004: 305) on Nietzsche’s view of power.

³⁰ See Edgar and Sedgwick (2004: 305) on Foucault’s notion of power.

... that meaning is not centered or fixed because it is caught in a play of references between words and definitions where texts only give the appearance of stability but have no centre, no transcendental signified, no transcendental semantic meaning (Cherryholmes, 1988: 36).

Derrida's 'deconstruction' does not undermine the notion of truth but problematized its operations within broader, "more powerful, larger, more stratified contexts" that include questions of an "ethical, socio-political and institutional import" (Norris, 1992: 35). The meaning of 'meaning' within postmodernism is much more complex than the modernist conception of a representational relationship between sign and reality.

Postmodernism problematises this relationship by not only questioning the very notion of representation, the relationship between sign and reality, but also arguing that because the word/image (signifier) is no longer attached to fixed signifieds, the sign becomes the signifier and therefore becomes its own 'reality' (Usher and Edwards, 1994: 14).

Thus, for postmodernists "reality is constructed by representations and therefore of multiple perspectives where representations become reality and reality is always, necessarily, represented" (*ibid*: 14). This particular ontological stance directs an epistemological position of a "plural understanding of truth; that all knowledge is contextual, historical and discursive" (*ibid*: 24). In a sense 'multiple realities' are constructed through different discourses and practices and thus "difference can be seen in 'reality'" (*ibid*: 28). Thus, researchers do not represent a pre-existing reality but rather contribute to constituting a highly tentative reality through representation.

4.6.4 Postmodernism, Education and HRE

After postmodernism, Education, Politics and Identity edited by Smith and Wexler (1995) and *Postmodernism and Education* by Usher and Bryant (1994) represent two comprehensive accounts of rethinking education in a postmodern age. This rethinking is however challenged by three problems (*ibid*: 1-2). First, "the task ..., of seeing education in a postmodern perspective is rendered particularly difficult if the very notion of the postmodern is itself problematic". Second, the standard definitional structure of

postmodernism focuses on what it is against. Third, “educational theory and practice is founded on the discourse of modernity” and this makes the postmodern reflection on education very challenging. Whatever these challenges may entail, education must respond to the conditions that gave rise to postmodernity as well as the postmodern condition itself.

Pring (2000: 112-113) is of the view that postmodernism questions the “authority of educational establishments”; challenges the “organisation of teaching into traditional subjects”; disputes the “location of knowledge in schools, colleges and universities; and resists the grand narrative of “performativity”³¹. In *Emancipatory Aspirations in a Postmodern Era* (1996) Kemmis analysed the possible implications of postmodernism for critical pedagogy and called for “re-conceptualising emancipation” (*ibid*: 230) and the development of better theories that “engage, challenge and develop people’s actual understandings and interpretations of their circumstances” in order for us “to reproduce those aspects of our social lives that are of value, and transform those that contribute to our difficulties” (*ibid*: 233).

In the concluding chapter this study will employ Giroux’s notion of ‘Critical Postmodern Pedagogy’ and McLaren’s notion of ‘Postcolonial Pedogogy’ as a convergence of “various tendencies within modernism, postmodernism, and postmodern feminism, (Giroux, 1997: 218-225). This is done to “retain modernism’s (i.e. critical theory) commitment to critical reason, agency and the power of human beings to overcome human suffering” as well as engaging with postmodernism’s “powerful challenge to all totalizing discourses” (*ibid*: 218). In the next chapter this study also develops the proposition that the postmodernist critique of human rights has already resulted in an emergent postmodernist critique of dominant forms of HRE.

³¹ See also Ball (2003) on *The State, Performativity and Authenticity*

4.6.5 Critique of Postmodernism

Norris's (1992) polemical essay *Uncritical Theory: Postmodernism, Intellectuals and the Gulf War* is a derisive attack on the theoretical excesses of postmodernism, especially those tendencies that represent a high level of "moral and political nihilism" (*ibid*: 194) or "intellectual and political bankruptcy" (*ibid*: 196). Norris reacted in particular to Baudrillard's conception and prediction that the Gulf War would not happen and his contention afterwards that the Gulf War has indeed not taken place. The war, in Baudrillard terms, was a "simulated event, a charade with a forgone conclusion enacted on television to satisfy both sides' need for self-justifying images" (Rohmann, 2002: 39). Using Chomsky as an example of an intellectual that has achieved a degree of correspondence between his philosophic principles and socio-political beliefs, Norris (1992: 102) argues that most postmodernist commentators such as Baudrillard and Foucault use the 'non-existence of truth' as a justification for not 'speaking truth to power'. Baudrillard's simulacra and simulation may constitute his hyperreality, but the essence of Norris's (1992: 110) essay is that there are factual truths such as human suffering outside this hyperreality which "do not come down to a mere disagreement between rival viewpoints, language-games or discourses".

Norris (1992: 52) further shows "how the real world became a fable" through postmodernist thinking and with reference to the domestic and foreign policies of the "Reagans, Bushes, Thatchers, Bothas and Pinochets" contends how often "bad philosophy has gone along with bad politics" (*ibid*: 191). Through an exposé of the notions of the "political economy of truth" (*ibid*: 110), "consensus reality" and "manufactured truth" (*ibid*: 159), Norris argues against the irrational collapse of the truth/falsehood distinction within postmodernism since it can only result in an ethos of "enlightened false consciousness" (*ibid*: 190) which renders effective political action impossible.

Habermas (Ray, 1993: 20-21) associates postmodernism with young conservatism as an "aesthetic abandonment of reason". Habermas believes that rational debate and accord

are present in the “socio-linguistic rules of communication” and that this rationality is “pre-figured in all struggles for justice, civic rights, participation, or freedom from exploitation” (*ibid*). For Habermas, the central mistake of postmodernists is to equate instrumental reasoning, against which the Frankfurt school and Critical Theory argued, with modernity and as such “throws out the baby of critical reason with the bathwater of instrumental rationality” (*ibid*). Habermas tries to circumvent the postmodernist critique against totalising and dominating narratives by arguing that the theory of communicative action allows for the “counterfactual imagination in critique” that enables us to “engage in an ethic of care for the other through communicative respect – one which tackles both obstacles to autonomy and to solidarity” (Young, R. 1995: 17). Whereas Habermas tries to bridge the communicative gap between the self and the other, “Derrida honours the other, Foucault honours the self, both effectively stumble when they reach towards the possibility of bridging the gap between persons” (*ibid*: 17). Thus, R. Young’s (*ibid*: 21) comparison between Habermas, Foucault and Derrida represents a palatable précis of a critique of postmodernism:

Foucault’s failure is that he has construed the macro-problem as a problem of power, not difference, and Derrida’s failure is that he has construed the micro-problem (of texts, authorship and meaning) as a problem of difference, not power. Habermas’s virtue is that he has not made either mistake, thus sharing Foucault critique of Derrida and Derrida’s critique of Foucault.

R. Young (*ibid*: 18-19) hints at the fact that Derrida and Foucault retreated from the maropolitical and created “conceptual windmills” by “aggrandizing that against which they fight, they also elevate the status of their own assertions”. That is, Derrida chose particular texts to fit his notion of deconstruction and to prove its assumptions whilst Foucault operated at the extreme of “knowledge as warranted true belief” to construct his notion of power-knowledge. And further, fellow postmodernist, Baudrillard, has criticised Foucault’s discourse itself as a “discourse of power, a mirror of the powers he is describing” (Macey, 1993: 359).

Giroux, (1997: 183-228) in his effort to straddle the boundaries between critical pedagogy and various postmodernisms, agrees with Habermas's critique of postmodernism's rejection of the emancipatory interest but disagrees with Habermas' dismissal of all forms of postmodernism as "antimodernist and neo-conservative" (*ibid*: 191). Kemmis (1996: 231) on the other hand agrees with Habermas's argument on the "quietism or conservatism of some postmodernism" and argues in favour of 'a continuing commitment to emancipatory-critical perspectives. The limited critical potential of postmodernism is also a concern for Sanbonmatsu (2003) who also deplores the postmodernist emphasis on difference and non-universality as a trend that undermines the notion of solidarity and thus political action. Chapter 7 of this study deals with Giroux and McLaren's attempts to respond to these criticisms of postmodernism that relate to its conservatism, negation of the notion of solidarity and the undermining of the possibilities for political action.

In *The Illusions of Postmodernism* (1996) Eagleton provides a sustained and comprehensive critique of the fallacies and contradictions of postmodernism which cannot be entertained in this study. These contradictions seem to undermine the methodological validity of postmodern approaches to gender, sex and sexuality. On this score Standing (2003: 1), referring to Chomsky's critique of postmodernism, argues that postmodern approaches:

Frequently take the form of vague critiques favouring obfuscation or hyperbole (sometimes both) to clear and reasoned argument, and adopt either an unjustified level of epistemological scepticism leading to radical conclusions that are not supported by any substantial evidence, or to the production of facile rhetoric and jargon-filled texts that constitute 'a sort of masturbation fantasy in which the world of fact hardly matters', if at all.

Evading the world of 'fact' or 'reason' is the hallmark of the postmodern demeanour that has played into the hands of the consumer culture generators according to Eagleton (1996). And further as Simpson (2005: 2) has noted, Eagleton, in *After Theory* (2004), also chides postmodernism's latent conservatism in its bias towards micro-scaled

analysis. Colon's (undated: 2) review of *After Theory* summarises Eagleton's position as follows:

For Eagleton, the grave problem with postmodern thought is that it has given up on asking the big question. Instead, it has celebrated difference (and différance) to such an extent that we cannot see ourselves as being part of any unified whole. Instead, we cultivate our small groups and consider primarily the questions that are important to our unique selves. This abandonment of engaging the big social questions has led to an increasing interest in the humanities on the body or vampires or porn; perhaps these topics are worthy of serious intellectual thought, but what they represent to Eagleton is a white flag that English majors are waving at the world. We know that we cannot engage the questions that are relevant to most of the world, so we will work on the margins and impress a very small audience. This reminds me of Martin McQuillan's introduction to 'Deconstruction: A Reader' wherein he writes that "a definition (if we really must have such things) of deconstruction might be that deconstruction is an act of reading which allows the other to speak". Eagleton scoffs at the fascination with the Other in contemporary literary studies, preferring to remind us that the situation of what we normally define as the Other is really the situation of most of the world's population. They are not exotic and our study of their differences merely serves to highlight our need to congratulate ourselves on having taken them seriously enough to write a paper on their problems. Eagleton challenges us to see that their problems are our problems and we must begin to behave knowing that as an immutable fact.

Thus for Eagleton postmodernism is either creating straw tigers, i.e. fallacies as a basis of critique against the modernist project or erroneously presenting itself as a unique, innovative and creative social and political theory. He (1999:121) is however, also in agreement with what he regards as crucial achievements within postmodernism. The abandonment of the big question is closely tied to the postmodernist anti-agency conception of human agency. As Burke (2000: 1) has noted, some postmodernists have been

... distinctively uneasy about the ability of human beings to affect the world we live in. They see us as corks being tossed about in a turbulent sea of change, being pushed one way then another with no ability to affect the direction we want to go in.

Challenging postmodernism's claims that it represents a radical break from modernism, Jameson (1991) urges us to consider that postmodernism "is in itself little more than one more stage of modernism proper" (in *Postmodernism or, The Cultural Logic of Late Capitalism*). Likewise, Harvey (1989: 42) asked whether "postmodernism represents a radical break with modernism?"; "does it have a revolutionary potential by virtue of its opposition to all forms meta-narratives?"; and does it "undermine or integrate with neo-conservative politics?".

4.7 General Paradigmatic Implications for HRE

The preceding discussion on the four major theoretical frameworks highlights some fundamental conceptual implications for human rights education as discussed in the various sections. Tables 9 and 10 in Chapter 6 present these implications in a different format. For now, the following trends are deduced.

- First, the way in which the nature of social reality is perceived with its congruent epistemological assumptions, determines the notion of human rights and impacts profoundly on human rights education as a pedagogical endeavour.
- Second, understanding these frameworks and the way they influence our educational thinking and practices are prerequisites for appraising and critically analysing HRE. It may urge us to consider why HRE is configured in particular ways; whose interests are served by such configurations; and what the possibilities residing within HRE are.
- Third, we are presented with choices insofar as the meaning and application of HRE is concerned and need to explore how we can employ these theoretical orientations to unlock the promises that are inhabited by HRE.
- Fourth, questions of power, domination and interest are brought to the fore. These questions challenge us to consider the ideological and hegemonic nature of human rights and HRE which may either inhibit or advance a critical agenda for human rights.

4.8 Conclusion

The meaning of and approaches to HRE are certainly shaped by various world-views that are dominant in time and space. The location and relations of a particular world-view amongst a multitude of others on a social map thus influences the configurations and meanings of HRE. This chapter has dealt with some of these narratives as part of the broader conceptual cartography of HRE as a tool for a conceptual analysis of HRE. The following chapter is meant to broaden the conceptual cartography since HRE is immersed in various discourses closely related to the field of human rights. It will demonstrate how the meanings of HRE are constructed within these discourses.

CHAPTER 5

A CONCEPTUAL CARTOGRAPHY OF HUMAN RIGHTS EDUCATION: DISCOURSES AND NARRATIVES

5.1. Introduction

A heuristic map, i.e. conceptual cartography for human rights and HRE along the lines that Paulston (Paulston and Liebman, 1993) would suggest will always be tentative with a diverse set of narratives shifting around the various spaces that they occupy; and the constant oscillations and variances that are necessitated as narratives establish links with one another or as the meanings of ‘new’ narratives are ‘uncovered’. This map is diagrammatically presented and discussed in section 2.6 and some of the narratives have been partially constructed in Chapters 3 and 4. Further, in Chapter 6 this map will, with qualifications, be formatted into tables as part of an analysis of the definitional framework and typological considerations of HRE. In this chapter more interrelated and overlapping narratives will be added to this map to complete, for the purposes of this study, the conceptual cartography of HRE. These include the *natural law and natural rights discourse*, *legal positivism and the utilitarian discourse*, *Dworkin’s liberal discourse*, *the Critical Legal Studies Discourse*, *the Postmodern and Postcolonial Legal Narrative*, *the Political Narrative and the International Law Narrative*.

Himma (2001) provides a useful overview of the philosophy of law³². Similar accounts can be found in the writings of Lloyd (1991), Shapiro (2003), Knowles (2004) and Ward (2004). Fagan (2003) again presents an overview of the philosophical and theoretical framework of human rights along the lines of the work of Freeman (2002), Sweet (2003), Donnelly (2003) and Douzinas (2000).

³² See Paterson (2003) on the *Philosophy of Law and Legal Theory: An Anthology* for another useful overview in this regard.

For Himma (2001: 1) the main elements of the philosophy of law can be structured in the following way:

- *Analytic Jurisprudence*
 - *Natural Law Theory*
 - *Legal Positivism*
 - *Ronald Dworkin's Third Theory*

- *Normative Jurisprudence*
 - *Freedom and the Limits of Legitimate Law*
 - *The Obligation to Obey the Law*
 - *The Justification of Punishment*

- *Critical Theories of Law*
 - *Critical Realism*
 - *Critical Legal Studies*
 - *Law and Economics*
 - *Outsider Jurisprudence*

Fagan (2003) on the other hand provides a philosophical account of the concept of 'human rights' and presents the "interest theory approach" and the "will theory approach" as philosophical justifications of human rights. There are much broader typologies³³ under the rubric of legal theory that include: the natural law theory of Grotius, Locke and Hobbes (17th century); the legal positivism of Bentham, J.S. Mill and Austin (18th and 19th century) ; the sociological jurisprudence of Pound and Ehrlich (20th century), the economic approach of Marx and Posner (20th century); the new legal positivism of Hart (20th century); the Critical Legal Studies movement (20th century); and Dworkin's liberal theory (20th century). The following sections deal selectively with the broad ambit of legal theory and philosophical considerations relating to human rights; the politics and economics of human rights; the international law perspective; the justifications for human rights and focuses on their influences on the framing of HRE. Habermas's "reconstructive legal theory" and its concomitant notions on human rights is one example of a "justification for human rights" that influences the framing of HRE that is dealt with in this chapter.

³³ See Edwards (1998: 36-267) for a comprehensive typology of legal theory.

5.2 The Natural Law and Natural Rights Discourse

In Chapter 3 the origins and development of HRE were discussed against the backdrop of a Stoic philosophy that is based on moral universalism. Stoic philosophy, as premised on the universality of human nature and the power of reason, argued that there exists a universal law of nature which can be discerned by reason. The spread of the Roman Empire (27 B.C-476 A.D) provided the vehicle for the dissemination of the “universalising doctrine of Stoic natural law ... and the new universal faith of Christianity” (Lloyd, 1991: 78). Roman law, Greek philosophy and Christian theology thus joined together to spawn the “medieval scholastic doctrine of natural law” (*ibid*: 78) that formed the bedrock of the theory of natural rights of Grotius, Hobbes and Locke in the 16th and 17th century. These ideas were the precursors to the enlightenment thinking on human rights and law that was to follow.

The theory of natural law presupposes the existence of a natural moral code within which a set of objectively determined human goods can be identified. Access to these human goods is regulated through the notion of natural rights. These rights are entitlements independent of any political processes and they are thus not necessarily constituted through recognition by the state. “Within the bounds of the law of nature” (Locke, 2002: 2) given to humankind by a divine superior being, everyone is bound to preserve themselves within the broader scheme of a regulatory framework that can be described in the following way:

*And that all men may be restrained from invading other’s rights and from doing hurt to one another, and the law of nature be observed, which willeth the peace and preservation of all mankind, the execution of the law of nature is in that state ... whereby every one has a right to punish the transgressors of that law to such a degree as may hinder its violation. For the law of nature would, as all other laws that concern men in this world, be in vain if there were nobody that, in the state of nature, had a power to execute that law, and thereby preserve the innocent and restrain offenders (*ibid*: 3-4).*

Both Thomas Hobbes (1588-1679) and John Locke (1632-1704), two important figures in 17th century English philosophy, ascribed to the primacy of the “state of nature” (Rohmann, 2002: 182 and 234) as the justification for rights. For Locke a person has rights in a state of nature and these rights are transferred to his or her citizenship in a social contract with governments as a form of political governance. For Hobbes there was both an “obligation under the law of nature and a natural right to preserve oneself” (Freeman, 2002: 19) distinctly not on the basis of theology but on the “individual’s natural and civil state” (Ward, 2004: 78).

Hobbes did not subscribe to a conceptual link between rights and democracy and was in favour of the limitation of democracy and the restraint on rights by the ‘social contract’. The social contract thus did not presuppose the protection of rights by the government but rather underscored and reasserted the power of a sovereign authority over individuals (*ibid*: 79) to regulate the transfer of natural rights to citizens. The “state” of the social contract which presupposes the institution of a government, was viewed as an evolutionary stage following the “state of nature”. According to this Hobbesian logic, without the social contract societies will remain in the “state of nature”.

Whilst Hobbes argued for a social contract that centralised power within a sovereign body, Locke on the other hand favoured a social contract in which power resides with the community. His notions of the separation of powers between the legislative, executive and judicial arms of the constitution provide for a social contract where government is directed to the “peace, safety and public good of the people” (*ibid*: 84). Despite these differences, both Hobbes and Locke viewed rights as possessed by individuals. Unlike Hobbes and Locke, Rousseau (1712-1778) (1998: 14-16) viewed the social contract and thus rights not in individual but in collective terms.

If, then, we set aside what is not of the essence of the social contract, we shall find that it is reducible to the following terms: ‘Each of us put in common his person and his whole power under the supreme direction of the general will; and in return we receive every member as an indivisible part of the whole’.

Thus the social contract within natural law theory can be viewed as being applicable to both individuals and communities. In the aftermath of the political struggles (bourgeois revolutions) against absolutism in England, France and America, the doctrine of natural law shaped the first “modern” constructions of human rights. These constructions were articulated through the Bill of Rights following the Glorious Revolution in England in 1688; the French Declaration of the Rights of Man and the Citizen in 1789 following the French Revolution; and the American Declaration of Independence of 1779. Thomas Paine, “the most colourful and successful pamphleteer in the age of the American and French Revolution” (Fruchtman, 2003: vii) was of the view that “rights and liberties were the essence of a person’s humanity” (*ibid*: xv). His account (Paine, 2003: 167) of natural rights theory reads as follows.

Every history of the creation, and every traditional account, whether from the lettered or unlettered world, however they may vary in their opinion or belief of certain particulars, all agree in establishing one point, the unity of man; by which I mean that men are all of one degree, and consequently that all men are born equal, with equal natural rights, in the same manner as if posterity had been continued by creation instead of generation.

Thus on both sides of the ‘western’ Atlantic of the 18th century, natural rights theory contributed to human rights concerns in both the periods prior to and post the revolutions. However, the theoretical dependence of natural rights on the will of a superior authority of a divine nature could not be prolonged as a result of the secularization of the concept of natural rights throughout the 18th century. Justifying the logic of rights as predetermined within a natural order could therefore no longer be sustained. Within the context of the enlightenment, with its emphasis on rationality, the theoretical weaknesses of the natural law doctrine were exposed. The philosophical and theoretical basis for rights enunciation required a different kind of justification. This justification was found in Kant’s (1724-1805) philosophy of moral reasoning which tried:

... to show that reason could justify a set of ethical and political principles based on the obligation to respect the dignity of other persons as rational and autonomous moral agents (Freeman, 2002: 24).

Thus for Kant, human rights are constructions of reason and not articulations of the will of a supreme being. On this score, Kant assumed the existence of a universal community of rational human beings capable of developing their own moral principles. Human rights can thus be philosophically justified by appeal to the authority of reason and such reason allows human beings to act in accordance with “a maxim which all rational individuals are bound to accept” (Fagan, 2003: 5).

Despite the criticisms against the idea of natural law and natural rights in the 18th century, the dictum that nature provides an ideal standard still has its adherents in contemporary human rights theory. Kainz (2003: 19-25) for instance, documents the debate with Finnis and Grisez on natural law and natural rights that reflect their adherence to the “search for objective, non-relativistic ethical principles” in the same vein as those associated with traditional natural law theorists.

5.3 Legal Positivism and Utilitarian Discourse

Against the backdrop of the enlightenment and the dramatic technological and scientific progress, two important principles relating to the philosophical justification of human rights emerged. First, a clear demarcation between the laws of the physical universe and the norms of human conduct was instituted. Second, the principle of utility gained popular acceptance (Lloyd, 1991: 95-98).

With reference to the norms of human conduct and activity, legal positivists believe that it:

... is possible to establish principles of law independent of value judgements. The validity of such principles derives not from their moral force but from an objective criterion, such as Bentham's “greatest good for the greatest number” of Austin's “command of the sovereign”, that is, the prerogative of lawful authority (Rohmann, 2002: 309).

The rejection of value judgements as in the scientific endeavour of positivism was translated into a similar stance towards value judgements within legal positivism.

According to legal positivists, establishing firm foundations rooted in principles or objective criteria, is one way of screening out value judgements. Austin's (1790-1859) objective criterion, the "command of sovereign", can be described as follows.

- *'Commands' involved an expressed wish that something must be done, and an 'evil' to be imposed if that wish is not complied with.*
- *Rules are general commands (applying generally to a class), as contrasted with specific or individual commands.*
- *Positive law consisted of those commands laid down by the sovereign (or its agents), to be contrasted to other law-givers, like god's general commands, and the general commands of the employer.*
- *The 'sovereign' was defined as a person (or collection of persons) who receives habitual obedience from the bulk of the population, but who does not habitually obey any other (earthly) person or institution.*
- *Positive law should also be contrasted with "laws by a close analogy" (which include positive morality, laws of honor, international law, customary law, and constitutional law, etc) (Bix, 2002: 4).*

It is possible, according to legal positivism and using Austin's principles, to create 'law-value' distinctions in similar vein to the positivist 'fact-value' distinction. Laws can thus be separated from religion and morality. Legal validity in turn is wholly dependent on this distinction. However, laws and morals are not unrelated and "the command of the sovereign" is simply a demarcation principle that distinguishes between laws and morals.

In classical consumerist terms, Jeremy Bentham's (1748-1832) principle of 'utility' refers to the usefulness of a product or commodity. Within this framework, laws are gauged by their applicability and their utility to lessen pain and increase pleasure. Utility thus refers to those processes and activities that serve to increase human happiness (Shapiro, 2003: 18-19). Stated differently, political actions must demonstrate a utility value before they can be justified. Likewise, laws can only be justified "if they add to the sum of human happiness, which can be calculated in terms of the greatest happiness of the greatest number" (Ward, 2004: 91). Bentham captures this notion of utility in the following way.

Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and

effects, are fastened to their throne...The principle of utility recognizes this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and law (Bentham quoted in Shapiro, 2003: 18).

Bentham was convinced that the utilitarian constitution and application of the law could contribute significantly to progress and societal transformation. Apart from Bentham, James Mill and John Stuart Mill were the primary further exponents of utilitarianism and legal positivism. Utilitarianism rejects the notion of natural rights. Bentham in particular was savage in his critique of natural rights describing it as “simple nonsense, natural and imprescriptible rights, rhetorical nonsense, nonsense upon stilts” (Schultz, 2004: 44). This savaged critique of natural rights is buttressed by Bentham’s conviction that within the spirit of the enlightenment and Comte’s notion of positive science, the utilitarianists must try to develop law as a “positive, positivist science” (Lloyd, 1991: 108).

Legal positivism adheres to three theoretical commitments. First, the conventionality thesis holds that “legal validity can ultimately be explained in terms of criteria that are authoritative in virtue of some kind of social convention” (Himma, 2001: 3). Second, the social fact thesis (also known as the pedigree thesis) asserts that “legal validity is a function of social facts” (*ibid*: 3). Third, the separability thesis argues that law and morals can be separated from one another. Dworkin (1978: vii) refers to this version (of which he is extremely critical) of a liberal theory of law as “the ruling theory of law” that consists of legal positivism and utilitarianism. In defence of an alternative version of a liberal theory of law, Dworkin (1978) argued for a conceptual link between human rights and the liberal tradition and viewed legal positivism as an inadequate conceptual theory of law. Despite Bentham’s rejection of the notion of human rights, J.S. Mill’s notion of the “harm principle” provided a way of synthesizing rights and utility (Shapiro, 2003) and it is thus no surprise, as proven by Knowles (2004), that utilitarianism and human rights came neatly together under the conceptual umbrella of liberalism.

The most widely entrenched contemporary version of legal positivism is represented by the work of H.L.A. Hart who has had several exchanges with Dworkin (1978). Hart

adhered to the separability thesis (separation of law and morals) and the master rule of recognition (Blackman, 1988: 151). The rule of recognition asserts that the validity of a law is dependent on being recognised as a law within the discursive regime and practice of law itself ... its existence is a matter of fact. Dworkin (1978), in rejecting the master rules of Austin, Bentham and Hart, furthered the belief that the basis of adjudication requires more than the legal standards of validity that reside in social facts. Adjudication, according to Dworkin (1978), requires a good dose of interpretation. Though some, like Himma, (2001) classified Dworkin's work as legal positivist, others such as Stavropoulos (2002) have developed solid arguments to place Dworkin's work within the realm of interpretivism, a position that views "propositions of law ...as interpretive of legal history" (*ibid*: 7).

5.4 Dworkin's Liberal Narrative

As noted earlier, the legal positivist pedigree thesis asserts that the validity of legal statements is determined either by the Benthamian notion of the 'greatest happiness of the greatest number'; or Austin's 'command of the sovereign'; or Hart's 'rule of recognition'. Both the notions of Bentham and Austin were discussed in the previous section and as such this section will briefly turn to Hart's thesis. Hart grounds his rule of recognition "in the empirical fact of its acceptance by the officials of the legal system" (Edwards, 1998: 185). Dworkin (1978) rejects these three foundationalist principles as inadequate 'master tests'.

In his work *Taking Rights Seriously* (1978: 22), Dworkin makes a distinction between rules, principles and policies. Rules are legal codifications and using any one of the three positivists' master tests, other sorts of important standards such as principles and policies will be eliminated.

I call a 'policy' that kind of standard that sets out a goal to be reached, generally an improvement in some economic, political, or social feature of the community. I call a 'principle' a standard that is to be observed, not because it will advance or secure an economic, political, or social

situation deemed desirable, but because it is a requirement of justice or fairness or some other dimension of morality.

Dworkin's main critique against legal positivism is that the application of a master test to determine legal validity, such as Hart's 'rule of recognition', does not allow for other standards that are embodied in principles and policies to influence legal validity. In relation to human rights, legal positivists posit that rights are only those provisions that are accepted as legally codified rights. Though such a stance rejects the notion of pre-existing natural rights, it does provide for legally codified rights. Dworkin (1978: xii) argues that individuals may have rights "other than those created by explicit decision or practice". That is, people may have rights that are not necessarily legally codified.

Dworkin's notion of judicial interpretation allows for judges to view propositions of "law as interpretive of legal history...they are neither simply descriptive, nor simply evaluative" (Stavropoulos, 2002: 7). Thus Dworkin subscribes to the idea and process of 'constructive interpretation' with legal history as the entity or body of knowledge under interpretation. 'Constructive interpretation' consists of three phases (preinterpretive, interpretive and postinterpretive) and correlates with the conception of 'law as integrity' as opposed to conventionalism and legal pragmatism. Edwards (1998: 195) provides a useful summary of these three conceptions of law.

Suffice to say that once the adherents of 'conventionalism', easily identifiable as those who follow the path of positivism, enter into debate about the nature of law, they, as in the case with legal pragmatists and Dworkin himself, the proponent of 'law as integrity', are fully committed to the third stage of 'constructive interpretation', namely, the 'postinterpretive' or reforming stage. It is here that interpreters, or legal philosophers, wish to adjust their sense 'of what practice really requires so as better to serve the justification [they] accept at the interpretive stage.

The adjudicative role of 'constructive interpretation' is also employed to develop an understanding of the conditions that may guide and constrain the power of government.

Law insists that force not be used or withheld, no matter how useful that would be to ends in view, no matter how beneficial or noble these ends, except as licensed or required by individual rights and responsibilities flowing from past political decisions about when collective force is justified. The law of the community on this account is the scheme of rights and responsibilities that meet that complex standard: they license coercion because they flow from past decisions of the right sort. They are therefore ‘legal’ rights and responsibilities (Dworkin as quoted in Edwards, 1998: 195).

Thus Dworkin provides the rights thesis as a basis to reject the separation between law and morals and invokes a definition of a ‘principle’ that allows it to act as a yardstick for justice, fairness or any other element of morality. For Dworkin the existence of and claims to legal rights are presupposed within the sociology of the community independent of legal codification. The role of ‘constructive interpretation’ in judicial processes is to identify these rights and their concomitant responsibilities. Consequently the hermeneutic stance permeates Dworkin’s theory of law.

5.5 The Critical Legal Studies Discourse

Following the logical conclusions of a Foucauldian analysis, law is simply a system of regulation and an “expression and exercise of power” (Ward, 2004: 141) in the service of relations of domination. Based on this profound scepticism towards law, Critical Legal Studies (CLS) emerged in opposition to the ruling theory of law and liberal legalism. In a useful expose, Madlingozi (2003) explores the dangers and limitations of the human rights discourse for Africa from a CLS perspective³⁴. He (*ibid*: 2-3) describes the main tenets of CLS as: an opposition to the incoherence of both liberal and conservative legal theories; a commitment to a philosophical position that views the legal system in relation to its contribution to social justice; a firm conviction that law and politics are inseparable; a principled position that views law as an instrument that sustains social, economic and political domination by reproducing asymmetrical power-relations; and an understanding that social change is a broad societal process in which law will play its necessary part.

³⁴ See also Mutua (1997) *Hope and Despair for a New South Africa: The Limits of the Rights Discourse*.

For Van Blerk (1996: 86) “the main impulse of [CLS] is to challenge liberal legal theory by debunking its claim to determinacy, coherence and objectivity”. In essence CLS views the legitimacy of liberal legal theory as a matter of ideological masking that “falsely persuades society that prevailing social arrangements are necessary and natural” (*ibid*: 86). CLS for Van Blerk (*ibid*: 91-92) has its roots in American realism and Marxism whilst for Edwards (1998: 145) its roots lie within Marxism and interpretive sociology. Ward (2004: 145) views the attributions of CLS as being related to post-structuralism.

The critique of the liberal legal tradition is constructed along three themes. First, CLS rejects the determinacy associated with liberal legal thinking. That is, a set of legal rules does not necessarily determine a particular outcome or understanding within the adjudication process. Instead, many outcomes are possible and choices thus reflect certain ideological positions. This contradicts the liberal legalism of Hart and Dworkin who adhere to the idea that “rules and principles, as part of a legitimate normative mechanism, yield determinant and predictable results in their application in the juridical process” (Edwards, 1998: 151). Second, CLS rejects the notion of objective and impartial law. Within feminist jurisprudence for instance, there is no such thing as the “view from nowhere”, ... every understanding has a perspective. “This perspective influences it, and provides an interpretive field for whatever matters of fact there may be” (Burchard, 2004: 4). Third, liberal legal theory presents contradictory accounts of human society, “that is, the contradiction between individual autonomy present in dominant liberal thinking versus the notion of substantive altruism or communitarianism” (Van Blerk, 1996: 92). The CLS’s notion of communitarianism refers to a

... commitment to the attainment of a higher level of altruism in society; a commitment to communal sharing, citizen participation in social decisions and an increased sense of voluntary care and co-operation among people (ibid, 92).

The communitarian idea of a highly altruistic society is related to the communitarian theory that “the norms that function in any particular community are the only sources of what is to count as ethically or politically right” (Edgar and Sedgwick, 2004: 74). For

instance, the notion of the ‘common good’ can only be understood within a “communal structure of meanings which a political community has” (*ibid*: 75). The logical conclusion of this stance, in alignment with the perspectivism of feminist jurisprudence as a branch of CLS, is that communitarian ideas exhibit some fundamental similarities with the views associated with postmodernism.

Bentham’s harsh response to natural rights as nonsense on stilts is almost analogous to the CLS response to human rights as ‘illusions’ and ‘myths’ (Ward, 2004: 145). For CLS human rights are constructions that fit the liberal conception of law. Within the orientation of liberal theory, individuals are separated from their communities and fictional divisions in communities are created. Rights are thus counterproductive to collective action. Madlingozi (2003) shows how the liberal conception of rights with its emphasis on individualism is of limited applicability to African nations because of African conceptions of ‘community’ and ‘personhood’. Using the development of the notion of ‘color blindness’ in American jurisprudence, Madlingozi (2003: 14) argues that it is a good example of how “dangerous the language of rights is ... it exposes the fact that ‘neutral’, ‘necessary’ and ‘progressive’ concepts, like ‘non-racism’ or ‘non-sexism’, can be used not only to maintain the status quo, but also aggravate the victim’s position”. He argues further (*ibid*: 15) and develops the proposition that the legal and the rights discourses create “false consciousness and thus hinder genuine democracy and justice” because “people are fooled into believing that what should be, already is” (*ibid*: 23)³⁵.

Unger, a leading CLS proponent, proposed a ‘reconstructive’ strategy for an alternative society within which four types of human rights play an important role:

- *Immunity rights ensure security against the states and permit individual zones of privacy.*
- *Destabilizing rights allow people to demand the disruption of institutions and social practices that perpetuate the divisions the society wants to avoid.*
- *Market rights provide a conditional and provisional claim to divisible portions of social capital.*

³⁵ See Kennedy (2002) for a critique of rights within CLS

- *Solidarity rights endorse legal entitlements to communal life and foster mutual reliance, good faith, loyalty and responsibility.*
(Edwards, 1998: 147)

Some analysts questionably view Posner's arguments on law and economics as a branch of CLS (Himma, 2001). In consonant with the central notion of CLS about the impossibility of objective law, Posner argues that economic analyses of law will reveal that "common law can be explained in terms of its tendency to maximise preferences" and that common law is best explained as a "system for maximising the wealth of society" (Himma, 2001: 13). This argument relates closely to Habermas's contention that:

The dominant discourse in contemporary legal thought has become that of 'private' right, essentially a right to property and commerce, rather than 'public' democracy. Accordingly, law has been recast in specifically economic, rather than political or moral terms (Ward, 2004: 70).

Posner also argues for the importance of social norms in legal thinking since social norms contribute to social welfare. He views legal rules as "efforts to harness the regulatory power of social norms" and (2002: 8) further argues that "legal analysis should take account of complexities of non-legal regulation more often than they do" (*ibid*: 169).

5.6 The Postmodern and Postcolonial Legal Narrative³⁶

Chapter 4 engaged with the postmodern as a cultural-historical moment and a sceptical intellectual mood towards foundationalism. This forms the basis for a discussion on postmodern legal thought. In addition, postcolonial legal thought will be discussed in a joint deployment with postmodern legal thought. Following Bhabha and Spivak as two eminent postcolonial theorists, Lenta (2001:175), gives a joint account of the legal theory of postmodernism and postcolonialism but treats them as distinct positions with a high level of congruence.

³⁶ See Douzinas (2000), *The End of Human Rights* which is a useful treatise on jurisprudence and insightful critiques of mainstream constructions of law and human rights from a postmodern perspective.

Edward Said's work on *Orientalism* (1978) is generally regarded as the 'beginning' of the postcolonial tradition (Viruru, 2005: 8; Harris, 2000: 2; Kumar, 2003: 2) though postcolonial intellectual injunctions such as those of Frantz Fanon (1963) have been made prior to the writings of Said. Drawing on the analysis of 'discourse' in the work of Foucault, Said (1978: 69) views the systematic writings about the Orient as a discourse:

My contention is that without examining Orientalism as a discourse one cannot possibly understand the enormously systematic discipline by which European culture was able to manage – and even produce – the Orient politically, sociologically, militarily, ideologically, scientifically, and imaginatively during the post-Enlightenment period.

Stemming from Orientalism as a discourse and thus a regime of truth, the West constructs the Orient as the 'other' in relation to itself. This self-construction of the West is impossible without reference to the 'negative other' and this 'other' includes the Orient and the cultures of colonised people such as those in India and Africa. Thus postcolonial studies focuses on the othering of the colonised cultures; the "oppressed consciousness of the colonised subject"; the cultural bias "inherent in particular forms of European discourse"; and the continued influence of colonialism on the identity of the "post-colonial subjects and their cultures" (Edgar and Sedgwick, 2004: 291).

Bhabha (1999: 189) views the postcolonial as interventions in the "ideological discourses of modernity" within the broader context of a "colonial contramodernity". For Bhabha (*ibid*: 190) postcolonial thinking forces us to "confront the concept of culture ... as an uneven, incomplete production of meaning and value, often composed of incommensurable demands and practices, produced in the act of social survival". The otherness that is constituted within these cultures is a central focus of postcolonial studies. 'Otherness', 'alterity' and the 'subaltern' are thus fundamental concepts within postcolonial theory. "Driven by the subaltern history on the margins of modernity", Bhabha (*ibid*: 193) tries to rename the "postmodern from the position of the postcolonial". Again, for Spivak, this subaltern history should not be articulated within the power-language frame of the dominant culture, but be represented and enunciated by the subalterns themselves (Rohmann, 2000: 310).

Postcolonial legal theory questions the space and status of the subalterns within the context of law and human rights. Bhabha (*ibid*: 193) for instance refers to rights and obligations as central “to the modern myth of a people”. As a result of this critical posture, postcolonial legal theory deals with the relationship between law and the postcolonial; the role of law in the West’s relationship with its ‘other’; the critique of the international human rights discourse; law as a tool of colonialism; the way in which colonial politics affect legal rights (Kumar, 2003: 4-5); and “deciphering systems of representation designed to validate the institutional subordination...of the colonised” (Lenta, 2001: 185).

Following the discussion in Chapter 4, postmodernism rejects the notion of universality; focuses on the situatedness and locality of the subject; opposes all notions of objective truths; adheres to the social construction of reality; discards any totalising narrative; celebrates difference, tolerance and contingency; insists on the plurality of power-discourses; and subscribes to the ambiguity and ambivalence of meaning. Analogous to this, postmodern legal theory rejects the notion of universal justice; opposes the notion of objective legal truths; confirms the social construction of legality; discards the totalising narrative of liberal legalism; and views law as a vehicle of power.

Postmodern legal theory is sceptical towards liberal law and asserts that “law’s creation of legal subjectivity may be deconstructed to reveal subjects who have rights but lack equality and material well-being” (Lenta, 2001: 184).

In fact, far from ensuring freedom, the rules, structures and mechanisms of legal modernism, such as rights litigation and the rule of law, are revealed by postmodernism often to be conduits of power and mechanisms of subjection and domination...Rights discourse has not only often failed historically to deliver on its transformative promises, but it also ignores the institutionally pervasive and systemic nature of oppression (ibid: 184-185).

Employing the views of Foucault, Lyotard and Derrida, Lenta (2001) provides a useful postmodernist critique of South African legal theory³⁷ and suggest ways in which postmodern strategies may be employed: “to elucidate colonial modes of thoughts...in South African law”; “to recuperate agency for the subaltern”; and to deconstruct the constitutional texts in order to fracture the “current forms of legal knowledge and social identities authored and authorised by Western modernity” (*ibid*: 186). Following Alasdair McIntyre and Michael Walzer, postmodern legal theory views justice as contingent and particular and relative to social meanings (*ibid*: 183). Lenta’s analysis is even more important given the fact that South Africa’s history has become the grand narrative as an interpretive tool as it relates to constitutional jurisprudence (De Vos, 2001). How and by whom this history is constructed become important questions from both the perspectives of postmodern and postcolonial legal theory.

According to Derrida the law is deconstructible and deconstruction is justice (Bohler-Muller, 2002: 629). In similar vein Ward (2004: 167) views deconstruction as jurisprudence and ethics because it seeks to address the concerns related to justice but this justice is defined within the locality and situatedness of the ‘violated’ and not in terms of universal constructs. The construction of justice is not finite but fluid and open in similar trajectory to the postmodern thesis of the ambivalence of meaning that may change and shift at any time. Thus, whilst modern jurisprudence is concerned with the past, “postmodern jurisprudence embraces the future” (Ward, 2004: 169). Postmodern legal theory may be regarded as a natural evolution from CLS since they share a profound scepticism towards modernity (Ward, 2004: 171). Within postmodern legal theory deconstruction is ethics and justice and law is an aesthetic phenomenon. Therefore the deconstruction of legal texts represents the main interpretative strategy (Douzinas, 1991) whilst ethics and aesthetics remain central to postmodern legal theory. These notions are well represented in Douzinas’s version of postmodern legal scholarship in *The End of Human Rights* (2000).

³⁷ Bohler-Muller (2002) provides an account of *postmodern feminist legal theory* in South Africa; De Vos, (2001) shows how South African history is used as *the grand narrative in legal interpretation*; Lenta, (2004) is critical of *rainbow jurisprudence* in relation to the judgements of the South African Constitutional Court and Boshof (2004) also uses postmodern insights to discuss *law as dialogical politics*.

Douzinas's postmodernism wants to retain a radicalism for human rights that is rooted in dissent and rebellion similar to Lenta's (2001) contentions about the transformative potential of postmodern legal theory. The potential for radicalism resides in the anti-foundationalism of postmodernism in the way that Giroux (1997: 195) would argue. Consequently postmodernists try to rearticulate human rights from the perspective of the subalterns where the "human rights imaginary" gives way to the notions of humanity and humanism within which the "nature of love and affection, pity and friendship" are viewed as political concepts (Ward, 2004: 172). Human rights, and by extension HRE, must thus reclaim its position as a critical approach to law and in service of a critical view on social justice. But this notion of human rights, according to Rorty (1999: 77) is a non-foundational one...it is a "human rights of consciousness" (Ward, 2004:179).

5.7 The International Law Narrative

This narrative is closely linked to the notion of declarationism that has been developed in earlier parts of this study. It is also intrinsically linked to the legal discourse and constitutes the most dominant framework for engaging with human rights and HRE. The basis for this narrative has been formulated since 1948 first with the adoption of the Universal Declaration of Human Rights and subsequently the adoption of the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966). This trio is regarded as the International Bill of Human Rights.

Flowing from this, an array of declarations, conventions and covenants were developed as part of either binding international law or part of the international normative framework for human rights. There are now more than 200 binding legal instruments on an international and regional level. Some examples that are regionally focused are those that cover the Americas, Africa and Europe. On the basis of themes and vulnerability, there are instruments that focus on women; race; religion; children; minorities and indigenous people; asylum and refugees; non-nationals and stateless persons;

development; education; employment; the judiciary, law enforcement and legal profession; treatment of offenders; juvenile justice; victims of crime; torture and extra-legal execution; capital punishment and international crimes.

For Evans (2001: 7-8) the legal discourse can be divided into two broad areas.

The first involves disagreements over the nature and status of international law in a world where sovereignty, non-intervention and domestic jurisdiction remain the guiding principles...The second broad focus for international law concerns questions to do with the internal elegance of the law, its coherence, extent and meaning, which the application of legal reason discovers.

The legal discourse on human rights has been widely documented³⁸. It is at present also the most dominant influence on the framing of HRE³⁹. On this score HRE is merely a disseminating channel for popularising these international instruments. The legalization of HRE itself is dependent on these frameworks and thus it is a matter of international law legalizing its own popularization, education and training.

5.8 The Political Narrative

The abstract, moral, utopian approach of philosophy, which allows us to glimpse a better future, fills us with hope, while the empirical, neutral, norm-driven approaches of international law reassure us that international society has taken firm action on human rights. Together these two discourses conspire to marginalise the political discourse, and thus exclude consideration of prevailing economic, social and political structures and practices that support particular interests while sustaining the conditions for continued human rights violations (Evans, 2001: 10).

Though Evans (*ibid*: 10) would warn us against conflating legal, philosophical and political norms in human rights argumentations, Ricoeur (2000: 1) argues that when it comes to human rights, the juridical or legal cannot be distinguished from the moral and anthropological. And when Shapiro (2003) provides a treatise on *The Moral Foundations*

³⁸ See Melander and Alfredsson (1997), Freeman (2002) and Donnelly (2003) for examples.

³⁹ See discussion on the UNESCO discourse on HRE in Chapter 3.

of Politics that is infused with human rights discourses, the distinctions between the legal, philosophical (including the moral) and political are further blurred. Knowles's (2001) journey through *Political Philosophy* further blurs these distinctions as he negotiates the notions of human rights, democracy and politics.

However, for the purposes of this study it is useful to understand the political narrative of human rights as a discourse that interprets human rights against the notions of power, hegemony, democracy, globalization and the political economy of rights generation and practices. Far from viewing human rights as utopian, the politics of human rights explores the ways in which human rights are aligned to already existing relations of power and interests. The political narrative of human rights forwards a number of theses.

First, Mutua (2002: 15) argues that the obsession to universalize human rights stems from the 'impulse to universalise Eurocentric norms and values by repudiating, demonizing, and 'othering' that which is different and non-European'. Mutua constructs an argument on the basis of human rights as a metaphor that includes the metaphors of the savage, the victim and the saviour.

The grand narrative of human rights contains a subtext which depicts an epochal contest pitting savages, on the one hand, against victims and saviours, on the other (ibid: 10)

The upshot of Mutua's argument is that the human rights discourse in relation to Third World countries is built around the tendency of displacing the other. The displacement of the other was first operationalized through the practices of the Christian missionary of the previous era who has been replaced by the human rights zealot of the modern era.

Second, Marx's critique of rights focuses on its individual nature. Verma (2000: 69) argues that Marx's notion of rights can be summarised as follows:

- *The notion of rights presupposes a model of man as the egoistic individual of civil society.*
- *The notion of rights is limited to political emancipation.*

- *The notion of rights cannot be fully realized in bourgeois society by all classes.*

Some argue that Marx was against the very notion of legal rights as “being the artefact of a defective mode of production” (*ibid*: 76) whilst others are of the opinion that Marx provide an alternative theory of rights “that is non-possessive and non-absolutist’ (*ibid*: 77). Other theorists have developed a Marxist theory on collective human rights that is based on the following contradiction in human rights theory:

On the one hand, human rights, can provide a fairy-tale façade which serves to disguise the often vicious nature of class society. Acting “as if” certain rights are true (equality, freedom, etc.) inhibits people’s ability to recognize when they are, in reality, false, and when society does not protect these rights. On the other hand, there are many positive and progressive qualities found within conceptions of human rights (Felice, 1996: 131).

Within this mode of thinking, employing Marxist notions to re-interpret human rights within the framework of class, power and privilege that “incorporate respect for individual freedom with a desire to end group suffering” (*ibid*: 130) might be a more viable option in developing a society based on human dignity.

Third, in *Power, hegemony and the universalization of human rights*, Evans (1998) contends that an exploration of power within the human rights discourse demonstrates that human rights are on the one hand seen as empowering and on the other as subjugating. The practice of human rights has elements of exercising power over people such as the exclusionary practices that mainstream some forms of human rights understandings whilst rejecting others (see Mutua, 2002). The deeper meaning of power in the Foucauldian sense has even wider implications because truth cannot be spoken in the absence of power and thus the power that is exercised within the human rights discourse creates its own “political economy of truth” (Foucault, 1994: 131). What counts as human rights truths are thus determined by the nature of power-relations as they play themselves out on the human rights landscape.

Bent Flyvberg (2000) builds this argument further by arguing against Habermas' consensus-seeking philosophy as idealistic and that the notions of democracy, and by extension human rights, cannot be understood within this consensus paradigm. Rather, he (2000: 29) argues, Foucault's understanding of democracy and of human rights that places conflict and power at its centre is a better explanatory framework than that of Habermas. The logical conclusion of Flyvberg's argument is that democracy and administration are beset by conflict and power that in turn permeate the administration of human rights. Thus, following Foucault, rather than turning to a framework of 'consensus' as an explanatory tool, HRE practitioners should embrace the Foucauldian framework of 'conflict and power'⁴⁰.

"The term 'hegemony' is derived from the Greek *hegemon*, meaning leader, guide or ruler" (Edgar and Sedgwick, 2004: 164) and later interpreted by Gramsci to refer to the need "to rule by consent" (*ibid*) and the "legitimation of intellectual and moral leadership" (Evans, 1998: 5).

Hegemony is exercised in two ways: externally by influencing behaviour and choice through rewards and punishment and internally by shaping personal beliefs, opinions and values that reflect prevailing interest (ibid).

Using the concept of hegemony as an analytical tool, Evans argues that the United States of America (USA) has used the language of human rights to further its own political, economic and cultural interests. In similar vein, Chomsky (1998: 51) chides the USA for its human rights hypocrisy⁴¹ describing its internal record as "shameful" and its record abroad as a "scandal"⁴². Similar sentiments are expressed by Said (2001: 411-435).

Fourth, the relationship between *human rights, globalization and markets* is a central constitutive part of the political discourse on human rights. The modern world shows up

⁴⁰ See Langlois (2001: 10) who argues for a political model as a theory for human rights that acknowledges that "it is part of the human condition that there will be disagreement, power plays, authority relations, conflict and antagonism".

⁴¹ See Shivji (2003) on *Law's Empire and the Empire's Lawlessness* on the hypocrisy and double standards of the West in relation to human rights.

⁴² See Arundhati Roy (2004: 44-65) on the contribution of Noam Chomsky in exposing the hypocrisy of the USA in *The Loneliness of Noam Chomsky*.

two distinct features. On the one hand there is the “growing interpenetration of states, markets, communications, and ideas across the borders” (Brysk, 2002: 1) which is globalization, and on the other there exists a burgeoning international normative framework for the promotion and protection of human rights. Falk (2002: 61-76) argues that there are grounds on which to “reconsider the presumed contradiction between market forces and human rights” (*ibid*, 73) and this relationship needs to be viewed with scepticism. He agitates for a wider conception of human rights that includes social and economic rights and the right to development by which to provide counter-hegemonic practices to the neo-liberal tendencies of globalization. This argument resonates with Vally’s analysis (2002: 6) of human rights and neo-liberalism in the South African context.

Baxi’s (2002: 119-131) metaphorical notion of ‘human rights markets’ posits that

Human rights markets consist of a network of transactions that serve the contingent and long-term interests of investors, producers and consumers. These transactions rely upon the availability, which they in turn seek to reinforce, of symbolic capital in the form of international human rights norms, standards, doctrines, and organisational networks. Since grids of power are globalized, human rights markets also create and reinforce global networks, each of which seeks to influence the patterns of compliance and violation of human rights norms...Human rights markets thus share salient features of global service industries.

Though Baxi acknowledged some difficulties with the human rights market metaphor, the shift from this metaphor to the “commodification of human suffering” (*ibid*: 125) is a powerful analytical tool for reflecting on the relationship between human rights and industry markets⁴³. He argues that human suffering needs to be commodified and packaged according to market requirements for human rights entrepreneurs to flourish.

Human suffering must be packaged in ways which the mass media markets find it profitable to bear overall...Injustice and human right

⁴³ For instance, see Tomasevski, (2005 [a]) for a comprehensive analysis on *Education as a Human Right or as a Traded Service*. Also note Tomasevski’s (2005 [b]: 237) conclusion on her reflections as the UN Special Rapporteur on the Right to Education from 1998 to 2004...the World Bank is the lead agency in education and does not recognise education as a human right.

violations is headline news only as the pornography of power, and its voyeuristic potential lies in the reiterative packaging of violations to titillate and scandalize, for the moment at least, the dilettante sensibilities of the globalizing classes (ibid: 125).

The commodification and marketization of human rights and human suffering thus follow similar patterns than those displayed by the globalization of markets and industries and the commodification of social services. Human rights and human suffering, from this perspective, has become a regulated service industry.

Sixth, Evans's (2001) treatise of the *Politics of Human Rights* highlights the centrality of politics and power in human rights talks within the context of the post-Cold war era and in the age of globalization and exposes the possibilities for understanding rights "as both sustaining existing forms of dominance and providing a powerful tool with which to challenge those forms" (*ibid*: 34). He further articulates the shortcomings of a fixation with international human rights law (*ibid*: 55) and demonstrates that human rights are often violated in the "cause of trade" (*ibid*: 77) and that "people who stand in the way of trade-related business 'routinely' lose the right to self-determination and to 'freely pursue their economic, social and cultural development'" (*ibid*: 78). He (*ibid*: 101) further probes the link between human rights and democracy⁴⁴ and concludes the following.

Given the argument that the spread of the democracy idea, as is currently promoted, relates more to economic growth and development, the interests of global capital and finance and the conditions for globalization, than with human rights and human security, the popular assumption 'if democracy then human rights' is at least questionable.

The overall thesis of Evan's exposé is captured in his understanding that human rights practitioners should neither be overly pessimistic or optimistic about the utility of the human rights discourse but rather explore how relations of domination are sustained and reproduced within the language and practice of human rights and at the same time exploit the possibilities of a transformative practice that is locked into and resident in this same discourse. A critical theoretical stance is thus evident in Evan's analysis.

⁴⁴ See Henriquez (1999) on *Human Rights: An Approach to a Political Issue*.

Seventh, in the *Political Philosophy of Needs* Hamilton (2003) argues that the contemporary significance of human rights should be reduced to a secondary status in relation to a “theoretical conception that better articulates the larger material and ethical concerns of practical politics” (*ibid*: 2).

A political philosophy founded on rights is illusory, and in practice it often acts counter to some of its own intended goals. This is the case because thinking about modern politics in terms of rights is a crude means of political explanation or ethical assessment and proposal, not least of all because rights, I claim, are in fact retrospective and impede change and evaluation. This is partly due to the fact that rights are meta-political: they naturalise and hierarchise political and ethical means and ends prior to any contextual political process of evaluation. They are the outcome of an attempt to provide secure conditions for a particular kind of political rule and order, but when stipulated in the form of rights these conditions depoliticise politics (ibid: 3).

He further argues that human rights are inherently conservative and tend to entrench the status quo because of their historicity. Linking the natural law theory of Grotius, Hobbes and Locke of the 17th, 18th and 19th centuries with the discourse of modern human rights, he (*ibid*: 4) argues that both provided an overarching ideological framework and moral code for guiding the exploitation of territories and peoples. Natural law theory provided such a framework and code to legitimise the imperialism of countries like Spain, France, Holland and England in the 17th, 18th and 19th centuries. In similar form modern human rights (and current HRE practice) provide a framework and moral code in relation to the exploits associated with the globalization of the 20th and 21st centuries.

Coupled with the inherent conservatism of rights, Hamilton (*ibid*: 5-6) argues that contrary to particular dominant convictions, rights are not “free-standing, self-evident, universally accepted material requirements or moral elements of universal nature or existence”. They are contingent on wider social frameworks and political organisation. He thus argues for a *Political Philosophy of Needs* that is focused on “the urgent distribution of resources and requirements for human functioning under conditions of non-agreement” (*ibid*: 8) to which human rights may or may not be a secondary

framework. He maintains that the conception of needs is more motivational and objective than the current conception of rights (*ibid*: 9).

In retaining a significant motivational element, this approach to needs provides an improved means of capturing some of the claims people bring to the political arena, and of understanding and explaining a common language of politics. For it is an empirical fact that the terms 'need' and 'needs' are constantly employed in practical politics.

Eight, in *Human Rights as Politics and Idolatry*, Ignatieff (2001) shows how the legitimacy of human rights is undermined by the inconsistent application of its provisions by the most powerful Western Countries. He further argues that the efforts to elevate human rights into a universal secular religion, translates into humanism worshipping itself, i.e. human rights idolatry. Both the inconsistent political application of human rights and its construction as a universal secular religion negate the legitimacy of human rights within the contextual framework of the non-West. In *The Warrior's Honor* he (1999) further argues for the development of altruism in relation to our moral obligation to do “something” beyond our tribe, nation and family (*ibid*: 4). And again, in *The Rights Revolution* he (2000: 23) is in agreement with Evans (2001) on the necessity of the centrality of agency in the human rights discourse.

The political narrative on human rights provides a rationale for HRE to move beyond the political literacy and declarationist approaches. It shows how power, hegemony, needs, economics, politics and the globalization, commodification and marketization of human rights all influence the meaning of human rights and HRE. Further, it provides the basis for HRE to reconstruct itself as a critical theoretical and practical endeavour to contribute to developing agency and transformative human rights practices. More so, it points to different ways in which the anti-educational potential of HRE can contribute to human suffering and the reproduction of inequality and the possibilities to counter such tendencies.

5.9 The Justification of Human Rights

In the previous sections the various strands of the legal philosophical discourse have been explored including the natural law justification, the foundationalist master rule of legal positivism, the constructive interpretivism of Dworkin and the perspectivism of CLS and postcolonial and postmodernist legal thought. In addition a number of narratives and discourse and their influences on the meaning of HRE have been explored. This section deals with the different approaches to justifying human rights as a basis to take up the implications of these approaches and philosophical arguments around the notions of law and rights for an understanding of the practice of human rights education.

Knowles (2004: 155-176) provides a useful typology of rights justifications. First, Lockean natural law thinking asserts that people have natural rights derived from natural or God's law. In an effort to ground human rights, Locke put forward the idea that people own themselves and that wealth or objects generated by the people thus belong to them. Knowles calls this the "Thesis of Self-Ownership". People have rights through self-ownership and rights claims are justified on the basis of such self-ownership. Second, rights are justified on "grounds that they advance autonomy" (*ibid*: 160) within the context of freedom. Third, rights may be justified because they embody such important interests that they require protection, such as Mill's notion that a "right is a valid claim on society for protection" (*ibid*: 165). Fourth, for interests to be protected, a rights codification that is based on utilitarian calculations is required (*ibid*: 169). Fifth, the 'no-theory' theory asserts that "if rights are claimed, acknowledged and respected amongst a community, no further argument is needed to establish its provenance" (*ibid*: 175), in similar vein to Luhman's (Deflem: 1996: 10) understanding about law as an autopoietic system in modern societies that "no longer need any justification in terms of normative points of view".

Fagan (2003: 13) points out that the validity and justification of rights cannot reside in its legal codification since rights have to be "demonstrated as valid norms and not facts".

Following a similar trajectory as Knowles' notion of 'interest', Fagan (*ibid*: 13) argues that the 'interest approach' views human rights as having the principle function to protect and promote human interest. The 'will theory approach' links with Knowles's second point and tries to establish the validity of human rights on the dictum that "rights are a manifestation of the exercise of personal autonomy" or as Gewirth will have it that human rights is the "logical corollary of recognising oneself as a rationally purposive agent" (*ibid*: 15-16).

Freeman (2002) argues that a human rights theory must be focused on the justification of rights. He (*ibid*: 60-75) presents the various arguments forwarded by Donnelly, Dworkin, Nussbaum, Gewirth, Walzer, Rawls and Rorty for justifying human rights. According to him (*ibid*: 75), consensus on the philosophical foundations of "human rights may be impossible to achieve ... [but] there are various strong reasons for supporting human rights":

... derived from respect for human dignity (Donnelly), the basis of moral action (Gewirth), the demands of human sympathy (Rorty), or the conditions of human flourishing (Nussbaum)...The moral and humanitarian case for assigning the concept of human rights to a leading role in political theory, is ... very powerful.

Hannah Arendt (1906-1975) thought that the idea of humanity might replace the 18th century notion of nature as a justification for human rights. But since no law of humanity exists, the need to protect human rights is not grounded in any principle (Cotter, 2005: 20). Though Arendt resisted aligning herself to any philosophical justification for human rights, she urged that:

...we need to recognise that rights are conventions, the product of collective agreements, and, thus, part of the human artifice. They are only possible and, indeed, only necessary because of the human condition of plurality. Arendt concludes that "The concept of human rights can again be meaningful only if they are redefined as a right to the human condition itself, which depends upon belonging to some human community, the right never to be dependent upon some inborn human dignity which de facto, aside from its guarantee by fellow-men...does not exist" ...That rights rely on human agreement and not on natural rights, indicates the inherent

fragility of all rights and of any product of human agreement; it also indicates the grave responsibility we all have to establish and maintain such an agreement (Cotter, 2005: 21).

Arendt's notion of human agreement represents another form of justifying human rights. The idea of human dignity which Arendt rejects as a grounding for human rights, became the basis for Nussbaum's justification of human rights. Her notion of capabilities is deeply rooted in the idea of human dignity (Garret, 2004: 3). Further, the Nussbaum capability approach that is derived from Sen's⁴⁵ (2005) articulation of human development in terms of capabilities and freedoms, translates human rights into a moral principle that frames the minimum threshold of capabilities in human rights terms (Garret, 2004: 6). These capabilities are central to human existence and on this basis the justification for human rights is formulated.

Other attempts at justifying human rights include the notions of "social recognition" and the "common good" forwarded by Green (Martin, 2003: 71). The various articulations on "justice" from Gewirth (1985; 1996), Rawls (1971), Nagel (1987), Nozick (1996), MacIntyre (1992) and Young, I. M. (1990) all have implications for the justification of human rights. Some of these will be discussed in Chapter 7. For now it suffices to note that Gewirth's principle of morality, i.e. the Principle of Generic Consistency (PGC), forms the basis for his theory of morality as a theory and therefore a justification of human rights. Given that ethics directs attention to people's own reflexivity towards the intentions and consequences of their action, Gewirth's ethical rationalism presents the PGC as the principal moral principle that is authored by the nature and structure of human agency that is engaged in a necessary dialectical form of argumentation. Consequently human agents are engaged to act in accord with their own rights and the generic rights of others as an ethical consideration of the consequences of their action. Human rights are thus justified within this ethical rationalism with the PGC as the prime post-metaphysical moral principle.

⁴⁵ See Unterhalter (2003).

Habermas's universal pragmatics which holds that all speech acts have an inherent purpose of mutual understanding provides the basis for his theory of communicative action and human emancipation. From this then he builds his reconstructive theory of law and the procedural strategy of discourse ethics to determine the validity of positive law and human rights.

Discourse ethics, sometimes called "argumentation ethics," refers to a type of argument that attempts to establish normative or ethical truths by examining the presuppositions of discourse (Wikipedia Encyclopedia, 2005: 1).

The validity of law and thus human rights for Habermas (Rasmussen, 1996: 28) resides within the "mediation between philosophical claims for justification and the sociological accounts of institutionalization". Habermas's discourse ethics puts forward a procedure to determine the validity of laws and rights. The validity of norms is derived through the approval of "all affected in their capacity as participants in a practical discourse" (Habermas quoted in Deflem, (1996: 9). Habermas (Deflem: 1996: 10) agrees with CLS that law and morality are closely related but CLS 'scholars have generally argued against the possibility of rationally reconstructing law's moral grounding in terms of a universal procedure of discourse". For Habermas, modern law:

...can be morally grounded. Law can be legitimate in terms of moral-practical discourse, not because it incorporates concrete, ethically right values, but because it relies on a procedurally conceived notion of rationality realized by democratic principles in legislation, jurisprudence and legal administration (ibid: 12).

Law is a regulatory system that maintains society through coercion. But this law needs legitimacy for it to employ its coercive force. In the absence of a natural law grounded in religion or metaphysics and in the absence of a post-traditional morality, "the democratic procedure for the production of law evidently forms the only postmetaphysical source of legitimacy" (Habermas, 1996: 136).

But what provides this procedure with its legitimating force? Discourse theory answers this question with a simple, and at first glance unlikely,

answer: democratic procedure makes it possible for issues and contributions, information and reasons to float freely; it secures a discursive character for political will-formation; and it thereby grounds the fallibilist assumptions that results issuing from proper procedure are more or less reasonable (ibid, 1996: 136).

The democratic process and procedure thus houses the legitimacy and validity of law. For Habermas the validity of law is not dependent on the existence of a higher natural law. Neither is it dependent on the social contract theories. It is also not reliant on the master theses of legal positivism or the constructive interpretivism of Dworkin. Valid law is derived through a deliberative model on the basis “of a discursively achieved agreement” (*ibid*: 137). Consequently human rights are discursively grounded within a “procedure of presumptively rational opinion and will-formation” (*ibid*: 144). For Habermas there is thus an internal relation between human rights and popular sovereignty.

...the sought-for internal relation between popular sovereignty and human rights consists in the fact that the system of rights states precisely the conditions under which the forms of communication necessary for the genesis of legitimate law can be legally institutionalised (Habermas: 1999: 64).

Human rights, for Habermas, are not only central to providing the facilitative framework for rational political will-formation, but also central to will-formation itself. They are constituted by the democratic legislative procedure and as such meet the approval of those affected. As such human rights are oriented towards the common good.

The justifications of human rights are multi-faceted⁴⁶ and are constituted by a diverse range of macro and mini-narratives. Natural law theory holds that natural rights are justified on the basis of the laws of nature which represent the laws of the deity. The legitimacy of positive law and natural rights are dependent on its congruence with natural law. Legal positivists argued that human rights are only those rights that are legally codified and such codification is justified on the basis of an objective criterion that might include Austin’s “command of the sovereign”, Bentham’s “utility principle”, and Hart’s

⁴⁶ For example, see Freeman (2004) on Donnelly’s and Gewirth’s efforts at justifying human rights and Orend (2002) on *Do we need to justify human rights at all?*

“rule of recognition”. The validity of human rights is thus tied to its codification in a law that meets the requirements of such objective criteria. Dworkin believes that people may have rights that are not legally codified and that these rights are presupposed within the sociology of the community. These rights are identifiable through “constructive interpretation” within the hermeneutic tradition.

Whilst Kant grounds human rights in reason and the rationality of the autonomous individual, Habermas contends that human rights are discursively grounded and justified on the basis of the democratic legislative procedure. In direct contrast to efforts at justifying human rights, MacIntyre believes that all attempts at justifying human rights have failed... “the reason for not believing in rights is the same reason for not believing in witches and unicorns” (Walters, 2003: 187)⁴⁷. CLS also rejects the liberal legalism of Dworkin and legal positivism and views human rights as illusions. For CLS human rights are constructions that fit the liberal conception of law and because it creates false consciousness, it is antithetical to justice. From here it was only a small logical step for postmodern and postcolonial legal theory to refer to the body of rights as the “modern myth of a people” or as a “human rights imaginary” that are in fact conduits of power and domination. Universal human rights are logical impossibilities within the context of postmodernism and postcolonialism and HRE is merely seen as a pedagogical tool aimed at legitimating the human rights imaginary.

5.10 Conclusion

The implications of all these narratives and discourses for the concept of HRE are discussed in the next chapter. This chapter has demonstrated, in alignment with Chapter 4, that human rights is a contested concept and that such contestations have a material impact on how HRE is conceptualised. The variety and fluidity of meanings of HRE that have emerged from the ‘woodwork’ of the conceptual map enriched the conceptual cartography of HRE. It provides the basis for the necessary constant and perpetual critical reflexivity that should inform the conceptual structure of HRE. It also highlights the

⁴⁷ See Chapter 7 for more on MacIntyre’s argument.

fallacy that HRE is an ‘objective’ practice based on consensual human rights universals and illustrates that all formulations of HRE are guided by particular stated and un-stated interest and theoretical assumptions. Further, Chapter 6 explores the definitional and typological considerations that have been thrown up by the concept analysis, the conceptual historical analysis and the conceptual cartography.

CHAPTER 6

HUMAN RIGHTS EDUCATION: CONCEPTUAL ECLECTISM, DEFINITIONAL ISSUES AND TYPOLOGICAL CONSIDERATIONS

6.1 Introduction

Chapters 3,4 and 5 explored the genealogical and conceptual frameworks of HRE and demonstrated that the meaning of HRE is preconfigured within two discursive trajectories. First, the meanings of HRE are influenced by broader historical shifts and their concomitant political, economic and cultural edifices. Second, the meaning of HRE takes on fluid and complex forms when conceptual cartography and conceptual mapping are applied, i.e. its meaning frameworks are more intricate than presented by human rights practitioners.

This chapter weaves together the different ways in which this study has approached the conceptual intricacies of HRE, i.e. the ways in which the conceptual meanings of HRE have been constructed and uncovered.

- The definitional trends and conceptual historical shifts that have been explored in Chapter 3 are analysed in section 6.2.
- The conceptual cartography that was constructed in Chapters 4 and 5 are tabularized, narrated and analysed in section 6.3 in relation to its implications for the conceptual and definitional framework of HRE.
- A typology of HRE, with qualifications, is developed and critically analysed in section 6.4 as manageable strategies for concept elucidation and present the concept of HRE in relation to associated educational formations. This typology is informed by the historical development of HRE in Chapter 3.
- The models and approaches to HRE are constructed, presented and assessed in section 6.5 since a diversity of meanings of HRE inhabit the conceptual

assumptions of these models and approaches. The classification of these models and approaches is influenced by the conceptual cartography of Chapters 4 and 5.

6.2 Definitional Trends and Conceptual Historical Shifts

6.2.1 The Nomenclature of HRE

The conceptual historical analysis demonstrates that educational practices and objectives that today are categorized as HRE have been in existence before Greco-Roman times and in traditional and pre-colonial African and other societies. Many educational forms have been associated with HRE. These include Democracy Education, Education for Democracy, Peace Education, Conflict Resolution Education, Civic Education, Citizenship Education, Political Education, International Education, Global Education, World Education, Moral Education, Environmental Education, Development Education, Multicultural Education and Anti-racism Education.

Apart from the fact that HRE has developed into a powerful discourse in its own right, almost all the constructions of associated educational forms position HRE either as a central, core or important pedagogical configuration. The meaning of the concept of HRE is thus tied to the conceptual frameworks of many of these forms, each with their own particular understanding of HRE. HRE thus sources meaning from concepts like human rights, democracy, peace, development, multiculturalism, citizenship, and so on. But these issues have been on the agenda of educational debate independent of the formalised human rights discourse. The question then arises whether HRE injects any new pedagogical concerns and approaches into the realm of educational debate.

6.2.2 A pedagogy of “civic-mindedness”

The “civic-mindedness” of philosophical and other teachings before and during Greco-Roman times is probably one of the earliest constructions of a pedagogical formation that largely has had similar objectives to contemporary HRE. With a focus on citizens’

responsibility towards the state and the adherence to law-like regulatory frameworks, these educational configurations followed an approach that juxtaposed citizens as subjects in relation to the state. This can probably be ascribed to the centrality of ‘duties’ within these earlier discourses.

Section 3.3.2 shows that between the advent of modernity and the adoption of the UDHR in 1948, the shift from duties to rights provided fertile grounds for the further development of multicultural education, moral education, civic education, citizenship education and education for democracy. The *English Bill of Rights* of 1689, the *French Declaration of the Rights of Man and of Citizens* of 1789 and the *United States Bill of Rights* of 1791 came into being as the precursors to the human rights instruments of the 20th century. These constructions of human rights enable the continuation of discriminatory practices in the same geographical space that has spawned its existence (Ishay, 2004: 155-172). Despite these contradictions, educational formations associated with HRE were based on these instruments and styled in a duties-rights or political literacy framework. Political education and law-related education were additional educational formations that joined the clique.

Outside of the ‘western’ world, the precursors to HRE reside in intergenerational, indigenous and religious education. Mutua’s (2002: 71-93) powerful argument on human rights in pre-colonial Africa shows how the notion and ideals of human rights existed and developed on the continent of Africa and how it took on a pedagogical character within the daily activities of traditional communities. These activities took place within organizational structures (*ibid*: 83) that assigned obligations to community members. They thus had a civic quality as a meaning-characteristic.

6.2.3 Political Literacy, Legalism and Resistance Education

The overriding notion that citizens should know the law and rights as a form of regulation and organisation has always been dominant in earlier forms associated with HRE. They can generally be interpreted from two perspectives.

First, knowledge of the law and of rights and duties was seen as an important element of social cohesion and societal capability. The emphasis here is on knowing about the broad societal regulatory framework. The absence of a critical dimension to these teachings is evident in earlier educational activities and this stance has been transported through time to influence modern-day formulations of HRE. The rights regime, from its earliest inception, has been overtly compliance-driven and knowledge about the regulatory frameworks is indispensable for compliance. Teachings about rights were merely teaching about the legitimacy of rights constructions and its concomitant duties and obligations. In addition political systems and arrangements require some level of participation from citizens that in turn necessitated the need for political literacy amongst populations⁴⁸. However, this political literacy was interpreted from a narrow legal basis and as such knowing about the law transcended all other pedagogical considerations. On this score, political literacy as an educational objective in Western societies was directed by legalism. As demonstrated earlier, in African and other communities the political literacy approach, though important for societal cohesion, was not driven by legalism but by a commitment to protect existing community arrangements. The table below is a variant of ideas relating to the comparative interplay between the Western European⁴⁹ and African experiences developed in Chapter 3. It demonstrates that HRE has followed different historical trajectories in Western Europe and Africa that seem to have converged in contemporary times.

⁴⁸ See the discussion on Lockean and Rousseauan educational theories, section 3.3.2.

⁴⁹ I refer to Western Europe as encompassing the countries on the European continent that played host to the European Renaissance.

Table 8: A Comparison between HRE Developments in Western Europe and Africa

Period	Continent	Characteristics/ Influences	Dominant Approach	Pedagogical Formations
Pre 1947	Western Europe	<ul style="list-style-type: none"> • Knowledge about laws of the state • Spread through natural law and Christianity 	Political literacy approach/ morality-based approach	Civic education/ Citizenship Education/ moral education
	Africa	<ul style="list-style-type: none"> • Islamic and Christian influences • Collectivism • Resistance politics/ slavery, colonialism 	Intergenerational teachings/ political education/ liberation education/ focused on principles, values and morals that constitute democratic practices	Moral/ Social Education
1948-1994	Western Europe	<ul style="list-style-type: none"> • UDHR-based HRE • Formalizing HRE 	Declarationist/ political literacy	Human rights education/ citizenship education
	Africa	<ul style="list-style-type: none"> • Postcolonial • Nation building • National identity • Reconstruction and development 	Focused on principles, values, morals and cultural constructions of human dignity and peace	Human rights education/ civic education/ moral education/ peace education
1995-present	Western Europe	<ul style="list-style-type: none"> • UN Decade for HRE-based • Emerging democracies • Regional developments • World Programme of Action • 	Declarationist/ political literacy	Peace education HRE/ DHRE/ civic education/ citizenship education/ Education for democracy
	Africa	<ul style="list-style-type: none"> • UN Decade for HRE-based • Emerging democracies • Regional developments • Shifts in political landscapes • Regional integration • Movements of people 	Political literacy/ focused on democratic citizenship	Moral education/ social education/ human rights education

Second, Lockean and Rousseauan theories of citizenship education can also be interpreted from a resistance perspective, i.e. education aimed at resisting abuse of political power or human rights violations⁵⁰. Though this trend is nascent in earlier constructions of citizenship education and HRE it has not developed sufficient currency in contemporary formulations of HRE. It has fallen to dialects of HRE on the fringes of educational discourse to place and keep the resistance potential of HRE on the agenda. On the definitional front, civic, citizenship and political education are used interchangeably to refer to the teaching of specific knowledge, skills and values deemed necessary for life in society. This type of education tries to respond to the general political apathy and ignorance amongst citizens. The focus is on the need for active and informed citizens who understand political processes and the machinery of government. This definitional framework has marginalised the notions of resistance and empowerment within citizenship education and instead provided scope for the domination of the notions of ‘political literacy’ and ‘legalism’.

6.2.4 The Declarization and Standardization of HRE

In educational terms, the processes of human rights standards generation that produced a labyrinth of international and regional human rights instruments and provisions can best be described as the standardization of HRE. Whereas HRE has previously been embedded within many forms of pedagogical practice, the ‘human rights instrument’ provided standardized curricula and syllabi for HRE. This study demonstrates that for most human rights practitioners the definitional framework of HRE is captured in declarations and conventions which at the same provide an engraved standard for HRE. This has limited the nature of HRE to the definitional structure in agreed-upon programmes of actions that have been chartered by international and regional intergovernmental agencies. The hegemonic legalistic and political literacy trends that became discursive throughout Greco-Roman and enlightenment times have, through this standardization, firmly grasped the designation and character of contemporary HRE. In

⁵⁰ See earlier discussion in section 3.3.2.

this sense HRE suffers from a declarationist obsession (see section 1.3) which in turn deconstructs and reconstructs HRE into pre-determined curricula based on instruments (declarations, conventions, etc) and guided by the notion of instrumentality. HRE literally became the marsupial child of international human rights constructions rendering the critical pedagogical approach a logical impossibility within this framework.

6.2.5 HRE as a Grand Narrative

A number of trajectories in the Asia-Pacific, Latin America and Africa relating to HRE have developed within a non-declarationist framework. The link between HRE, popular education, worker education, values education and indigenous education in these regions demonstrates the possibility of a critical educational potential within HRE. However, the modes and modulations of HRE, especially since 1948, presented HRE as a grand narrative that subsumes all other forms of community and culturally-based educational endeavours that are remotely related to HRE. This grand pedagogical narrative as the benchmark and the standard first de-legitimized and then assimilated these pedagogical activities (Keet, 2005)⁵¹. To paraphrase Said (2001: 429) again, HRE has given itself the normative identity with authority to adjudicate the relative value of all forms of education related to HRE.

In relation to the arguments in 6.2.3 and 6.2.4 it is useful to reiterate the analysis in 3.3.3 that relates to the *Formalization of HRE*. *First*, the mainstream construction of HRE was hermetically sealed within the parameters and conceptual framework of the United Nations and its agencies. *Second*, the political climate generated by historical events opened up vast territories for the expansion of HRE. These territories, it was assumed, presented virgin spaces for HRE to flourish and the historical, cultural and other contexts barely had an influence on the hermetically-sealed construction of HRE. *Third*, the levels of vulnerability experienced by societies within the context of decolonization, the end of the cold war and the overthrow of repressive regimes provided fertile ground for the

⁵¹ Keet (2005): Review of Democracy and Human Rights in the Curriculum in the South African Development Community (SADC), Electoral Institute of Southern Africa.

uncritical assimilation of HRE into pedagogical structures and processes. *Fourth*, the polemics between various constructions of HRE favour the mainstream version which has been propagated as the benchmark framework for HRE.

6.2.6 Imaging and Assimilation

Linked to point 6.2.3 and 6.2.4 HRE has since 1948 been imaged against the impressions captured within international instruments which facilitated its maturation into a discursive formation in the real Foucauldian⁵² sense. It constitutes for some commentators a “kind of worldwide educational policy” (Lenhart and Savolainen, 2002: 145) and for others a new educational philosophy in its own right (Spring, 1999). Four points of analysis can be developed in this regard – all have been raised earlier in section 3.3.4.

First, there has been a phenomenal growth in HRE activities worldwide since the proclamation of the United Nations Decade for HRE (1995-2004). *Second*, The 9/11-incident has not halted the proliferation of HRE across the world but merely customized its conceptual framework and approach to respond to these events from an ideological and political perspective that is framed within the parameters of the terrorist syndrome. *Third*, the superimposition of the declarationist image of HRE onto existing institutional and societal pedagogical practices resulted either in the assimilation, alienation and marginalization of alternative forms of HRE and this probably represents one of the major weaknesses of ‘formalised’ HRE. *Fourth*, there have been positive developments around the definitional structure of HRE since 1995 such as the integration of notions of social justice and development. However, the most contemporary constructions of HRE also assigned an assimilative function to HRE to influence the shape and identity of other pedagogical formations according to its own image (para 20, WPHRE).

⁵² See section 3.3.4.

6.2.7 Conceptual and Definitional Shifts

A number of conceptual historical shifts in the meaning of HRE can be discerned from the literature.

First, during earlier times HRE was not known with reference to its contemporary label and its understanding and meaning is closely tied to the development of the concept of human rights itself. However, the conceptual historical analysis has shown that educational formations and traditional intergenerational teachings closely related to what has become known as HRE, did exist during these times.

For instance, moral education – a contemporary associate of HRE - has been assumed within educational objectives in most of the classical theories of education including those of Socrates, Plato, Rousseau, Hobbes, Locke, Durkheim and Dewey. In addition Confucius also emphasized the teaching of moral values relating “to governing and regulating social relationships” (Shen, 2001: 4) whilst for Locke (Smith, 2001: 46) education is essentially what we would now call ‘moral education’ - “its aim is virtue”. Locke also viewed education from a political literacy and citizenship perspective (Spring, 1999: 111). This conflation of moral, political and citizenship education was quite commonplace in earlier forms of education associated with HRE because of the amorphous relationship between state, government, religion and morality in earlier times.

Citizenship education refers to the use of education for training people to become citizens. In Canada, as elsewhere, citizenship in this context usually contains four elements. The first is national consciousness or identity. Citizenship education aims to produce national citizens. This can range from nationalist chauvinists, through moderate patriots, to those with a knowledge of national history, geography and other basic facts. Usually citizenship education aims to achieve not just knowledge, but an emotional commitment to or identification with one’s nation, a sense of loyalty and duty... The second element of citizenship consists of political literacy, a knowledge of and commitment to the political, legal and social institutions of one’s country. ... The third element of citizenship consists of the observance of rights and duties. Citizens are supposed to understand and enjoy the rights to which citizenship entitles them and

others, and to perform willingly the duties that citizenship requires of them. ... The fourth element of citizenship education consists of values. There are societal values, which are more or less common to a given society, and are often described in a constitution or a bill of rights. Also there are universal values, especially of an ethical nature, which might override the claims of citizenship, as in the case of conscientious resistance to a particular law (Lynch, 1999: 1).

Lynch's contemporary rendition of citizenship education above is not that dissimilar to the notions of citizenship education, political education, democracy education and human rights education in earlier times. The meaning of HRE in the pre-1948 phase was tied to the objectives of moral and citizenship education. The same is true for HRE's link with political and democracy education where the aim of education is the development of virtues, knowledge and skills necessary for political participation. Thus, the meaning of HRE in its pre-formalised construction in the west was in essence then an expression of societal needs in relation to matters of morality, democracy, citizenship and political literacy. In other parts of the world an added need around "resistance", "emancipation", "justice" and "anti-discrimination" found expression within the activities of the pedagogical forerunners of HRE.

Second, in the first pre-1948 phase in the development of HRE, its meaning was constructed in relation to broader educational theories and political developments. Its own definitional structure was weakly defined, both in 'western' and other traditional societies across the world. However, between 1948 and 1994 HRE developed into a formalised educational formation and its meaning was determined within the intergovernmental activities of the United Nations and its agencies (see section 3.3.3).

According to UNESCO (undated [e]: 1), "HRE can be defined as education, training and information aiming at building a universal culture of human rights through the sharing of knowledge, imparting of skills and moulding of attitudes directed to:"

- *The strengthening of respect for human rights and fundamental freedoms;*
- *The full development of the human personality and the sense of its dignity;*

- *The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;*
- *The enabling of all persons to participate effectively in a free and democratic society governed by the rule of law;*
- *The building and maintenance of peace;*
- *The promotion of people-centred sustainable development and social justice”*

The UNESCO (undated [e]: 1) statement goes further by declaring that HRE encompasses:

- *Knowledge and skills – learning about human rights and mechanisms for their protection, as well as acquiring skills to apply them in daily life;*
- *Values, attitudes and behaviour – developing values and reinforcing attitudes and behaviour which uphold human rights;*
- *Action – taking action to defend and promote human rights.*

This UNESCO definition of HRE draws from the more than 90 provisions in international and regional human rights instruments with varying levels of legal and moral force that provided HRE with some form of definitional expression between 1948 and 1994. These include provisions in the Universal Declaration of Human Rights (Article 26); the International Covenant on Economic, Social and Cultural Rights (Article 13); the Convention on the Rights of the Child (Article 29); the Convention on the Elimination of All Forms of Discrimination against Women (Article 10); the International Convention on the Elimination of All Forms of Racial Discrimination (Article 7); the Vienna Declaration and Programme of Action (Part I, paragraphs 33-34 and Part II, paragraphs 78-82), adopted by the World Conference on Human Rights in Vienna, Austria, on 25 June 1993.

Three popular and eminent examples will be sufficient to demonstrate the development of the definitional structure of HRE through international instruments between 1948 and 1994). First, article 26 of the Universal Declaration of Human Rights and second, article 13 of the International Covenant on Economic, Social and Cultural Rights, both of which are cited in section 3.3.3. Third, the international instrument that has generated the

highest level of consensus and agreement, the Convention on the Rights of the Child, in Article 29 states that:

States Parties agree that the education of the child shall be directed to:

- a. The development of the child's personality, talents and mental and physical abilities to their fullest potential;*
- b. The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;*
- c. The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;*
- d. The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;*
- e. The development of respect for the natural environment.*

Given the global construction of HRE within the intergovernmental processes of the United Nations, the political literacy, democracy and citizenship approaches became more pronounced across the world as the compliance requirement of these international instruments provided the impetus for an unfettered expansion and development of HRE. The logic of these developments is obvious. Human rights standards have either legal or moral force or both and are accompanied by monitoring processes and mechanisms. State parties are under pressure to report on human rights and HRE developments in their countries. They thus have opted for the political literacy, democracy and citizenship approaches as the most expedient way to work towards symbolic and nominal compliance with international human rights standards. The growth of HRE is thus closely related to the expansion of human rights standards and the entrenchment of the political literacy, democracy and citizenship approaches and notions towards HRE has been determined by the political, economic and cultural dynamics and pressures at play within the framework of the United Nations.

Further, if compliance with human rights standards is a determining factor in the construction of HRE as political literacy and the development of democracy and citizenship, the logical conclusion would be that the notion of “compliance” in turn is governed by the politics and economics of human rights. The upshot of this argument is that HRE acts as the legitimating arm of human rights universals whose configurations are for the most part authored by political and economic interests. The relationship between human rights, politics, power and economics is well captured in Baxi (2002), Savic (1999), Eagleton (1999), Evans (1998, 2001), Chomsky (1998) and Foucault (1994). The entrenchment of the political literacy, democracy and citizenship constructions of HRE between 1948 and 1994 is thus buttressed by the economic and political developments associated with the end of the ‘cold war’, the disintegration of the Soviet Union, the emergence of ‘new’ democracies, globalisation, neo-liberal economic discourses and international trade agreements. Outside the formalised framework of HRE, pedagogical formations around ‘resistance’, ‘emancipation’ and ‘justice’ were substantive in parts of Latin America, Africa and the Asia Pacific. These legacies have been instrumental in the symbolic inclusion of ‘development’ and ‘social justice’ in the definitional structure of mainstream HRE.

The shift in the meaning of HRE between phase 1 and 2 can be argued as follows. In phase 1 the definitional structure of HRE must be deduced from its associated forms which show that the notions of *political literacy, morality and values* dominated its mainstream construction. The concepts of *resistance and emancipation* were marginal and perfunctory to the definitional structure of HRE. In phase 2, the notions of *citizenship and democracy* eclipsed the notion of the *moral* within the comprehension of HRE. The notions of *resistance and emancipation* were at first more pronounced in alternative conceptions of HRE but later paraphrased into the concept of *development and social justice* and then assimilated into mainstream configurations. This shift however, did not represent a departure from the declarationist trajectory of HRE. Instead, the declarationism of HRE became hegemonic and assimilatory and thus rapidly expanded into the territories of the new democracies and the ‘decolonized’ spaces on the back of

human rights universals and globalization with ‘political literacy’, ‘citizenship’ and ‘democracy’ as its mantra and ‘compliance’ as its libretto.

Third, given the fact that HRE is the marsupial child of human rights universals and that its mainstream meaning was hermetically sealed within the parameters of the United Nations, the proclamation of the UN Decade for HRE (1995-2004) was a logical outcome of political and economic processes. The proclamation of the decade provided the legitimate pedagogical vehicle for the expansion of HRE as a political activity. Towards the end of the decade United Nations agencies were already hard at work to put in motion a follow-up process to the UN Decade for HRE based on resolution 2004/71 of the Commission on Human Rights. This resolution was driven by the Commission’s conviction:

that human rights education is a long-term and lifelong process by which all people at all levels of development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring respect in all societies, and that human rights education significantly contributes to promoting equality and sustainable development, preventing conflict and human rights violations and enhancing participation and democratic processes, with a view to developing societies in which all human rights of all are valued and respected,

Since these formulations are state sponsored, it is almost inevitable for the ensuing plans to reflect the interests and concerns of states. Thus, phase 3 (1995→) includes two grand plans (the UNDHRE and the WPHRE) that both provide a definitional framework and an expansion policy for the development of HRE across the world. The comparison between the two in section 3.3.4 points to an almost uneventful continuity as far as the definitional framework of HRE is concerned.

Apart from the normative developments within these programmes, the Committee on the Rights of the Child, a treaty monitoring mechanism, developed a general comment on the aims of education (CRC/GC/2001/1) which in relation to HRE states the following in paragraphs 15 and 16:

15. Article 29 (1) can also be seen as a foundation stone for the various programmes of human rights education called for by the World Conference on Human Rights, held in Vienna in 1993, and promoted by international agencies. Nevertheless, the rights of the child have not always been given the prominence they require in the context of such activities. Human rights education should provide information on the content of human rights treaties. But children should also learn about human rights by seeing human rights standards implemented in practice, whether at home, in school, or within the community. Human rights education should be a comprehensive, lifelong process and start with the reflection of human rights values in the daily life and experiences of children.(6)

16. The values embodied in article 29 (1) are relevant to children living in zones of peace but they are even more important for those living in situations of conflict or emergency. As the Dakar Framework for Action notes, it is important in the context of education systems affected by conflict, natural calamities and instability that educational programmes be conducted in ways that promote mutual understanding, peace and tolerance, and that help to prevent violence and conflict.(7) Education about international humanitarian law also constitutes an important, but all too often neglected, dimension of efforts to give effect to article 29 (1).

It is regrettable that paragraph 15 probably represents the most directive contemporary expression on the declarationism of HRE. It restricted HRE to teaching about the ‘content of treaties’ and education about ‘international humanitarian law’. Released in 2001, this general comment in fact represents a regression as far as the definitional framework of HRE is concerned. Chapter 3 demonstrates that HRE has seldom been considered in relation to pedagogical understandings in place elsewhere. Its declarationist nature might be a direct outcome of an inability to engage the field of education and its perfunctory reference to ‘empowerment’, ‘social justice’, ‘development’ and other Freirean pedagogical notions reflects a questionable assessment of itself and a sterile understanding of educational theory and practice.

6.3 Conceptual mapping and the meanings of HRE

The historical (linear) conceptual shifts in the meaning of HRE have also been accompanied by lateral conceptual shifts. The meaning of HRE has thus shifted over time

but a range of meanings may inhabit the conceptual map of HRE at any given historical juncture. The meanings of HRE are thus subjected to linear-lateral shifts. The two tables below represent the conceptual cartography of HRE of Chapters 4 and 5.

Table 9: A Conceptual Cartography of HRE (a)

Theoretical Orientation	Conception of Human Rights	Nature of Human Rights Education
Positivism	Human Rights are essentialized as legal constructions. There are no rights that exist outside its legal codification.	HRE follows a highly legalistic approach within the framework of political literacy and compliance.
Interpretivism	Human Rights are those rights that are constructed through people's interpretation of the rights that they have.	The experiential approach is employed to solicit a narration of people's experiences of human rights. These experiences are co-interpreted to enhance an experiential understanding of human rights. The political literacy and social cohesion approaches are most dominant.
Critical Theory	Human Rights are viewed as those conditions that are necessary for human emancipation. These conditions operate on a personal, cultural and systemic level.	HRE is invariably political focusing on inequalities, discrimination, poverty and social justice. Approaches to HRE include empowerment and resistance.
Postmodernism	The notion of universal human rights is rejected and human rights foundationalism is outmoded (Rorty, 1999: 73). Constructions of human rights such as those in international instruments are highly undesirable.	HRE is contextualised and only applicable within the knowledge frameworks of people's situatedness. HRE can be ultra-conservative as well as radical. With its emphasis on diversity and difference, social cohesion is the approach favoured by postmodernism within the contexts of localism and pluralism.

Table 10: A Conceptual Cartography of HRE (b)

Discourse	Conception of Human Rights	Nature of Human Rights Education
The Natural Law and Natural Rights Discourse	Human Rights are those natural rights that are constructed in alignment with the will of a superior authority/ based on the existence of a natural moral code.	Moral education/ tied to religious principles/ education focused on the 'social contract'
Legal Positivism and the Utilitarian Discourse	Human Rights are those rights so codified in legal terms/ objectivist notion of human rights.	Legalistic approach to HRE/ interpretation is screened out/ law and morality are distinct entities
Dworkin's Liberal Narrative	There may be rights that are not necessarily legally codified/ these rights can be identified by constructive interpretation.	Interpretive approach to HRE
Critical Legal Studies Discourse	Human rights are myths and an expression and exercise of power/ human rights are constructions that fit the liberal conception of law.	Critical approach to HRE to illuminate the false promises and premises of human rights
Postmodern and Postcolonial Legal Narrative	Human rights are imaginary/ human rights must be rearticulated within the framework of humanity's humanism/ human rights are situational and not universal.	HRE should deconstruct human rights/ it must regain the radicalism within human rights/ focus on context and difference/ particularistic – perspectival approach to HRE
The International Law Narrative	Human rights are legally codified through international law and normatively defined by international standards.	HRE is a conduit of the legal and normative framework for human rights
The Political Discourse	The constructions of human rights are expressions of power, hegemony and unequal economic, political and cultural relations/ human rights is an insufficient political philosophy.	HRE should focus on the political economy of human rights, not on its constructions per se/ the globalization and marketization of human rights/ alternative constructions such as compassion, suffering and needs should be explored through HRE

Given the argument that HRE is pervasively declarationist and unable to generate a critical stance towards human rights universals, the positivist tendencies are hegemonic in the modern-day practise of HRE. The dominance of both the political literacy and legalistic approaches underscores this line of reasoning. The reasons for this hegemony are in concert with the political, cultural and economic interests embedded in the broader human rights discourse. However, there are constructions of HRE within the subaltern and marginal spaces that straddle the conceptual cosmology of HRE in pursuit of a truly empowering conception of HRE. There are also other constructions of HRE that are quasi-critical of human rights violations but fail to construct a pedagogical practice that may engage with human suffering. The consequence of a conceptual cartography of HRE is an understanding that the historical construction of HRE in relation to the development of human rights universals has rendered HRE uncritical and possibly anti-educational. The reconfiguration of the notion of HRE into an empowering pedagogical practice is dependent on a critical construction of human rights itself. The conceptual map has illuminated the spaces for such reconfiguration.

In Chapter 5 the conceptual cartography is developed further with a construction of the possible meanings of human rights and human rights education within the natural law and natural rights discourse, the legal positivism and the utilitarian discourse, Dworkin's liberal narrative, the critical legal studies discourse, the postmodern and postcolonial legal narrative, the international law narrative and political narrative. More conceptual constructions of HRE are developed within this conceptual map that are not evident in the literature review. Apart from the fact that these discourses and narratives frame HRE in distinct and sometimes overlapping ways, they further demonstrate the fallacy and logical impossibility of an "objective" HRE. Part of the conceptual clarity of HRE resides in the acknowledgement of its conceptual shifts on a conceptual map.

The section on the justification of human rights in Chapter 5 provides further conceptual options to HRE. The various ways in which human rights are justified has profound influences on the conceptual understanding of human rights. These influences represent additional spaces and relations between these spaces on the conceptual cartography of

HRE. The justification for HRE is closely tied to the justification of human rights itself. The logical upshot of this reasoning renders the rationale for HRE dependent on the power of justification for human rights. Stated differently, a weak justification for human rights will inevitably result in a feeble motivation for HRE, and otherwise. The major conceptual weakness of HRE is exactly the inability to justify the importance accorded to human rights. The table below is based on section 5.2.6 and adds the necessary complexities to the conceptual map of HRE

Table 11: Justification for Human Rights

Justification	Authors
Natural law	Locke, Hobbes and Grotius
Advancement of autonomy	Knowles
Utility value	Bentham/ Mill
Autopoietic/ no need for justification	Luhman
Moral action	Gewirth
Human dignity	Donnelly
Human sympathy	Rorty
Human flourishing/ human capabilities	Nussbaum/ Sen
Human agreement	Arendt
Social recognition/ Common good	Green
Justice	Gewirth/ Rawls/ Nagel/ Nozick/ MacIntyre/ Young, I.M
Discourse ethics/ democratic legislative procedure	Habermas

The deductions from this table include the interpretation that HRE has long been aligned to an autopoietic conception of human rights where the redundancy to justify human rights and human rights education are based on a ‘western’ construction of such

redundancy. The ‘western’ logic of no justification then results in the uncritical formulation of HRE that has been transported into the conceptual ‘black holes’ and ‘virgin’ territories in other parts of the world. On the other hand, Habermas’s ‘democratic legislative procedure’ might inadvertently have resulted in the justification for human rights deputizing for its pedagogical approach of political literacy. If Habermas (1999: 64) is to be taken seriously because the “system of rights” does precisely state “the conditions under which the forms of communication necessary for the genesis of legitimate law can be legally institutionalised” then HRE is entitled to even wider currency than at present to enable it to contribute to both universal pragmatics as a theory of communication and to a reconstructive theory of law as a theory of human rights.

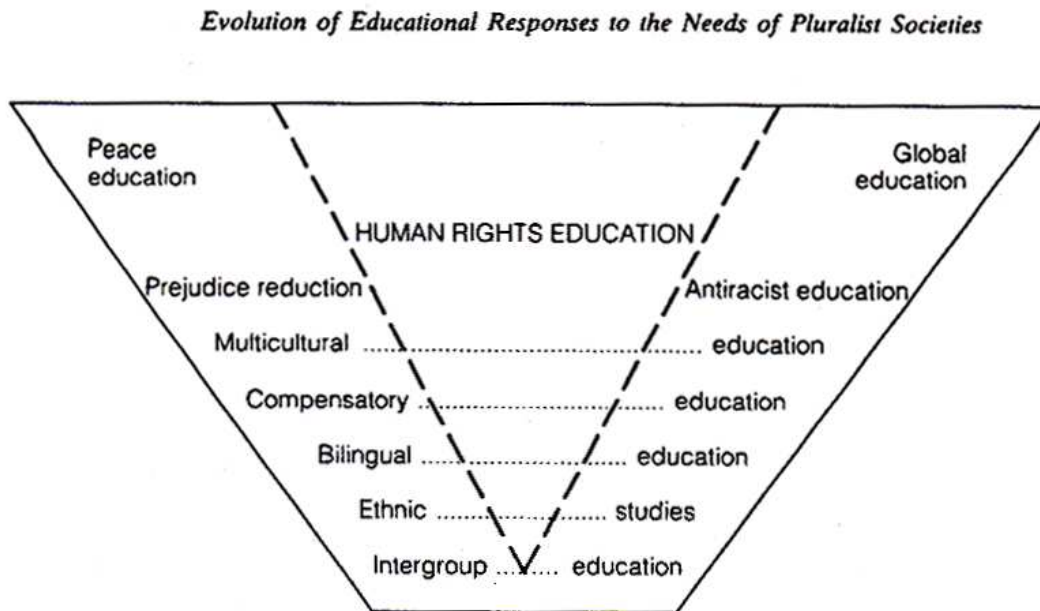
Moral action, human dignity, human capabilities and justice have all been employed with varying currency as justificatory frameworks for human rights since the implosion of the natural rights doctrine and the rejection of metaphysics. Be that as it may, the table above demonstrates that the justifications for human rights have conceptual consequences for HRE. However, it is the inability within the HRE field to reflect on the conceptual assumptions that underpin its pedagogical practices that renders HRE theoretically and pedagogically uncritical.

6.4 A Typology of HRE and associated forms

As with conceptual mapping, typologies are ways of representing conceptual frames and the interrelationships between them. Typologies are usually presented as boundary generating mechanisms that try to fix meanings in certain spatial blocks. This study uses a typology simply to present the interrelations between a number of educations in a manageable and relational format, i.e. it follows the same principle of conceptual flexibility that has guided the conceptual cartography of HRE. The boundaries are fluid, blurred and flexible and could have been drawn in many different ways. Also, the boundaries are not meant to screen out the nuances of conceptual understanding. Rather, these nuances need to be inferred from the broader narrative and the conceptual cartography.

HRE is more multifarious than is sometimes indicated by the tendency to equate it with a narrow ‘political literacy’ approach. It represents, as a chain of educational recommendations, ways of challenging an infinite number of societal ills such as discrimination, abuse, intolerance and social and economic injustice. Because of the depth and breath of its objectives, HRE is employed within a multitude of formations, underpinned by a number of specified and unspecified analytical qualifications and tendencies. The conceptual framework of HRE has undergone various shifts since 1948. One of these shifts has been the development of a web-like interrelationship with a multitude of pedagogical formations, all subjected to expansions, conversions, variations and mutations. Most of these formations source their contemporary currency from international human rights provisions and the societal challenges these provisions are designed and meant to address. This is one of the primary reasons for this particular interrelationship. It is however the UN construction of HRE that obtained the highest level of legitimacy from human rights universals placing it at the centre of most of the associated educations. This is aptly illustrated by Tarrow (1992) in the figure below:

Figure 4 (Source: Tarrow, 1992)



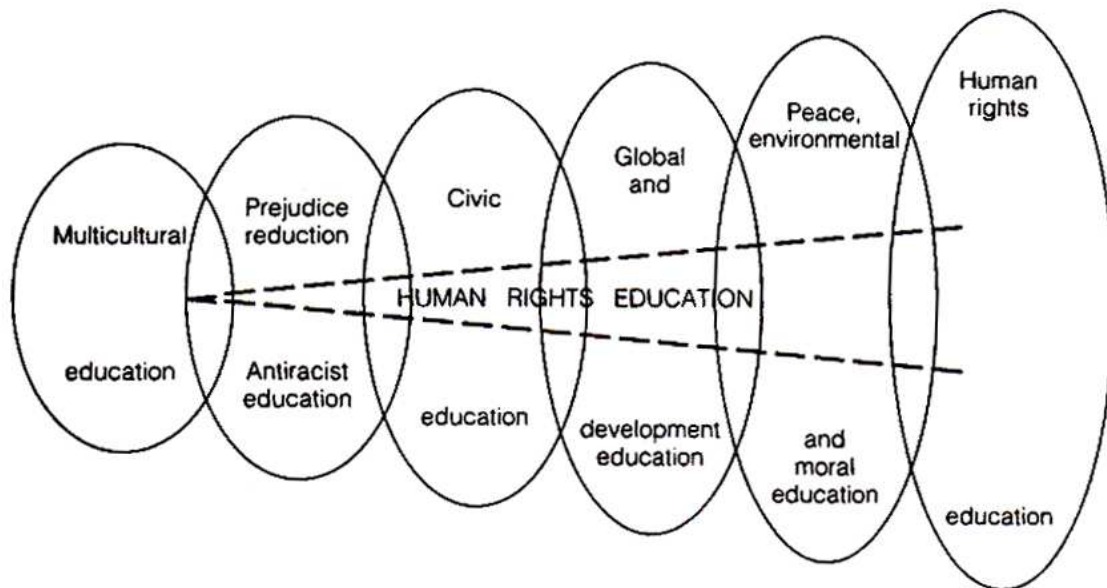
The literature confirms that HRE is regarded as an educational formation with considerable pedagogical value that warrants a central discursive space within formal and non-formal systems of education. This has led many commentators to argue for HRE to act as umbrella for other associated educations. Both the UNDHRE and the WPHRE move from the premise that HRE is fundamental to pedagogical activities. Spring (1999: preface) presents HRE as a solution to the “authoritarian tendencies of government-operated schools” and as a broad pedagogical alternative. Moreover, Lenhart and Savolainen (2002:146) view HRE as an “emerging global educational philosophy” where human rights instruments can be seen “as operational action plans”. HRE is regarded as both the surrogate and umbrella for many associated ‘educations’ (see Tarrow, 1992: 30-31). Eventually this process of assimilation of these educational forms into the conceptual framework of HRE, will lead to HRE becoming “the context that unites and subsumes these other disciplines” (Flowers, 2004: 118). However, Flowers (2004: 117-118) also points to instances where HRE is subordinate to Citizenship Education such as in Britain and the United States. A particular interrelationship seems to have developed between Democracy Education, Citizenship Education and HRE (see British Council, 2001; Print and Smith, 2002, McQuoid-Mason *et.al*, 1994; Flowers, 2004) and in many instances HRE and Citizenship are used as synonyms (Flowers, 2004: 117).

The perceived legitimacy associated with HRE has ensured its uncritical incorporation into most of the ‘educations’ referred to in this section (see Lynch, Modgil and Modgil, 1992a and 1992b; Lynch, 1992; Tarrow, 1987; Tibbutts and Torney-Purta, 1999; Andreopoulus and Claude, 1997; Shafer, 1987: 192-193; and the Plan of Action for the World Programme on HRE, March 2005). Harris (2004: 11) argued that HRE can be “construed in ways that honor the basic dignity of all people” and this aspect of “peace education has for a goal multicultural understanding aimed at reducing stereotypes and hostilities between groups”. Thus HRE is central to peace education. Further Lynch (1989: 67) argued that HRE is the core of a multicultural education curriculum as well as central to citizenship education (Lynch, 1992: 42-43). Moreover, the conceptual understanding driving the European Year (2005) for Citizenship Education affirms an

almost organic relationship between citizenship education and HRE. At the Launching Conference of the 2005 European Year for Citizenship through Education “the fundamental role of education for democratic citizenship (EDC) and human rights education (HRE) in developing a democratic culture, based on human rights, democracy and the rule of law” has been reiterated. Similar patterns pointing to the centrality of HRE in Democracy Education and Political Education are evident. This centrality is captured in the figure below.

Figure 5: (Source: Tarrow, 1992)

Human Rights Education in Relation to Current Educational Responses to the Need for Informed and Active Citizens



That HRE occupies a predominant space within many of the educational configurations referred to in this passage is confirmed by the references in the literature. These references treat HRE and its associated forms as fixed referents in relation to one another. However, this study has shown that all these referents are conceptually fluid and that these relationships are of necessity conceptually complex. Thus, at the same time that the typology schedules conceptual meaning in neatly defined patterns, the conceptual cartography has already unbundled and dislocated them. It is this interplay between the fixity and perpetual dislocation of meaning that might form the basis of an appropriate

conceptual framework for HRE. This notion should form the interpretive basis of the table below.

Table 12: Typology of HRE and associated Education formations⁵³

Societal Need/ Human Rights Challenges	Human Rights Provisions	Educational Response
<ul style="list-style-type: none"> • Slavery • War and Conflicts 	<ul style="list-style-type: none"> • Geneva Convention (1864) • Hague Convention (1899) • Humanitarian Law 	<ul style="list-style-type: none"> • Training on treatment of prisoners and foreigners
<ul style="list-style-type: none"> • Experiences of WWII • Gross Human Rights Violations • Need for free, just and peaceful world, labour practices 	<ul style="list-style-type: none"> • UDHR (1948) • CCPR (1966) • CESCRC ((1966) 	<ul style="list-style-type: none"> • Human Rights Education • Peace Education and Conflict Management
<ul style="list-style-type: none"> • Increased pluralization of societies • Need to live humanely and justly with one another • Challenges in pluralist societies 	<ul style="list-style-type: none"> • Instruments against discrimination 	<ul style="list-style-type: none"> • Human Rights Education • Conflict Resolution • Anti-discrimination Education • Multicultural Education • Education for Diversity • Cultural Fluency Education • Education for Co-existence
<ul style="list-style-type: none"> • Human Rights and Democratization • Need for active and informed citizens 	<ul style="list-style-type: none"> • UDHR and instruments on judiciary and minorities 	<ul style="list-style-type: none"> • Human Rights Education • Civic Education • Citizenship Education • Democracy Education
<ul style="list-style-type: none"> • Increased inequities and wealth redistribution • High levels of poverty • Lack of socio-economic justice 	<ul style="list-style-type: none"> • Instruments on socio-economic rights and development 	<ul style="list-style-type: none"> • Human Rights Education • Education for Development • Social Justice Education
<ul style="list-style-type: none"> • Increased mobility of populations • Globalization • Information explosion • Environmental challenges • World peace and anti-war 	<ul style="list-style-type: none"> • Unesco standards • World Conference Declarations 	<ul style="list-style-type: none"> • Human Rights Education • Moral Education • Global Education • World Citizenship Education • Education for Sustainable Development

The relationships between educational responses and societal needs are certainly not as straightforward as depicted in the table above. However, it provides a picture of how HRE is positioned in relation to associated educational forms. Many of these formations

⁵³ Keet (2005): Towards a Critical Human Rights Education in South African Schools, Unpublished paper commissioned by the Centre for Education Policy Development.

are well-developed or nascent fields of theory and practice in their own right with each giving meaning to HRE in different ways and constructing a diverse set of relationships with HRE as a dominant formation. The fields of peace education, citizenship education and multicultural education (including anti-racism education) for instance, are disciplines with their own histories and conceptual configurations. Notwithstanding these divergences, the relationships between HRE and these associated forms, in one or the other way, also constitute a set of meaning-making expressions. These relational expressions can be deduced from the sketchy definitions and social, economic and cultural contexts in the table below.

*Table 13: Definitions of Educational Forms*⁵⁴

Designation	Definition	Social, economic and cultural contexts
<ul style="list-style-type: none"> • Education for Democracy • Democracy Education 	These educations refer to the education offered to individuals to teach and promote the development of knowledge, skills and values necessary to live in a democratic society.	This education responds to the requirements to understand and promote democratic principles and values.
<ul style="list-style-type: none"> • Peace Education • Conflict Resolution Education 	This education explains the roots of violence; teaches alternatives to violence and covers different forms of violence.	Education in this field speaks to the post-war and post-conflict contexts as well as structural and other forms of chronic violence within societies.
<ul style="list-style-type: none"> • Civic Education • Citizenship Education • Political Education 	Used interchangeably to refer to the teaching of specific knowledge, skills and/or values deemed necessary for life in society.	This type of education tries to respond to the general political apathy and ignorance amongst citizens. The focus is on the need for active and informed citizens who understand political processes and the machinery of government.
<ul style="list-style-type: none"> • International Education • Global Education • World Education 	Education with the aim of developing within students a global identity and to see themselves as compassionate global citizens who identify with people throughout the world struggling for peace.	War and the threat of war as well as the need for world citizenship is the nexus of this type of education.

⁵⁴ These definitions are generated from the literature. See Lynch, Modgil and Modgil, (1992a and 1992b); Lynch, (1992); Tarrow, (1987); Tibbutts and Torney-Purta, (1999); Andreopoulos and Claude, (1997); and Shafer, (1987: 192-193).

Designation	Definition	Social, economic and cultural contexts
Moral Education	Refers to the teaching of values and attitudes in the classroom and the schools. These values can be democratic, social, individual and ethical and, in some cases, religious.	Moral Education responds to a number of issues such as political repression, moral degeneration and challenges around social cohesion.
	Moral Education then may be interpreted either as initiating children into the complexities of a new and distinct area of experience (morality), or prescribing a particular pattern of moral goodness for children to follow.	
Human Rights Education	Emphasizes the importance of respecting and valuing the rights that every person has as a human being and teaches about the rights and responsibilities of citizens.	HRE is primarily focused on the requirements for people to know and understand their rights and responsibilities in order for them to take action to have them realised.
	HRE can be defined as education, training and information aiming at building a universal culture of human rights through the sharing of knowledge, imparting of skills and moulding of attitudes.	
Environmental Education	Designates an education that will develop environmentally literate and active citizens	This is an educational response to environmental challenges and the interaction between humans and the environment
Development Education	Refers to education that focuses on the wellbeing of the human person by integrating social development, economic development, and environmental conservation and protection.	Developed in response to the need to integrate environmental issues with human development and wellbeing
Anti-racist Education	This education challenges racism in all its facets: historical roots, class contexts, power relations and political, economic and social discrimination.	Developed as a response to the conceptual and practical failures of multicultural education

Designation	Definition	Social, economic and cultural contexts
Multicultural Education	Cultural understanding promotes the idea of pride in one's heritage and knowledge about various cultures and groups.	This pedagogical response focuses on increased pluralization of societies and the accompanied challenges such as racism and other forms of discrimination.
	Cultural competence is committed to cross-cultural interactions supportive of anti-racism.	
	Cultural emancipation aims at empowering marginalized young people to participate in decisions about important social issues.	
	Critical emancipatory multiculturalism advances a transformative political agenda to avert multicultural education serving as a form of accommodation to the larger social order.	

6.5 Models and Approaches to HRE

The models and approaches to HRE represent further constructions that are inhabited by various forms of conceptual meanings in relation to HRE. When Morwenna Griffiths (2003) asked, “Whose education is it anyway?” she referred to the necessity for educators to reflect on the way education can be ordered and structured to benefit only a few. Such reflection is a fundamental prerequisite for HRE practitioners to understand what they do; to explain their strategies and approaches; and be accountable for their consequences. Felisa Tibbitts (2002), one of the foremost HRE experts in the world, tried to invoke a similar sentiment when she called on HRE practitioners to conscientize themselves about the approaches and models they are employing within their practice. By doing this they “should benefit by re-examining their practice so that the field can be further professionalized and linked with effective change strategies” (*ibid*, 161). As a starting point she (*ibid*) put forward the models in table 14 below.

Table 14: Models of Human Rights Education (Source: Tibbitts, 2002)

	Values and awareness model	Accountability model	Transformation model
Approach	Philosophical-historical approach	Legal/political approach	Psychological-sociological approach
Means	Formal schooling and public awareness campaigns	Training and networking	Informal, non-formal and popular education and self-help
Topics	Information about the content and history of human rights documents, international court system, global human rights issues	Procedures for monitoring, court cases, codes of ethics, dealing with the media, public awareness	Human rights as part of women's development, community development, economic development, and minority rights
Target audience	General public, schools	Human rights advocates and monitors, professional groups working with vulnerable populations, civil servants, medical professionals, journalists	Vulnerable populations, victims of abuse and trauma, post-conflict societies
Strategy	Socialisation, cultural consensus, setting expectations for social change, legitimizing human rights framework.	Human rights law and codes as tools for structural/law-based social justice and social change, fostering and enhancing leadership, alliance development with certain professions and target groups Related to problematic relationship between the individual and the State/authorities	Personal empowerment leading towards activism for change (personal, community, societal), creation of activists, leadership development Focuses on healing and transformation, the role of the individual and community-building

Building on Tibbitts's models, this study suggests five approaches (see table 15) that are employed within HRE and its associated educational forms. The Tibbitts's models fall short of explaining the pedagogical space that is occupied by a HRE that is inclusive of and integrates the approaches around social cohesion, resistance and empowerment. In many developing countries these are topical considerations that are closely tied to but not elaborated on in Tibbitts's transformation model.

Table 15: Approaches to HRE⁵⁵

Approach	Explanatory questions/ notes	Pedagogical Configurations
Compliance	<ul style="list-style-type: none"> • What are the national and international obligations in relation to human rights? • Understanding human rights to comply with human rights norms and standards 	<ul style="list-style-type: none"> • Human Rights Education • Environmental Education • Democracy Education • International Education • Global Education • World Education
Political Literacy	<ul style="list-style-type: none"> • What are rights, laws and governance structures? • How does democracy work and how can we participate in it? • Knowing rights and responsibilities as a way to enhance citizen participation 	<ul style="list-style-type: none"> • Education for Democracy • Democracy Education • Civic Education • Citizenship Education • Political Education • Human Rights Education
Social Cohesion	<ul style="list-style-type: none"> • What values and attitudes are necessary to heal our society? • How do we build a national identity and respect and promote diversity? • Developing respect for human rights, human dignity and diversity as a way to bind societies together and promote equality and non-discrimination 	<ul style="list-style-type: none"> • Peace Education • Conflict Resolution Education • Multicultural Education • Moral Education • Anti-discrimination education • Human Rights Education
Resistance	<ul style="list-style-type: none"> • How can HRE speak truth to power? • How does HRE mobilize for human rights? • Internalizing human rights as a form of resistance against human rights violations 	<ul style="list-style-type: none"> • Moral Education • Peace Education • Human Rights Education
Empowerment	<ul style="list-style-type: none"> • How can HRE contribute to developing human agency? • How can HRE assist vulnerable people to change their material conditions and life experiences? • Understanding human rights to change unequal cultural, political, social and economic relations 	<ul style="list-style-type: none"> • Environmental Education • Development Education • Human Rights Education

These approaches are employed at any given time within HRE practices and any number of approaches come into play depending on the conceptual spaces that are occupied by HRE practitioners; their target audiences; and the objectives of their education. The

⁵⁵ Keet (2005): Towards a Critical Human Rights Education in South African Schools, Unpublished paper commissioned by the Centre for Education Policy Development.

influences on these spaces are widespread but they are more often than not economic, political and cultural.

The literature on HRE suggests that the *political literacy and compliance approaches* are the most dominant. The compliance approach is mostly referred to as the legalistic approach to HRE. It is premised on the understanding that duty bearers (state departments, state agencies, providers, etc) need to understand and internalize the obligations of the state and the responsibilities of state representatives in relation to human rights service delivery. At the same time 'rights claimants' must know how the state operates and what they are rightfully entitled to as an accountability strategy to enhance compliance. The *social cohesion* approach will have a weakly expressed link with compliance and duty bearers and will focus rather on developing attitudes, behaviours and practices that may enhance social cohesion within any given society. This approach is particularly dominant in emerging democracies with histories of division, discrimination, intolerance and ethnic violence. It is now also dominant in established democracies that are experiencing new waves of sophisticated and primal bigotry and intolerance.

The *resistance approach* is primarily historical but has shown a resurgence that is related to the development of social movements; despotic political regimes; an increase in massive human rights violations; the campaign for compensation for colonialism; and the entrenchment of unequal global trade. These broader developments are linked to the revival of community-based struggles across the world for a better life and a change in their material conditions. Though claims have been made about the *empowerment approach*, these are questionable since empowerment is a logical impossibility within the mainstream construction of HRE. These five approaches constitute a spectrum of models for HRE from which HRE practitioners draw in a multitude of ways.

Tibbitts's models are useful conceptual starting points but assume that target audiences determine conceptual structures and definitional frameworks as far as HRE is concerned. This study has shown that such assumptions might be pedagogically inappropriate and

inadequate. Flowers (2004: 105-125), another authority on HRE, grapples with the definitional framework of HRE and concludes that HRE “defies definitions because its creative potential is far greater than we can imagine”. She assigns vast potential to HRE independent of a sound conception of human agency and as such, probably unintentionally, escalates HRE into a framework of pedagogical idolatry. This study has shown that such a stance might be educationally questionable.

The engagement with and reflection on these models and approaches coupled with a critical take on the typologies of HRE that is informed by the historical conceptual construction of HRE and a conceptual cartography of HRE, seem to facilitate the emergence and surfacing of the conceptual meanings of HRE. It is the interplay between these influences, constructions and pedagogical configurations that designate a particular conceptual framework to HRE at any given time. For now and since 1948 the hegemonic conceptual framework of HRE is without doubt *declarationist, conservative, positivistic, uncritical, compliance-driven and informed mostly by a political literacy approach*. However, as has been demonstrated in Chapters 3, 4 and 5, there are peripheral counter-hegemonic constructions of HRE that are exciting, innovative and truly aligned to a non-declarationist Freirean *Pedagogy of Hope*.

CHAPTER 7
ALTERNATIVE CONCEPTUAL POSSIBILITIES,
FURTHER IMPLICATIONS AND CONCLUSION

7.1 Introduction

In Chapter 3 the historical choreography of HRE in relation to its meanings was analysed whilst Chapters 4 and 5 probed the various paradigmatic grammars of HRE as conceptual ground rules for the meaning-making processes of HRE. Chapter 6 is a conceptual alchemy, that is a definitional and typological framework of the conceptual meanings of HRE and its implications for educational practice in general and HRE in particular. This was done using concept analysis, conceptual historical analysis and conceptual cartography as tools to respond to the research questions. This study has substantiated the assertion that HRE is a dominant pedagogical formation of the modern world which is subjected to an unexplored conceptual eclecticism that hampers its pedagogical potential as a counter-measure to human rights violations.

The historical choreography of Chapter 3 formulated the conceptual historical shifts within HRE whilst the conceptual cartography (paradigmatic grammars) of Chapters 4 and 5 and the conceptual alchemy of Chapter 6 were developed to represent a number of possible meaning-making frameworks for HRE. As stated towards the end of Chapter 6, amongst all the conceptual possibilities that could have been constructed as an interplay between the conceptual cartography, models, approaches and typologies of HRE, the dominant conceptual structure of HRE has developed as a *declarationist, conservative, positivistic, uncritical, compliance-driven framework that is mostly informed by a political literacy approach*. This construction of HRE is theoretically and practically uncritical and pedagogically questionable and myopic. The logical trajectory of this argument has rendered the dominant construction of HRE ineffectual. Based on Chapters 3,4,5 and 6 this study proposes a number of alternative conceptual principles for HRE

that should theoretically steer its re-articulation and reconfiguration and guide its practical design and implementation.

7.2 Alternative Conceptual Principles for HRE

As an extension of the definitional and typological issues captured in the previous chapters the following strands capture the pedagogical essence of HRE most appropriately:

- 1) Human Rights and Responsibilities
- 2) Principles, Values and Attitudes
- 3) Participatory Citizenship, Civics, Governance and Democracy

If the Wilsonian method of concept analysis was the only one applied, the essential or defining attributes of HRE together with a United Nations paradigm case would have been adequate. However, the conceptual historical analysis and the conceptual cartography of HRE demonstrated that conceptual meaning could not sufficiently be deduced from such linearity. However, one might use such limited meaning as a starting point for an alternative conceptual construction of HRE.

HRE is a political activity

The exploration of HRE in relation to its conceptual cartography is a necessary step for identifying its anti-educational potential. At present a good case can be made that the dominant construction and practical implementation of HRE has, despite the claims to the contrary, contributed to the cultural arrogance that accompanies a western⁵⁶ construction of human rights instead of developing a culture of human rights and respect for diversity. In addition, HRE as an instrument of human rights colonialism has been pre-packaged for delivery across vast and diverse cultural, political and economic spaces. HRE has been furthering an *epistemology of diplomatic consensus* which, using a postmodernist lens, is shown in Chapters 3, 4 and 5 to be logically indefensible and practically undesirable.

⁵⁶ See Sardar (2002: 190): “human rights [is] a highly evolved form of Western imperialism”.

Acknowledging itself as a political activity within which various power-knowledge relations are embedded, HRE might, as a first step towards an alternative construction, see how certain alignments and calibrations further an agenda of critical social justice and real empowerment, and how other alignments militate against such possibilities.

Anti-declarationism and mutual vulnerability

The alternative framework for HRE is based on a substantive and dramatic inversion in relation to the dominant grammar of HRE. Chapter 3 demonstrated how historically, HRE was choreographed as a declarationist, positivistic and uncritical conduit of human rights universals. Chapters 4 and 5 highlighted the dangers and shortcomings of instrumental rationality and other conceptual constructions in relation to human rights and HRE whilst the comparative conceptual mapping of Chapter 6 shows the weaknesses of the dominant definitional framework and typology of HRE.

In essence this principle argues that human rights universals⁵⁷ and instruments should not provide the conceptual directives for HRE but rather be viewed as part of all the discourses that are subjected to critical analyses within HRE. Such an approach will open up the conceptual spaces so that the human rights experiences of the marginalised and the subalterns and the micro-politics of peoples' struggle for survival become human rights instruments in themselves. This reconfiguration of HRE will arrest the cultural assassination and deformation, social genocide and economic subversion that accompany the present day dominant practice of HRE. Mutua (2002) speaks of the "human rights saviour metaphor" that is authored within the dominant human rights language and then by extension pedagogically constructed within HRE. The "human rights saviour metaphor" presupposes the superiority of particular human rights constructions over existing cultural meanings. To invert this discourse is not a matter of contextualising universal human rights to be context-sensitive as many forms of HRE will claim. It is rather a matter of decentering human rights universals so that the discursive spaces are opened up to include the multitude of human rights constructions. Experiential learning, which has long been a sterile claim and a logical impossibility within the dominant

⁵⁷ See the Donnelly-Gibb exchange in Egendorf (ed), (2003): *Human Rights: Opposing Viewpoints*.

configuration of HRE, will then be possible. This inversion signifies the importance of human experiences in relation to human rights universals. It is essentially an anti-declarationist construction that operates within the framework of cultural justice.

In relation to the above, Odora-Hoppers (2006: 8-13) uses Kwenda's notion of *cultural justice* as an example to argue for a shared burden of constant "self-consciousness" that makes "mutual vulnerability" and the "transcendence of cultural difference" possible, and at the same time negates the consequences of "cultural arrogance"⁵⁸. The dominant form of HRE failed to provide for such constant self-consciousness and as such human rights constructions have not been subjected to mutual vulnerability in the same way as the coded experiences of the vulnerable communities of the world. Thus, the notion of "cultural arrogance" as used by Odora-Hoppers can easily deputise for Baxi's (1997) notion of "human rights colonialism"⁵⁹ in relation to HRE. Moreover, her application of the notion of "mutual vulnerability" is instructive for inverting the position of human rights universals in relation to the pedagogy of HRE. It is the task of a new HRE to guide human rights universals towards sharing a conceptual vulnerability within and alongside the context of the micro-politics of peoples' struggle for survival.

Further, a HRE that is grounded in declarationism must forfeit its claims to being 'experiential', 'participatory' or 'emancipatory' and relinquish the post-fix of 'education'. The reasons are obvious. HRE cannot be experiential because declarationism determines that all experiences are pre-packaged to suit the "configuration" of HRE in international instruments. There is very little in this 'dominant' HRE discourse and practice that remotely represents the hope of a 'critical pedagogical engagement'. It is so because human rights declarations and international standards represent a pre-determined curriculum framework that is anti-educational in design and conservative in its programming. Normative international human rights standards are important constitutive elements of a social and economic justice agenda and they are important elements within

⁵⁸ See also Mamdani (2000), *Beyond Rights Talk and Culture Talk* and An-Na'im (2002), *Cultural Transformation and Human Rights in Africa*.

⁵⁹ See also Galtung, (1998: 213).

HRE. However, they should not be romanticised and thus HRE should steer clear of the tendency that treats human rights standards as the sole or most important author of HRE.

Alternative pedagogical language

HRE requires its own innovative pedagogical language that is more than a regurgitation of international, regional and national human rights provisions. This language must be rooted in the notions of human suffering, compassion, needs, empathy and altruism. The negation of these notions in the dominant HRE discourse is a consequence of the screening-out of human experience⁶⁰ in the frenetic *overproduction of human rights*. Once a ‘human wrong’ is claimed it is configured into a human rights violation which is dependent on the existence of an *a-priori* ‘right’ in the first place. Certainly, there is a conceptual difference between a ‘human wrong’ and a ‘human rights violation’. A ‘human wrong’ constitutes an instinctive registration of a negative and degrading ‘human experience’. A human rights violation is a deviation from a regulatory principle. ‘Human wrongs’ are constructed within the context of human needs and in the absence of ‘care’, ‘compassion’, ‘empathy’ and ‘love’; whilst ‘human rights violations’ are composed on the basis of non-compliance with stated regulations or laws, a technical or administrative deviation, inaction, or professional incompetence. In similar vein Robinson (1998: 73) argues against the Western culture of “individualism and self-sufficiency” and for a “moral orientation ... [or ethic] based on care”. Such an approach towards human rights, she argues (*ibid*) is a more appropriate framework as opposed to the liberal notion of rights because it is attentive to the “needs of others as a primary moral virtue”. The pedagogical implications are self-evident. The HRE practitioner, in Freire’s (1972: 66) words in *Pedagogy of the Oppressed*, should be a humanist educator. And again, in *Pedagogy of Hope* Freire states that (1992: 9) HRE practitioners should be progressive educators who “through a serious, correct political analysis, ... unveil opportunities for hope”. These tasks require a new pedagogical language for HRE that not only includes but also transcends the language of rights, duties and responsibilities.

⁶⁰ Mosher (1997) for example, demonstrates how the authenticity of human experiences is negated by legal codifications within lawyering practice. She (*ibid*: 635) argues for a review and reconstruction of legal education in relation social movements.

Human rights decolonisation

Fifth, the hegemonic nature of the human rights language that displaces other moral languages needs to be problematised. Some critics (Baxi: 1997, 151) refer to this tendency as “*human rights colonialism*” which often results in the Quixotic and un-pragmatic character of human rights formulations⁶¹. Curriculum interpretations of human rights as the dominant moral language will invariably view human rights as uncontested, absolute and unchallengeable and undermine critical engagements with for instance the notion of how human rights contribute to spreading an ideology of possessive market individualism⁶². What is thus required is a praxis of HRE that can counter its assimilation into frameworks of understanding that oppose the notions of critical social and economic justice. Bakan (1997: 11) for instance argues, in relation to the Canadian Charter of Rights and Freedoms, that the Charter, and by extension the normative human rights framework, cannot “protect and advance a progressive conception of social justice...it cannot compensate for the systematic undermining of ideals of social justice”. Rather, it is an “activist state” that can initiate “progressive social change” on the basis of “class analysis and politics” (*ibid*: 11).

Perspectivism, particularism and universalism

The language of human rights developed into a *totalising modern grand narrative* that provides the dominant *explanatory framework* for international political relations and economic and cultural arrangements. Stated differently, “human rights are the offspring of modernity” and one of the “central truth claims or grand narratives of the Enlightenment” (Arslan, 1999: 203). However, postmodern insights have forwarded a valid caution and constructed a sound scepticism towards such grand narratives. Postmodernists are totally opposed to the notion of universal human rights and instead focus on the situational and particular. But if “human rights are the necessary and impossible claim of law to justice ... and draw their force from the suffering of the past and the injustices of the present” (Douzinas, 2000: 380), then certainly HRE education is in need of a conceptual framework that can transcend the dichotomy between the global

⁶¹ See Kennedy (2002) on *Thinking Pragmatically about Human Rights*.

⁶² See Keet (2002).

and the local or universalism and particularism. In fact, the debate should not be about one or the other, but about conceptual and practical ways to overcome this dichotomy. For instance, Michael Apple (2000: 40) in his critique of postmodernism, argues in favour of the notion of *simultaneity* that allows us to think “about both the specificity of different practices and the forms of articulated unity they constitute”. Along similar lines, Eagleton (1999: 293), one of the foremost critics of postmodernism asked the following question: “How can one have an individuality if one does not also have a universal to contrast it with”? Thus Eagleton is not against the particularism and perspectivism of postmodernism but against the general *Illusions of Postmodernism* (1996). He views the part of the postmodernist project that retrieved “the local, the vernacular, the somatic, the communitarian, the unincorporable particular history, in the teeth of an apparent homogenized globe” (1999: 264) as positive and the recovering of the history and selfhood of “reviled and humiliated groups” (1996: 121) as postmodernism’s most precious achievement. The normative authority of human rights over diverse cultural spaces that is channelled by a declarationist HRE is thus rightfully challenged by these postmodernist positions. It is thus a matter of engaging with postmodernism in the Freirean way (Freire, 2002: 10), i.e. explaining and defending “progressive postmodernity” and rejecting “conservative, neoliberal postmodernity”. Asserting an emancipatory interest that should be at the heart of challenging all forms of human suffering, whilst at the same time providing for the possibility of contextual or situational justice, should be a key task of an alternative conception of HRE.

Human needs, human suffering and solidarity

Building further on the previous point, the anti-foundationalism of postmodernism, according to Giroux (1997: 195), does not necessarily lead to “banal relativism or the onset of a dangerous nihilism”. Employing the notions of Laclau, Giroux (1997: 195) argues that “the lack of meaning within postmodernism radicalizes the possibility for human agency and a democratic politics”. This conviction provides Giroux (*ibid*) with the necessary logic to retain the emancipatory interest of critical pedagogy as a formative narrative “that provide the basis for historically and relationally placing different groups

or narratives within some common project”. On this score, difference and situationality should be “analyse [d] within rather than against unity” (*ibid*: 196).

The different narratives within a common project can be held together by McLaren’s (1995: 197-200) notion of “solidarity” to retain critical pedagogy’s interest in challenging human suffering against the nihilistic tendencies of postmodernism. Using Welch, McLaren (*ibid*: 197) argues that “in order to develop forms of consensus which take seriously a common recognition of social ills and the necessity of their transformation, solidarity must be established first”. This radicalised notion of solidarity (as opposed to Rorty’s notion of solidarity) is one that first respects and then takes pleasure in the difference of the other, and at the same time weaves the different experiences of human rights violations, human suffering and deprivation together. This represents a return to Eagleton’s logic that the specificity of needs is of necessity thrown into a broader social dimension where, through an analysis of “what general conditions would be necessary for our particular needs and desires to be fulfilled”, it “gets transformed by a discourse of the other” (Eagleton quoted in McLaren, 1995: 200). Thus, what parades as a postmodernist insight is a logic that might have already been established in modernist social theory. If the notions of “difference within rather than against unity” and “solidarity” provide a way of reconceptualising the interplay between the universal and the particular and the specific and the general, it requires a rethinking of pedagogy in general and HRE in particular. A non-declarationist and critical HRE will first open up an infinite number of spaces for enhanced human agency and at the same time play an important role in furthering a pedagogical alternative where the obsession with human rights universalism is replaced by a commitment to solidarity within human suffering. On this score there is probably no other specific pedagogical formulation with such transformative potential than HRE because the constructions of rights and suffering, if radically reconceptualized, lie at the heart of an emancipatory interest. This study demonstrates that at present the pedagogical conservatism of HRE works against such radicalization.

Human Agency

HRE should essentially focus on the facilitation of human agency that may, within communities of rights bearers, illuminate the possibilities of political action in relation to human rights. Foucault refers to a new form of right that is “anti-disciplinarian” so that “political action can be given rational form” (Faubion, 1994: xxxi). He further argues that rights can be “created and affirmed through intervention and struggle” because rights “can exist and be created without requiring foundational juridical premises” (*ibid*). In relation to human agency, Foucault reconfigured the “modes of resistance” in his later work in which

...power functions by structuring a field of possible action in which a subject must act. The structuration of the field, however, does not imply external coercion by power itself – power functions by guiding the actions of a fundamentally free subject, but always with the possibility that the subject can traverse the field in new and creative ways (Hartman, 2003: 9-10).

Foucault’s construction of an alternative form of right, allows his thesis of the capillary diffusion of power (Faubion, 1994: xxiv-xxv) in service of ‘governmentality’, to provide for *human agency within power-relations*. This interpretation of Hartman (2003) and Faubion (1994) causes Foucault to share Giddens’s notion of “stucturation” where the structuration of social structures are mediated by the relationship between the “subjective powers of human agents and the objective powers of the structures they produce” (Parker, 2002: iv). Bourdieu’s reconstruction of the “dialectic between structure and agency” through the notion of ‘habitus’ (Mahar and Wilkes, 2004: 222) is another way in which human agency may be reconceptualised within HRE. Drawing on but also criticising Habermas’s consensus-seeking notion of ‘communicative action’ in service of deliberative democracy, Young, I.M. (1996) argues for ‘communicative democracy’ as a backdrop for ‘human agency’. Be that at it may, a HRE that is oblivious to these analytical frameworks runs the risk of undermining, instead of illuminating, the conceptual possibilities for human agency and political action within the language of human rights.

Problematizing ‘Social Justice’

HRE should reconceptualise the notion of ‘social justice’⁶³. Gewirtz and Cribb’s *Plural Conceptions of Social Justice* (2002) demonstrates that the notions of ‘social justice’ are plural and dependent on the relations with the discourses and narratives that have been discussed. In other words, the notion of social justice at any given time is dependent on the meaning framework of the discourse within which it is used. Freire (1993: xii) had earlier on acknowledged that “subjectivity has become unmoored from its former narratives of social justice” which makes social justice per se a questionable theoretical hook for any conceptual pedagogical framework that wants to be directed towards challenging human suffering. The notion of ‘social justice’ is therefore only useful in relation to an already defined and preferred discourse.

The concept of social justice has a long history that includes the social contract theories of Locke, Rosseau and Kant, which according to Rawls, (1971: 75) must be taken to a higher level of abstraction of ‘justice as fairness’. The Rawlsian notions of “distributive justice” are generally described as ‘liberal’ (Engstrom, 2005: 1). Rawls (*ibid*: 73) argues that the “conception of social justice, then, is to be regarded as providing in the first instance a standard whereby the distributive aspects of the basic structure of society are to be assessed” – this should form the basis for “assigning rights and duties and defining the appropriate division of social advantages”. Nozick (1996: 187) also adheres to a notion of “distributive justice” but argues for a minimalist state where the “free operation of the market system” provides for the optimization of opportunities for everyone! MacIntyre (1992), on the other hand, chides both the liberal notions of justice of Rawls and Nozick since it is premised on an impossible consensus on a range of principles of moral derivation.

...the outcome of that history [...] has not only been an inability to agree upon a catalogue of the virtues and an even more fundamental inability to agree upon the relative importance of the virtue concepts within a moral scheme in which notions of rights and of utility also have a key place. It

⁶³ See Anyon (2005), Connell (1993), Fraser (1997) and Ali (undated) on social justice. Brighthouse (2004) also provides a comprehensive account on the different conceptions of justice including that of Rawls, Sen, Nussbaum, and others.

has also been an inability to agree upon the content and character of particular virtues (MacIntyre, 1992: 199).

MacIntyre (*ibid*: 199) maintains that “our society cannot hope to achieve moral consensus” and that the Aristotelean and Lockean notion of “justice as a virtue”, which buttresses the notions of Rawls and Nozick, must be abandoned. This kind of impossible consensus required for “justice as a virtue’ is reminiscent of the Flyvberg (2000) argument in relation to Habermas’s consensus and Foucault’s conflict frameworks. MacIntyre would probably agree with Foucault but through a Marxist articulation that “conflict and not consensus [are] at the heart of modern social structure” (*ibid*: 200) and that laws only show the “extent and degree to which conflict has to be suppressed” (*ibid*: 201). Young, I.M. (1997: 7) also finds Habermas’s consensus-seeking communicative ethics too “rationalist and unifying”. MacIntyre (*ibid*: 200-2002) further reproves the centrality of the values of the market-place which have displaced the tradition of virtues and insist on the impossibility of genuine moral consensus. This in turn makes the social justice notions of Rawls and Nozick logically indefensible.

Gewirtz and Cribb (2002) argue for the plurality of the notion of ‘social justice’ which extends beyond ‘distributive justice’. Such a plural notion includes ‘distributive justice’, ‘cultural justice’ and ‘associational justice’ and these notions exhibit varied meanings on a conceptual cartography. Griffiths (2003) talks about “difference” within a “single humanity” (*ibid*: 7) and refers to the plural “theories of social justice” in education. She further views ‘social justice’ as “dynamic, as a verb” with the emphasis on “uncertainty, fallibility and risky judgements” (*ibid*: 142) in order for us to be all “humanly different” (*ibid*: 142). Add to this the complexities of MacIntyre’s argument then, for the purposes of HRE, it is more sustainable and desirable to interpret and anchor social justice within the conceptual frame of Critical Postmodern Pedagogy, or face the constraining prospects of engaging with a notion of social justice that is authored within and by human rights universals. The notion of ‘social justice’ that is captured within human rights universals needs to be dislocated from its present liberal basis.

Young, I.M. (1990) and MacIntyre (1992) have already provided comprehensive critiques of the liberal, distributive paradigm of social justice and its associated concepts of ‘equality’ and ‘equal treatment’. Young, I.M. (1990; 1997), like Giroux (1997) and McLaren (1995), also provide ways in which to selectively merge notions of critical theory and postmodernism into new analytical constructions and conceptual frameworks. Such mergers and reconceptualization seem to provide for the most politically appropriate, theoretically sound and pedagogically acceptable conceptual framework for HRE within the contexts of human suffering, domination, oppression, solidarity, love, care and compassion.

7.3. HRE: A Critical Postmodern Pedagogy

A HRE that is fathomed within the framework of Critical Postmodern Pedagogy⁶⁴ is one that is premised on the principles outlined above. It retains the genuine emancipatory interest of critical pedagogy whilst working towards new ways of conceptualizing universalism, perspectivism, class analysis, human agency, difference, justice and human rights itself.

Through a convergence of “various tendencies within modernism, postmodernism, and postmodern feminism”, Giroux (1997: 218-225), one of the primary exponents of critical pedagogy, developed nine principles for a Critical Postmodern Pedagogy. This is done to “retain modernism’s commitment to critical reason, agency and the power of human beings to overcome human suffering” as well as engage with postmodernism’s “powerful challenge to all totalizing discourses” (*ibid*: 218). These principles are:

- *Education must be understood as producing not only knowledge but also political subjects.*
- *Ethics must be seen as a central concern of critical pedagogy.*
- *Critical pedagogy needs to focus on the issue of difference in an ethically challenging and politically transformative way.*

⁶⁴ See the Gabel-Dillabough (2002) debate on conceptual problems/ hidden injuries of Critical Pedagogy.

- *Critical pedagogy needs a language that allows for competing solidarities and political vocabularies that do not reduce the issues of power, justice, struggle, and inequality to a single script.*
- *Critical pedagogy needs to create new forms of knowledge through its emphasis on breaking down disciplinary boundaries and creating new spaces where knowledge can be produced.*
- *The enlightenment notion of reason needs to be reformulated within a critical pedagogy.*
- *Critical pedagogy needs to regain a sense of alternatives by combining the languages of critique and possibility.*
- *Critical pedagogy needs to develop a theory of teachers as transformative intellectuals who occupy specifiable political and social locations.*
- *Central to the notion of critical pedagogy is a politics of voice that combines a postmodern notion of difference with a feminist emphasis on the primacy of the political.*

Appropriating certain valuable aspects of the postmodern discourse was also on McLaren's (1995: 188)⁶⁵ agenda in his analysis of postmodernism, postcolonialism and pedagogy. For him (*ibid*: 184-186) there are signs of a possible convergence between the postmodern discourse, feminist studies, cultural studies, theories of identity, postcolonialism and critical pragmatism. This convergence is necessitated by the contemporary need to develop new ways of educational theorization.

... the current revolution in social theory demands a new set of critical paradigms within educational theory that can account for the heterogeneity of pedagogical and curricular discourses and complexity of meaning production in postmodern cultures (ibid: 188).

This convergence is more accurately viewed as constant dialogues between different discourses that allow for the critical requisitioning of aspects of these discourses “into a postcolonialist or critical postmodernist pedagogy” (*ibid*: 188). The modernist critical theoretical notion of emancipation can thus be retained, de-constrained and extended

⁶⁵ In an informal discussion with Peter McLaren on 05 June 2006 in Johannesburg, South Africa, he discussed his shift from Critical Postmodern Pedagogy to a Critical Revolutionary Pedagogy based on the principles of Marxist Humanism. His work with Farahmandpur (2005) and Jaramillo (2005) sketch his contemporary concerns with postmodernism and call for educational theory to be more securely located within a Marxist problematic.

In close association with McLaren, others, like Apple (Meyers, 2004), favour a neo-Marxist class-analysis of power as the grounding for educational theory.

within this convergence of discourses. Emancipation, as a teleological conception within critical pedagogy, should be processed and transformed within a critical postmodern pedagogy in ways that respond to the postmodern insights that are of particular importance in the field of education. Thus, two of the leading exponents of critical pedagogy, Giroux and McLaren, argue for and include Freire in their conception of a critical postmodern pedagogy. Morrow and Torres (2002: 168) do not agree with such inclusion of Freire and opt rather to refer to the Freirean and Habermasian approaches in relation to the border between modernism and postmodernism as “emancipatory postfoundationalism”.

A combination of the conceptual principles for an alternative construction of HRE in section 7.2 with the pedagogical principles of Giroux and McLaren above provides HRE with a powerful conceptual framework that is non-declarationist, radical, progressive and pedagogically innovative and challenging. This conceptual framework favours the language of human suffering and human needs over human rights and human responsibilities in order to facilitate a human agency that can rekindle the radicalism of human rights. This conceptual framework also acknowledges the localism of human suffering that is captured in the mini-narrated accounts of peoples’ struggle for survival. This acknowledgement does not concede to or underwrite the banal relativism and nihilism of some postmodernist positions but rather emphasizes the importance for building solidarity within human suffering and human rights violations that is removed from the theoretically unsound, uncritical, conservative and liberal framework of ‘human rights universalism’. Thus, the implications of notions such as Habermas’s ‘discourse ethics’ (Deflem, 1996; Habermas, 1996), Gewirth’s ‘ethical rationalism’ (Walters, 2003) and I.M. Young’s ‘communicative ethics’ and ‘communicative democracy’ (1997) need to be explored further to develop sound theoretical groundings for HRE to simultaneously meander within the localism and wider solidarity of human suffering. As against nihilism, this focus on human suffering should be buttressed by the pedagogical ‘utopianism’ of Freire (McLaren and Leonard, 1993: 3) and the human rights ‘utopianism’ of Douzinas (2000: 379-380).

7.4 Further Implications and Conclusion

This study has constructed the narrative of HRE in relation to its conceptual meaning, its conceptual history and its conceptual cartography. It has shown how and why the dominant trajectory has configured HRE into a declarationist, positivist and conservative educational formation worldwide. It further explicated the implications of a conceptual cartography for the various conceptual meanings of HRE and highlighted their key notions and the criticism against them. Also, the study developed a typology of the models and approaches to HRE as meaning-making influences and provided a comprehensive critique of the mainstream construction of HRE. Finally, the study proposed a number of conceptual principles for an alternative configuration of HRE within the broader framework of Critical Postmodern Pedagogy which calibrate the postmodern insights with a commitment to human agency, emancipation and solidarity within human suffering⁶⁶. The various conceptual pitfalls and shortcomings of postmodernism can thus be moderated.

This alternative configuration of HRE is not complete. In fact, it is not possible or desirable to have a 'completed' conceptual framework for HRE. Thus, the implications of the study are tentative and point to the need for further theorization in the field of HRE. The declarationist version of HRE needs to be consistently challenged whilst at the same time a conscious reconfiguration of HRE needs to be developed. In addition, HRE should open up its paradigmatic spaces to allow for the diversified articulations of human rights and subject itself to "mutual vulnerability". Also, the definitional and conceptual structure of HRE needs to be developed independently of human rights universals and normative standards. In fact, for most "developing" countries (and developed democracies) the central objective of HRE should be to provide an economic,

⁶⁶ Felice's (1996) analysis of collective rights as ways of developing solidarity to challenge human suffering, might be a starting point for considering a neo-Marxist class-analysis of power as one of the possible theoretical groundings for HRE. The obligation to constantly pursue new and renewed theoretical groundings for HRE is even more pressing given McLaren's (2005) educational analysis around Marxist Humanism and Eagleton's (2004) tentative prediction on the "end of postmodernism". The rise of the new global narrative of capitalism is a concern for all three authors and is a phenomenon which cannot be ignored within HRE theory and practice.

ideological, political and cultural critique (critical assessment) of the normative human rights frameworks we came to accept as "commonsense" over the last 50 years.

The dwindling legitimacy of the international human rights framework that manifests in the continued massification of human rights violations; the unequal global trade and foreign relations; the worldwide incapacity for peace; and the human rights hypocrisy of the "North", will eventually result in the de-legitimization of HRE itself if it remains conceptually dependent on the current human rights framework. HRE, as a pedagogical formation, should neither solely source its currency from human rights standards nor act as an uncritical conduit of human rights universals.

Thus HRE should not be about a compliance-driven approach that assesses and interprets people's experiences against a normative or regulatory human rights framework. It should rather be an assessment of how human rights understandings articulate with the real sufferings of people's struggle for a better life. In this sense HRE is a critical postmodern pedagogy since it uncovers the hidden interests embedded in the mainstream human rights discourse (meta-narrative); it enunciates the mini-narratives of people's struggle; it agitates for a material difference in people's lives; and it show up the shortcomings and limitations of human rights universals. Stated differently, the main task of HRE should be to de-romanticize human rights so that multiple strategies to alleviate human suffering can be considered and deployed. The first step in this endeavour will be to reconfigure a HRE that stands in an anti-deterministic and critical relationship with human rights universals.

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