

Module C: Responsibilities and Rights

Unit C1: Ethical Issues and Children's Rights

Dobrinka Chankova¹, Tanya Poshtova¹, Gie Deboutte²
and Stephen Minton³

¹Bulgaria

²Belgium

³Ireland

Objectives of Unit C1

- To be familiar with basic concepts of ethics, law and children's rights
- To be prepared to promote ethical and lawful behaviour among youth
- To consider strategies for raising students' awareness of moral standards at school

Facilitation skills to be developed through this Unit

Knowledge and understanding of:

- the way to design improvement plans for individual pupils, groups and the school as a whole
- the methods to include pupils' opinions in any decision about their education
- the way to raise moral standards in a school

Personal qualities and attributes include:

- the ability to influence the ethos in a school and effect and sustain change there
- a good understanding of and ability to model effective behaviour management strategies
- the ability to facilitate and value pupils' opinions about their own education.

Pre-unit reading

Freeman, M. (Ed.). (1996). *Children's rights: A comparative perspective*. Aldershots: Dartmouth.

Jacob-Timm, S., & Hartshorne, T. S. (1998). *Ethics and law for school psychologists* (3rd ed.). New York: John Wiley & Sons.

Kohlberg, L. (1981). *The philosophy of moral development*. New York: Harper & Row.

Koocher, G., & Keith-Spiegel, P. (1990). *Children, ethics, and the law: Professional issues and cases*. Lincoln, NE: University of Nebraska Press.

Summary of current thinking about ethical issues and children's rights

Ethics

a) Definition

Ethics – a system of moral principles, rules of conduct (Hornby, 1988); a branch of philosophy concerned with the systematic study of human values. It involves the study of theories of conduct and goodness, and of the meanings of moral terms (Norton, 1994). Ethos means a moral mentality of a nation, culture or an epoch; code of values by which a group of society lives. The ethical doctrines are as ancient as human culture. They have their roots in the major religions. The European ethics was founded by ancient Greek and Roman philosophers – Plato, Epicure, Seneca, by Christian philosophers – Augustine, Thomas Aquinas, and by new time philosophers Monten, Pascal and Kant.

b) Morality

Morality – comes from *mos, mores* (lat.) – temperament, customs; a shared set of nonmaterial values, such as fairness, truth and compassion the pursuit of which constitutes one aim of community life; a way of life involving a code of behaviour (Norton, 1994). Morality is spontaneously created. Every community has its own customs and creates its own traditions. The expected behaviour is characterized as good and beneficial while the behaviour deviating from the expectations is bad and harmful. Customs are a natural form of a social system (order) the observing of which is under the control of the common consent. The custom's requirements are directed at everyone and do not originate concretely from anybody. A fundamental factor for the fulfilment of these moral instructions is consent, not coercion (Gerdjikov & Dobreva, 2002).

c) Value

Value is a thing we esteem. In spite of the differences in understanding of moral values throughout different epochs, mankind has established traditions in their universal application and interpretation into the language of a given historic time. Communities simultaneously develop, revalue and give them a new meaning. In times of crisis of a value system leading minds call on the universal value – 'good', 'freedom', 'duty', 'justice', 'truth', 'beauty', 'welfare', 'happiness'. Even to this day Kant's insight into value as something due, as an ideal norm man chooses freely to follow, is valid. Valuable things are not material objects. With our sense organs we cannot certify their reality (veracity). The moral value is a reference point, which is at the heart of our self-determination, self-consciousness and self-esteem.

d) Deeds

The deed is a free and accountable act. Deeds change our immediate environment and the global world, make new relationships among individuals and bring 'good' and 'evil'. Deeds are an object of evaluation – they are accepted, defended, blamed and condemned. The most frequently asked question about the deed is: 'Why do I proceed in this way?'. When we proceed in a definite way, what is the leading motive – the thought of the personal benefit or the obedience of a given principle? According to utilitarianism (ethics of utility) one action is right if and only if it conforms to the principle of utility, pleasure, welfare (Bentham,

1789). According to the ethics of duty, the accent is on motives and principles. Kant, as its leading representative, treats man as nature and freedom, as a body and a personality. Morality derives from freedom. Only the free decision of a rational human being brings morality (Kant, 1785/1993).

e) Freedom

Freedom, in political philosophy, is the condition of personal liberty requiring either the absence of restraint (negative freedom) or self-mastery or self-realisation (positive freedom) or both (Norton, 1994). According to one of the more famous dicta of Jean-Paul Sartre, a thinker generally recognised as one of the most influential of the existential (although he himself came to reject the label in time) philosophers, 'Man is condemned to freedom' (Sartre, 1943/1996). By this, we see freedom as a given of human existence – our freedom to choose our own destinies is a given of human existence. It follows from this that we cannot exist in any manner other than freely – when we attempt to do this we are guilty of acting in what Sartre calls 'Bad Faith'. As the Austrian psychiatrist Viktor Frankl put it, 'Things are determined, but what man is, he has made out of himself' (Frankl, 1985). Having said this, we must acknowledge (as Sartre and Frankl also recognised) that man is not alone. He lives in a community; therefore, the problem of other peoples' freedom is of first importance. All of us are up against the other ones' faces, against their approval or disapproval. Consider the following:

"Let us imagine that moved by jealousy, curiosity or vice I have just glued my ear to the door and looked through a keyhole. I am alone, and on the level of non-thetic self-consciousness. This means first of all that there is no self to inhabit my consciousness, nothing therefore to which I can refer to my acts in order to qualify them. They are in no way known; I am my acts and hence they carry in themselves their whole justification.... This means that behind that door a spectacle is presented as "to be seen", a conversation as "to be heard".... But all of a sudden I hear footsteps in the hall. Someone is looking at me! What does this mean?.... All of a sudden I am conscious of myself as escaping myself.... I am for myself only as I am a pure reference to the Other.... I am indeed that object which the Other is looking at and judging" (Sartre, 1943/1996, pp. 259-261).

What is most striking, and of course, is the point of the story, is the way in which we (in the position of the observer at the keyhole) are confronted with the truth that we exist in relationship to other people – we feel this suddenly, but in our entire being, in the emotion of *shame*. Mary Warnock's summary of what we can learn from Sartre's famous 'keyhole scenario' runs as follows:

"The fact that the man who caught his fellow man at the keyhole will label him an 'eavesdropper' can thus be seen to contain within it the essence of the whole relationship between one human being and another – conflict. The freedom of another person is the most fatal obstacle to my own freedom to do as I wish" (Warnock, 1970, p. 117).

Because of these two factors – the fact that our freedom is something that we cannot escape, and that our own freedom is inevitably limited by that of the Other

– the American existential psychiatrist Irvin Yalom (1980) uses freedom and responsibility (apparent opposites) as interchangeable entities. This treatment has a long history in the existential tradition. In a typically insightful exposition, Frankl (who, as a survivor of Auschwitz, might be correctly expected to have had something important to say about freedom) inspirationally sums up:

‘Freedom, however, is not the last word. Freedom is only part of the story and half of the truth. Freedom is but the negative aspect of the whole phenomenon whose positive aspect is responsibleness. In fact, freedom is in danger of degenerating into mere arbitrariness unless it is lived in terms of responsibleness. That is why I recommend that the Statue of Liberty on the East Coast be supplemented by a Statue of Responsibility on the West Coast.’ (Frankl, 1985, pp.155-156; emphasis reproduced from the original).

f) Friendship

Friendship is mutual benevolence that is independent of sexual or family love. The ancient Greek philosopher Aristotle distinguishes three levels of friendship: the useful (friendship as a common enterprise), the pleasant (friendship as an entertaining companionship) and the good or virtuous (friendship as mutual esteem) (Norton, 1994). Friendship is shared life – joy, pain, concern and suffering. Friendship is mutuality too. It presumes striving for contact from both parties. Friendship is also acceptance of the other one as he is. Friendship is readiness to help; sensitivity to the problems of those we have declared our friends. Friendship is a durable link among individuals. It is founded on co-experience, mutual understanding and respect. Friendship proves stronger than the merely emotional attraction. Friendship disappears in the lie, the jealousy, the villainy and the treachery (Gerdjikov & Dobreva, 2002).

g) Confidence and responsibility

Man gets along with people and sees a lot of them over and over again. If we put no trust in others we cannot expect trust from them either. If we do not have respect for others we cannot expect them to have respect for us.

To have confidence means to deal frankly and positively with others. Confidence signifies respect. Respect is an unconditional requirement of morality. To have respect for others designates to appreciate highly the unique person. Respect excludes humiliation and offending someone's dignity.

Respect is achievable through responsibility. To have self-respect and respect for others means to be responsible and to rely on others' responsibility. Responsibility is acceptance of the consequences of the deeds. In time of tremendous freedom our responsibility increases too. Man is responsible as far as he is free. Once one makes a choice, then he is responsible for his choice. Irresponsibility is incompatible with morality and destroys the community.

h) Justice

Justice (fairness, equity, rightness) is rendering everyone his due and deserved. The positive (good, useful) acts fairly get a praise and the negative (bad, harmful) – a reprimand. It is fair goods to be distributed according to the people's

contribution or according to their needs. Justice is moral order among people. Achieving justice is an aim of law.

Law

Law in a broad sense we discover everywhere people unite in society (state). People arrange their relationships not with force (*lex talionis*), which destroys society but predominantly with customs and norms they agree with. In the civilized world law is within the state authority. The state obliges all its citizens to observe the legal regulations.

There are many definitions of law (lat. *jus*): the enforceable body of rules that govern any society (Martin, 1994); an obligatory rule of conduct, the commands of him or them that have coercive power; a rule of conduct imposed and enforced by the Sovereign; body of principles recognised and applied by the state in the administration of justice (Rutherford & Bone, 1993), etc. In broad terms, law is a system of legally binding rules, an institutional and a normative regulator of the social relations. This body of rules consists of Constitution (which has supremacy), statutes, decrees, etc.

Law and ethics are interrelated. What is legal is usually ethical, moral, and vice-versa. By contrast with morality the law is binding. It is put through with the strength of the authority. The law acknowledges rights and stands upon them. But it imposes restrictions on the rights as well as obligations and requires their observance.

Human Rights and Children's Rights

a) Human rights

That man has inherent, irrevocable and inalienable rights to life, freedom and property are reflected in the Declaration of Independence of the United States (1776) and in the Declaration of Man's and Citizen's Rights, proclaimed by the French Revolution (1789).

In 1948, the United Nations adopted the Universal Declaration on Human Rights and in 1966, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, where these rights are reconfirmed in a modern way. At the same time, the human rights list is substantially expanded. Most of the acts followed add new rights to the list as well.

In a European context the basic human rights instrument is the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome in 1950 and amended and supplemented by 14 additional protocols.

b) Children's rights

The basic international instrument on children's rights is the UN Convention on the Rights of the Child (CRC) from 1989, and the two optional protocols to it. The CRC is the most widely ratified treaty in history. There are now 192 States Parties to the convention, practically all except Somalia and the US. This universal human rights convention is the most far-reaching and comprehensive of human rights treaties. It transforms the status of children as the holders of

rights. Children are not considered as miniature human beings with mini rights. The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights - civil, cultural, economic, political and social, of all human beings under the age of 18. Among other rights, this landmark treaty guarantees children the right to be free from discrimination, to be protected in armed conflicts, to be protected from torture and cruel, inhuman, or degrading treatment or punishment, to be free from arbitrary deprivation of liberty, to receive age-appropriate treatment in the justice system, and to be free from economic exploitation and other abuses. The four core principles of the Convention are non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child. The Convention protects children's rights by setting standards in health care, education and legal, civil and social services.

Achieving these rights remains a challenge. Governments are required to take stronger action to implement the Convention's provisions and fulfil their promises to the children of the world. The Committee on the Rights of the Child is the monitoring body to the CRC that holds regular meetings and oversees the progress made by States Parties in fulfilling their obligations. The two Optional Protocols to the Convention on the Rights of the Child are: the Optional Protocol on the sale of children, child prostitution and child pornography, dated 18 January 2002 and the Optional Protocol on the involvement of children in armed conflicts, dated 25 May 2000.

On the European scale, the Council of Europe was established to defend democracy, human rights and the rule of law. Pursuing the fundamental rights of everyone to respect for their human dignity and physical integrity, the Council of Europe is taking actions for the promotion of children's rights and protection from all forms of violence. In 2004, in Strasbourg, the Council gathered young people from across Europe who had themselves prepared the European Charter for democratic schools without violence <http://www.coe.int> The Charter was developed on the basis of the fundamental values and principles shared by all Europeans, in particular those set forth in the Convention for the Protection of Human Rights and Fundamental Freedoms. The Charter emphasizes the importance of the right to a safe and peaceful school, the right for everyone to have equal treatment and the idea that conflicts should always be resolved in a non-violent and constructive way. This group of young people recommends that schools throughout Europe consider using this Charter as a model with which to further the cause of democratic schooling without violence (see Appendix 1).

Dissemination of knowledge about these concepts, approaches and initiatives seeks to create in school a climate, in which the ethical and legal standards are an essential integral component and in which there is no place for acts of a non-ethical character, acts in contradiction to law and violence. Knowing the rights of the child is a prerequisite for their protection. Respect for the rights and dignity of every person is on a reciprocal basis and is the one and the only way to guarantee peaceful and harmonious existence. Non-respecting of the personal and legal sphere of the other person, intervening in it without permission is not

only reproachful but indictable. This should be the deep conviction of teachers as well as students, and this is achieved through training.

Elements of additional training could also include the rights of children with special educational needs, approaches to children at risk, etc. There has to be formed a common agreement that rights are connected with obligations, the infringement of which is sanctioned, and that violence in all its forms is absolutely incompatible with the whole school ethos.

Responsibilities for the Unit facilitators

Your tasks within this Unit are to:

- send all participants information about when and where the session will be held and details of preparatory reading to be done
- familiarise yourself with the Unit text
- plan the session to meet the needs of the participants
- ensure that all relevant resources/materials are copied and/or prepared
- lead the session and all the activities

Sequence of activities for Unit C1

This Unit represents a one-day training of five hours plus breaks.

Activity 1 Discussions (90 minutes)

Purpose

- To explore and stimulate readiness of the young generation to observe moral and legal standards
- To check knowledge and understanding of the pupils about their rights and obligations
- To stimulate the active citizenship behaviour model

Materials

Flipchart

Procedure

The summary on current thinking about ethical issues and children's rights provided background information about the basic terms of ethics, law and children's rights. Activity 1 involves free discussion, free expression of opinions in writing of the basic concepts on a flipchart. The facilitator asks the group to discuss the following questions:

a) *What kind of behaviour is moral and what kind of man is good?*

Describe a situation in which you were involved and in which someone was acting in a moral way. What makes you think this person was acting in a moral way? (and vice-versa: describe a situation in which someone was acting in an immoral way)

Conclusion: Acting in a moral way means to us:

b) *What is freedom?*

- a burden
- a responsibility
- an opportunity to have your own way.

Describe a situation in which you were involved and experienced your freedom. What did freedom stand for in this particular situation? Are we free and to what extent?

c) *How are rights and obligations connected (in a given situation and in general)?*

Debriefing

Analysis of all opinions expressed.

Evaluation criteria: pragmatism, rationalism, soundness, originality.

Assessment, building common understanding and developing an action plan.

Activity 2 Things to think about and do (90 minutes)

Purpose

- To explore and stimulate readiness to observe moral and legal standards
- To check knowledge and understanding of pupils' rights and obligations
- To stimulate active citizenship behaviour

Materials

Resource 1 *Three situations in which you or someone else helped another person or a group*

Procedure

The facilitator distributes copies of Resource 1 *Three situations in which you or someone else was helping another person/ a group* and asks individuals in small groups to complete the table. Once participants have completed the table they are asked to do the following:

- a) How would you comment on the following statement: "I obey only the laws of nature?"
- b) Would you risk your life for a great adventure (such as a risky trip to the jungle)? Why (not)?
- c) Would you risk your life to protect the ideas you live for (freedom, justice etc.)? Why (not)?
- d) What would you do if you had unlimited power? Which actions would you undertake towards your family, friends or enemies? Why?

Debriefing

Analysis of all opinions expressed.

Evaluation criteria: pragmatism, rationalism, soundness, originality.

Activity 3 Assignments (60 minutes)

Purpose

- To explore opinions about possible improvements in school

Materials

Extracts from the *UN Convention on the Rights of the Child*

<http://www.unicef.org/crc/>

Procedure

This material can be used as a written exercise, or for free and 'circle time' discussion. It is also possible to use this in group activities with school staff, that is, management focus groups, or in-service training sessions with teaching staff, as a group discussion. Participants are asked to explore the following:

a) What would you like to be improved in your school, so that children's rights are duly respected? (e.g., time schedule, organisation of the play time, infrastructure, participation of teachers, parents and pupils, lessons)

b) Please, read Articles 13, 16 and 37 of the *Convention of the Rights of the Child* and think how they can be put into action in your school. How could CRC help in your anti-violence work?

Debriefing

Analysis of all opinions expressed.

Evaluation criteria: pragmatism, rationalism, soundness, originality.

Systematisation, building common understanding and developing proposals to the school administration.

Activity 4 Individual study (60 minutes)

Purpose

- Further reflection on ethical and legal issues
- Free expression of opinions in writing

Materials

Extracts from the *UN Convention on the Rights of the Child*

<http://www.unicef.org/crc/>

Procedure

Participants are asked to write about one of the following topics. Alternatively, these topics can be used for free and 'circle time' discussion.

- a) Make your own scale of values and explain why you have chosen exactly this order.
- b) Develop a questionnaire to examine your true friend. What do you expect from him (and from yourself as a friend of his/her)?
- c) Read extracts from the *UN Convention on the Rights of the Child* and think about its meaning and construction. What do you think are the good points? What do you think took longest to decide upon? What do you think could have been added or missed out?
- d) Try to find internet addresses relevant to the topic and share what you have read there.

Debriefing

Analysis of all opinions expressed.

Evaluation criteria: pragmatism, rationalism, soundness, originality.

References

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<http://www.utilitarianism.com/jeremy-bentham/index.html>

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Further reading and additional resources

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Websites

Child Rights Information Network- <http://www.crin.org/>

Children's rights- <http://www.childrensrights.org>

Committee on the Rights of the Child -
<http://www.ohchr.org/english/bodies/crc/index.htm>

Europe for and with children- <http://www.coe.int/children>

Human Rights Watch-Children's rights-<http://hrw.org/children/>

Locke, J. (1690). *The second treatise for civil government*
<http://oregonstate.edu/instruct/phl302/texts/locke/locke2/2nd-contents.html>

Mill, J. (1861). *Utilitarianism*, <http://www.utilitarianism.com/mill1.htm>

UNICEF - <http://www.unicef.org/crc/>

Resource 1 Three situations in which you or someone else was helping another person/group

Reason to help	Situation 1 [brief description]	Situation 2 (brief description)	Situation 3 (brief description)
1. You like them and want to help them	Yes	No	Yes
2. You like to be of use			
3. You wish for the other's welfare			
4. One day you will rely on them to help you			
5. You expect an award.			
6. You want to impress somebody			

Appendix 1

European Charter for Democratic Schools without violence

Strasbourg, 16 June 2004

- 1** All members of the school community have the right to a safe and peaceful school. Everybody has the responsibility to contribute to creating a positive and inspiring environment for learning and personal development.
- 2** Everybody has the right to equal treatment and respect regardless of any personal difference. Everyone enjoys freedom of speech without risking discrimination or repression.
- 3** The school community ensures that everybody is aware of their rights and responsibilities.
- 4** Every democratic school has a democratically elected decision making body composed of representatives of students, teachers, parents, and other members of the school community where appropriate. All members of this body have the right to vote.
- 5** In a democratic school, conflicts are resolved in a non-violent and constructive way in partnership with all members of the school community. Every school has staff and students trained to prevent and solve conflicts through counseling and mediation.
- 6** Every case of violence is investigated and dealt with promptly, and followed through irrespective whether students or any other members of the school community are involved.
- 7** School is a part of the local community. Co-operation and exchange of information with local partners are essential for preventing and solving problems.