Guidelines to the Field #3 September 1, 1999

Guidelines to the Field #3

Overview of Educational Problems in BiH and Guidelines for Intervention

September 1, 1999, Sarajevo

Table of Contents

1. **Introduction**
2. **Rights Norms vis-ŕ-vis Education**
    1. The Right to Education
    2. Principal of Non-Discrimination
    3. Minority Rights
3. **Constitutional Framework in BiH**
    1. Federation
    2. Republika Srpska
4. **Education Policy in Practice**
    1. Background
    2. De facto control in the Federation
    3. The 1997 Federation Instruction
    4. Republika Srpska
5. **Segregation and/or Discrimination in BiH Schools**
    1. Documented Examples
6. **International Community Policy**
7. **Policy Guidelines For Field Monitors**
    1. National and Non-National Subjects
    2. Finding Compromise Solutions
    3. Other way that field monitors can take initiative
8. **Case Study**

1. Possible Solutions
9. **Bibliography**

Guidelines to the Field #3

September 1, 1999

The following guidelines have been drafted by the OSCE, with contributions from the Council of Europe, UNHCR and OHR.. In that these guidelines express the joint policy of the member organisations of the HRCC in relation to the present subject matter, personnel should treat them as such. In the event that a member of staff contemplates deviating from these guidelines on any occasion, he or she must first obtain the agreement of the responsible person within their organisation.

OVERVIEW OF EDUCATIONAL PROBLEMS IN BiH AND GUIDELINES FOR INTERVENTION

1. Introduction

The purpose of this document is to provide:

- **Information** on the law and policy relating to primary and secondary education[1] in BiH, and;
- **Guidelines** for dealing with such issues in the field.

The current education system in the BiH is unsatisfactory for a number of reasons, including lack of material resources, lack of access or facilities for disabled children and the gender imbalance that exists in relation to male-dominated directorial positions in schools. However, the major problem lies in the effective division of the education system along ethnic lines, which acts to inhibit sustainable minority return and ethnic re-integration; further, it encourages future destabilisation through radicalising, and thus polarising, another generation of citizens. These guidelines will focus on this ethnic division of the system and what

officers in the field can do to mitigate this.

In this area, like many others, we are forced to aim for compromises rather than ideals. Nevertheless, in striving for compromise we should keep an eye on the ideal to be attained. In the same way, policies must reflect the realities of what is achievable in a given period. Thus, the policy of the International Community ("IC") and the work and efforts of the Human Rights Officer ("HRO"), protection officers, and other field monitors contribute, step-by-step, to the pursuit of acceptable and durable solutions in education and so, return.

2. Human Rights Norms vis-ŕ-vis Education

1. **The Right to Education**

   The right to education is a fundamental principle of international law and is set out in Article 26 of the *Universal Declaration of Human Rights ("Universal Declaration")* and further elaborated in the *International Covenant on Economic, Social and Cultural Rights ("ESC Covenant")*[2]. The State must bear in mind that one purpose of education is to promote understanding, tolerance and friendship among all nations, and all racial, ethnic or religious groups[3].

   In exercising this right to education, the rights of parents to choose the kind of education that their child receives should be respected[4]. This right is confirmed in Protocol 1, Article 2 of *the European Convention on Human Rights (ECHR)*[5].

2. **Principle of Non-Discrimination**

   The principle of non-discrimination is central to International Human Rights Law. Whatever educational system is adopted in BiH, no pupil may be adversely treated because of his/her ethnicity, language, or religion.

With particular regard to education, BiH is a party to a number of treaties that specifically prohibit discrimination. These include the 1989 *Convention on the Rights of the Child*[6]; *the ESC Covenant*[7]; *and the International Convention on the Elimination of All Forms of Racial Discrimination*[8]. Moreover, even though BiH is not actually a party to the *WEHCR*[9], it has a special, directly applicable, status within the BiH Constitution.

3. **Minority Rights**

The State has a duty to promote the conditions necessary for the development of minority culture and to preserve the essential elements of identity, which are distinguished as religion, language, traditions and cultural heritage[10]. Furthermore, children belonging to ethnic, religious, or linguistic minorities must not be denied the right to enjoy their own culture, to practice their religion or to use their own language[11].

However, the BiH Constitution refers to three constituent peoples (Bosniacs, Croats and Serbs) and does not foresee the possibility of these peoples being identified as national minorities. In the Constitution of the Republika Srpska only the Serbs are recognised as a people, while in the Federation Constitution, only Croats and Bosniacs are considered as constituent peoples[12].

It is beyond the scope of this paper to enter into a discourse on whether, or to what extent, “national minorities” exist in BiH. It may be sufficient to state that minorities exist in all regions of the country by dint of their geographical location. The Constitutional Court of BiH is presently considering whether the Entity Constitutions must specifically recognise all three constituent peoples in order to be consistent with the

BiH Constitution.

The purpose and spirit of the *Minorities Convention* is to achieve greater unity between people and different ethnic groups and to foster equality before the law[13]. **Minority rights do not call for coercive separation or segregation**. To the contrary, such rights are intended to promote minority cultures within the context of a wider community and preserve their contributions to society. Thus, one has to balance the aspirations of minority rights claims with the pursuit of tolerance and understanding within the wider society. In other words, **neither the minority nor the majority should be encouraged to argue minority rights protection if their purpose or function promotes segregation or separation**.

3. Constitutional Framework in Bosnia and Herzegovina

The Constitution of BiH does not establish competence for education. This issue is therefore regulated by Article III.3.a, which states that "all… powers not expressly assigned in this Constitution to the [State] institutions of Bosnia and Herzegovina shall be those of the Entities." The State thus has no direct power over education policy[14].

However, the right to education is specifically mentioned in the enumeration of rights, under Article II.3, which the State is obliged to protect. Further, the State is also bound to ensure the protection of "the rights and freedoms provided for in [Article II of the Constitution] or in the international agreements listed in Annex I… without discrimination on any ground"[15]. **Hence, it follows that the State is obliged to ensure non-discriminatory access to education**. Finally, the State is bound under Annex 7, Article II of the General Framework Agreement for Peace ("GFAP"), to "create…political,

economic, and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group."

1. **Federation**

   The *Constitution of the Federation of BiH* expressly grants competence for education policy to the Cantons[16]. This delegation of competency allows for little co-ordination of education policy at the Entity level[17]. The situation is further complicated by the fact that each Cantonal Constitution contains a provision which enables it to devolve some or all of its powers to the Municipalities, though the strength of this provision varies from Canton to Canton. In some Cantons, there is only a weak mandate to devolve responsibilities, and the Constitution merely provides for the possibility of such delegation. In other Cantons, there is a legal obligation to devolve responsibilities – often specifically for education – where a Municipality is largely composed of an ethnicity that is not the Cantonąs majority ethnicity.

   However, the *Constitution of the Federation of BiH* does provide that, "the Federation shall ensure the application of… internationally recognised rights and freedoms… in particular, all persons within the territory of the Federation shall enjoy the rights… to education.[18]" This provides the Federation with the obligation to intervene in education matters on the ground of protecting education.

2. **Republika Srpska**

   The Constitution of the Republika Srpska specifies that "Everyone shall be entitled to education under equal conditions…primary schooling shall be compulsory and free…[and] everyone shall have access, under the same conditions, to secondary and higher education", though

it also provides that “citizens may open private schools under conditions specified by law” (Article 38). The Republika Srpska is enjoined to protect this right under Article 48 (“the rights and freedoms guaranteed by this Constitution may not be denied or restricted…court protection of the rights and freedoms guaranteed by this Constitution shall be ensured.”)

The Constitution appears to place primary control over educational policy within the competencies of the Entity government, stating that “The Republic shall regulate and ensure: …education.” (Article 68.12) However, the municipalities are empowered to “take care of meeting specific needs of citizens in the areas of…education,” (Article 102.5) which may permit some level of decentralisation in education policy.

4. Education Policy in Practice

1. **Background**

   The *Law of Education* of the Socialist Republic of BiH (SRBiH) concurred with the Yugoslav Law of Education. The Yugoslav state-level law defined the general concept of education, the Republic fixed the rules within its own territory, and the Republic Ministry of Education determined the curriculum. In SRBiH, both Latin and Cyrillic letters were used. In primary schools, subjects included national and comparative history, Serbo-Croat, foreign languages, physics, mathematics, geography, biology, chemistry, music, arts and sport culture. In secondary schools, students were allowed further choices depending on their personal preferences.

   In post-war BiH, there is no significant involvement at the state level in education policy.

2. ***De facto* competence in the Federation**

   Competence over education and education policy is

disputed in the Federation. The Bosniac Minister of Education asserts that his Ministry has control over education by virtue of the Federation's responsibility to protect human rights. The Croat Deputy Minister of Education asserts that the Federation has no such powers, stating that education policy is the responsibility of the Cantons.

This unlitigated dispute has resulted in a de facto outcome granting control to the Bosniac Federation Minister of Education for Cantons under Bosniac authority (Una Sana, Tuzla, Gorazde and Sarajevo) and control to the Croat Deputy Minister for Cantons under Croat authority (West Herzegovina, Posavina, Canton 10 ("Herceg-Bosna")).

The situation is more complicated in Zenica-Doboj, Central Bosnia and Herzegovina-Neretva-Mostar Cantons where political control varies between Municipalities. In these Cantons, Municipalities apply either a Bosniac or Croat curriculum, depending on the ethnicity holding political control. Those under Bosniac authority follow the curriculum of the Republic of Bosnia and Herzegovina using textbooks printed in Sarajevo during the war. Those under Croat authority follow a curriculum close, if not identical to, the Croatian national curriculum using Croatian textbooks printed in Zagreb. Those schools in divided Cantons follow two curricula accordingly. This fracture can be traced back to the practice that developed during the war, where each Municipality, depending on which ethnic group dominated, adopted the education system it chose. Thus in Croat areas the system from the so-called Croat Republic of Herceg-Bosna was used , whilst in Bosniac areas, systems from either the former SRBiH or the new RBiH were used[19]. These systems continue today.

3. **The 1997 Federation Instruction**

   In January 1997, the Federation Ministry of Education issued Ministerial Instructions on the *'Use of Two Curricula and Education Plans on the Whole of the Territory of the Federation of BiH'* to Cantonal Ministers. These provided for ethnically separate education. In Cantons with a minority "narod" ('nation/people') population, schools were allowed to arrange either:

   1. separate schools for the ethnic minority; or,
   2. separate classrooms within the same school for different ethnic groups; or,
   3. unified schools with separate classes on 'national subjects' for children of different ethnic groups. 'National subjects' were defined as Bosnian or Croatian language, history, geography, art and music.

   However, these Instructions caused considerable concern both in local and international communities as they viewed them as forcibly segregating children in education in a way that might foster intolerance and division and deny parents the right to decide how their children would be taught. Following widespread objection, the Federation Ministry withdrew the Instruction in November 1997[20].

4. **Republika Srpska**

   The RS manages its education policy through the Ministry of Education. It applies a third curriculum that is very close (or identical) to that of the FRY and uses FRY-published textbooks produced at the height of the war. The textbooks, for example in history or geography, make no reference whatsoever to BiH.

5. Segregation and/or Discrimination in BiH Schools

An OSCE/ECMM Report in February 1998 entitled '*The Education System in BiH*'concluded that de facto ethnically based segregation was a part of the educational system of BiH. This comment was confirmed by the February 1999 Report of the International Human Rights Law Group ("IHRLG") 'Segregation and Discrimination in Education in the Federation of BiH'.

1. **Documented Examples**[21]
   The following examples of segregation and/or discrimination in BiH schools were cited in the OSCE/ECMM and IHRLG reports:

   1. **Zenica-Doboj Canton**; In the primary schools in Tesanka and Jelah, run by Bosniac headmasters, Croat pupils are taught a Croat curriculum in separate classes. Bosniac pupils follow the 1994 RBiH curriculum. In Tesanj, the problem of two curricula culminated in the separation of Croat childre to special classes, which were held for some time in 1997, outside of school buildings under tents.
   2. **Gorazde Canton**; History covers only Bosniac history. This obviously presents a problem in terms of impartiality, as well as obstructing the re-integration of non-Bosniac children.
   3. **Central Bosnia Canton**; Apart from a small minority, classes are not mixed and children receive their education according to specific ethnically based curricula. In addition to this active segregation, these circumstances again raise concerns regarding students' access to impartial information and create obstacles to the successful reintegration of returnee children.
   4. **Neretva Canton**; In Mostar, there is a Bosniac

educational system in East Mostar and a Croat educational system in West Mostar. Neither laws nor decrees have been made at the Cantonal level. Draft laws exist for primary, secondary and higher education, however, HDZ and SDA do not seem to be able to reach a final agreement on the legislation. The main sticking point is the proposed creation of a separate "Croat" Agency for Expert Pedagogical Supervision that would effectively take control of Croat schools. The Croat system is founded upon the regulations of the so-called 'Croat Republic of Herceg-Bosna' and the Bosniac educational system follows the 1994 RBiH curriculum. In Croat schools, the students are made to speak Croatian regardless of their ethnicity. Also, the Croatian textbooks contain no reference to BiH. In both Prozor-Rama and Jablanica, there are 'parallel' school structures divided by ethnicity.

5. **Sarajevo Canton**; Attendance at religious classes is optional. However, the Islamic Community is the only religious group to provide teachers for these classes. As there are very few Catholic and Orthodox , no religious courses are organised for the here is however one private Catholic school in Sarajevo.
6. **Posavina Canton**; In Orasje, parents of Bosniac children refuse to send them to Croat schools, believing that their children are not taught adequately about their language, culture and history. The response of the schools system has not been helpful and, further, there are suggestions of discrimination in relation to employment of minority teachers.
7. **Republika Srpska**; In Prijedor, it may well happen that children will be bussed to the Federation each day in the forthcoming school year. It is

worth mentioning that the NGO Merhamet is reported to have said that teaching in Ljubija is rather tolerant and multicultural and that it is all right to send Bosniac children to school there. Throughout the RS, religious classes are held only in the Orthodox religion. Though not mandatory for pupils of other faiths, it is difficult for other students to leave the classroom when religious lessons start. The teaching of orthodox religion is obligatory in primary schools[22]. Anecdotally, there is information that non-Orthodox children go to these religious classes but at the end of the school year they do not receive a grade. In lieu of a grade their report cards are marked, "the curriculum is not adapted [to Bosniac/Croat religious convictions]."

6. International Community Policy

Children have been segregated along ethnic lines within the BiH education system for the last six-and-a-half years. In addition, each ethnicity has been learning a curriculum designed to perpetuate nationalistic thinking. Coercive separation of children by ethnicity, language or religion, cannot possibly contribute to a spirit of understanding and tolerance as required by the many international human rights treaties to which BiH is a party. It could certainly further be argued that passive acceptance of segregation and segregationist curricula is itself a violation of these treaties. The Federation Government's 'justification' of ethnic segregation as necessary to protect the right of minorities is misguided. **The task for the education system in BiH is to balance the cultural, linguistic and other rights of the different ethnic groups with the over-arching duty not to encourage or foster ethnic segregation**.

1. IC policy is to pursue integration and not segregation;

to create a climate encouraging children of all ethnicities to go to school together. IC policy supports an educational system free of material that may be offensive to others and which could foster ethnic intolerance or hatred.

2. Initiatives in education which promote – directly or indirectly – divisions along ethnic lines and the forcible education of children by separate curricula according to their identity, must be wholeheartedly rejected. Solutions to education problems must not facilitate segregation of ethnicities.
3. To this end the IC is working on a combination of local and national strategies in the educational field. The national strategy can be split into two phases.
    1. **Phase 1**

       The withdrawal of potentially offensive material from textbooks before the start of the 1999/2000 school year is one of the pre-conditions specified by the Council of Europe for BiH's accession. The National Conference of Education Ministers, involving the Minister and Deputy Minister of Education of the Federation, and the Minister of Education of the Republika Srpska was set up as a formal structure at the beginning of the summer 1999 to improve co-ordination in the decentralised Bosnian education system. At a meeting of the Conference of Ministers held in Banja Luka on Friday August 20th, 1999, an agreement was signed on textbook review. The Council of Europe, together with OHR, UNESCO and the OSCE, will monitor implementation, and further measures may be taken to ensure that the agreement is fully complied with.

       Following the review of approximately 250 textbooks by international experts, the Ministers agreed on which passages of literature, language,

history, geography, art and music textbooks were offensive or objectionable, and how these were to be removed or temporarily marked with the phrase "contains material whose authenticity has not been verified" until a further review process is undertaken. The actual work of removal or annotation is to be carried out by the school authorities themselves. Deletion of items is to be completed by the start of the new school year on September 6th, 1999 while annotation of controversial passages which are still the object of consensual review is to be completed by September 20th, 1999.

2. **Phase 2**
   Currently, the curriculum taught in all schools reflects the interests of the ethnic majority to the total exclusion of minorities, using predominantly textbooks written during the war[23]. The full curriculum reform process has yet to be initiated. The IC is awaiting the publication of a Report by UNESCO, which addresses the issue of comprehensive curricular reform in detail. Although it has been completed, the Report has not yet been published. However, the Report will be followed by a Symposium to be held in Sarajevo before the end of October, this year. It is this conference that will set the agenda for full curriculum reform. It must be said that the form of the full curriculum reform is not yet clear. **As soon as further information is available, it will be disseminated to the field**.

3. Mention should also be made of a Council of Europe program on 'human rights and citizenship education' that has been ongoing since 1996. The main activities of the programme have been in the

field of teacher training, where over 1,000 teachers have attended intensive seminars since the end of the war.

The program, in line with the overall goals of the IC, aims to produce sustainable reform of both initial and in-service teacher training. With regard to initial teacher training, the intention is for elements of human rights and citizenship education to be integrated into all programmes, and appropriate teaching methodology to be developed. In-service training needs are also critical, as new skills and knowledge are required to cope with an educationally changing environment. A clear objective of the project is to support the development of appropriate programmes between Cantons and between Entities, thus facilitating greater unity within the education system.

From a methodological point of view the program emphasizes that human rights education requires a combination of knowledge, skills and attitudes. This methodological commitment is illustrated in the materials which have been developed in the form of a folder in four sections for teachers entitled, “Teaching Human Rights”.

4. On a Municipal level, there have been initiatives specific to Sarajevo Canton, following on from the Sarajevo Declaration as well as in Brcko and Central Bosnia Canton. These strategies aimed to find immediate solutions on a school by school basis so that returnee children can go to school and be taught in accordance with the GFAP and international human rights standards. This ‘immediate solution’ approach has not achieved what had been hoped and, it is suggested that a more step-by-step strategy is preferable.

5. It is recognised that more must be done at a higher political level, if the right to education and IC policy is to be implemented. Moreover, in the absence of such progress, the impact of local efforts to improve the regimes is severely limited. Nevertheless, efforts should be made at all levels. For that reason, the following guidelines should be borne in mind when intervening on education. In this way, multilateral efforts will be more consistent and effective.

7. Policy Guidelines For Field Monitors

All interventions must be in accordance with three principal policy objectives[24] for children of different ethnicities;

1. *to go to school together;*
2. *to learn tolerance and understanding through the curriculum and its texts;*
3. *to guarantee the right to education.*

In order to ensure the first policy objective, **establishment of separate schools for children of minority ethnicity in any area should not be encouraged**. If agreement cannot be reached on a single curriculum, then focus on compromise strategies.

1. **National and Non-National Subjects**
   If the same class for all subjects is not achievable, propose the same class for non-national subjects. If there is a real risk that parents will keep their children away from school because of objections to the curriculum, you may consider encouraging the provision of education in some or all “national subjects” for the minority children according to the curriculum in use by their own ethnic group. This step should be undertaken very reluctantly and only when absolutely necessary to ensure the respect of the third principle: to guarantee the right to education.

‘National subjects’ are generally taken to include history, geography, music, language and art. This solution will segregate children of different ethnicities within schools for a large portion of their day. This unsatisfactory arrangement is nonetheless better than completely separate schooling. Curriculum reform and textbook review processes will be supported as vigorously as possible at a central level, so that all three principles may be respected at the earliest opportunity.

Field Monitors should try to secure agreement on minimising those subjects that are contended to be ‘national subjects’. This could mean sitting down and speaking with community leaders about whether they would find it feasible to send children to joint classes. It is recommended that discussions should start with physical education and the sciences. If there is compromises there, one can raise other, more contentious subjects, such as art, music, language classes, geography and history. Likewise, it might be possible to reach some individual compromises on a class-by-class basis.

If the same class is not achievable, then endeavour to have the children taught in one school building. Even if no classes are taught together, it is important to insist that the separate classes be given in the same building or complex. This way, at least there is the possibility for social integration before and after school and during breaks. (Field Monitors should use their best judgment, based on local conditions, as to whether such a course may increase the likelihood of ethnic rivalry rather than bringing different ethnicities closer together.)

It is better for a child to attend a school another ethnicities’ curriculum rather than not go to school at

all. In saying this, it is imperative that objectionable materials be removed from textbooks.

We cannot encourage the opening of segregated schools. To do so would undermine the whole process of return and re-integration.

2. **Finding Compromise Solutions**
   The focus for IC efforts in the field should be on finding compromise solutions through negotiation at the Municipal level and through public awareness. Therefore, Field Monitors may wish to involve themselves in projects. This might include making contact with local government officials, School Boards, School Directors[25] Principals, parents, teachers, parent/teachers associations (PTAs) (especially if established through OSCE Democratisation projects), women's groups, or religious leaders with a view to establishing local strategies. Parents who complain should be encouraged to join or set up PTAs. Likewise, compromise strategies might be reached, in some areas, on a class-by-class basis. For example, if it is not considered possible by community leaders for high-school students to attend joint classes, might it be possible for younger children, or vice-versa? In some cases, Field Monitors might consider speaking to a classroom of older children on this topic, to discover their perceptions of the situation and possibly to find some unexpected solutions.

   Because this issue is so vulnerable to political manipulation, contact with people outside local government is essential. Issues to focus on could include:

   - ***Selection of teachers and re-hiring of minority or returnee teachers***: Transparent recruitment and promotion of teachers will encourage an ethnic mix

of staff and an ethnic mix of teachers will facilitate a more tolerant environment. This raises issues addressed in the OSCE Report, 'Employment Discrimination in BiH'.

- ***Language***: Before the war the language in Bosnia and Herzegovina was referred as Serbo-Croatian, with slight differences in dialect exhibited indifferent parts of the country. It is estimated by independent experts that some 95% of the language is the same throughout Bosnia. Since the war, however, language has been a source of constant political debate, and has been used as a tool for further discrimination. Local authorities now consider there to be three distinct languages: Serbian, Croatian, and Bosnian. It is important for field monitors not to engage in this debate, but rather to stress that language whether one argues that there are three or one with three dialects – should not divide children from each other or inhibit their education. Whereas it must be recognised that language is fundamentally important to identity, its lack of resolution prevents any progress in re-integrating children in schools. Therefore, we should not allow lack of agreement on that issue to be an obstacle to progress in education, per se. As an example, the word for 'thousand' as used by Serbs and Bosniacs is 'hiljada', whereas Croats 'tisuca'. Ideally one would say that a math teacher can point out to pupils that a difference exists and continue using one or both of the words. This is much the same as referring to the mathematical symbol 'x' as 'multiplied by' or 'times.'
- Field monitors should also be aware of learning difficulties that returnee children may be facing as a result of spending several years in a foreign educational system. It may be appropriate to

recommend that schools provide extra language lessons for these children.

- ***Alphabet***: Monitors must strongly advocate the use of both Latinic and Cyrillic alphabets.
- ***Offensive Materials***: The Banja Luka Agreement of the 20th of August establishes a procedure for identifying and removing offensive materials from texts. A system has been put in place whereby members of the international community may conduct 'spot checks' of texts. *This is to be done with the knowledge and involvement of the local authorities and requires the approval of OHR Sarajevo*. Should the curriculum materials be clearly offensive, or contain secessionist language[26] , the field monitor may wish to make representations to local authorities that such material be stricken or amended. In doing so, the field monitor should report any proposed changes through their reporting chain before advocating such amendments. In this way, feedback can be obtained at a central level in order to gauge the success, or otherwise, of the textbook review and to help ensure consistency of approach.
  Parent/Child's freedom of choice: Parents should be free to elect that their children join a class, school or other educational programme of an ethnic group other than the one with which they are identified as belonging to.

- ***School registration***: Authorities should be flexible in allowing children to matriculate for lessons[27].
- ***School fees***: As an international standard, primary and secondary education should be free. Should a Field Monitor become aware that a school is imposing fees upon parents, this should be

resisted and reported[28].

- ***Roma***: UNHCR has recently conducted a study in Tuzla Canton that suggests extremely low school attendance within the Roma community[29]. Varying factors, such as, differing cultural attitudes towards formal education or economic obstacles may contribute to this. It may be helpful to liaise with local Roma community leaders and school officials to increase attendance.

3. **Other ways that the Field Monitor can take initiatives:**
   - Up-date the OSCE/ECMM report to see what progress has been made in the AoR.
   - Follow up the '10 December' projects in schools. This project was to recognise the 50th anniversary of the Universal Declaration. OSCE Human Rights Officers were invited to work with schools to organise a day-long curriculum based around the 50th Anniversary of the Universal Declaration, in December 1998.
   - Advise local RRTFs and Inter Agency groups what is happening or being planned.
   - Through the reporting structure of the Field Monitors organisation, ensure that the Working Group on Education (formed under the Human Rights Steering Board) is aware of what is happening or being planned

8. Case Study

A local minority returnee primary school runs independently of the majority school, thus creating parallel institutions. They have little or no contact with the Municipality Authorities. Neither curriculum is acceptable. The majority school curriculum uses texts from a foreign country. Neither community wishes to change its curriculum, and the returnee parents refuse to send their children to the majority school. They want to set up their own schools following their own,

unacceptable curriculum.

1. **Possible solutions:**
    - If a PTA does not yet exist, encourage those interested to set one up;
    - Encourage parents, teachers, PTAs and NGOs to campaign for integration and not accept segregationist policies;
    - Try to agree a majority curriculum with provision of alternative classes in some subjects;
    - If this approach proves fruitless, attempt to identify non-national subjects, one at a time. Start with physical education and the sciences. Encourage the teaching of these subject in integrated classes;
    - Advocate the excision of offensive materials;
    - Check whether any of the school textbooks are foreign and, if so, whether they have an agreed form of supplement attached to them;
    - Check whether the school uses both Latinic and Cyrillic;
    - Encourage recruitment of qualified ethnic minority teachers through local contacts and push their recruitment through the school board;
    - Encourage the school director to allow access to the IC for the purposes of human rights awareness among the pupils;
    - Periodically check that any agreements are being implemented. PTAs and other interested groups should do this.

9. Bibliography

Constitutions

Constitution of Bosnia and Herzegovina Constitution of the Republika Srpska Constitution of the Federation of BiH

International Instruments

Universal Declaration of Human Rights (1948) European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) Universal Declaration of Human Rights (1948) International Convention on the Elimination of All Forms of Racial Discrimination (1965) International Covenant on Economic, Social and Cultural Rights (1966) Convention on the Rights of the Child (1989) Council of Europe Framework Convention for the Protection of National Minorities (1995)

Research Texts

OSCE/ECMM, *The Education System in BiH* (February 1998) OHR, Background paper on Curricular Reform/Textbook Review (December 1998) International Human Rights Law Group, *Segregation and Discrimination in Education in the Federation of BiH* (February 1999) OSCE, *Employment Discrimination in BiH* (June 1999)

HRCC has also produced guidelines on two other issues. If you would like copies, please contact the HRCC at: 387-71-447-275, or by e-mail at: lene.madsen@ohr.int, eric.frejabue@ohr.int, or sirpa.rautio@ohr.int.

Guidelines to the Field #1 – Residence Registration & Issuance of ID Cards (Federation). These guidelines are an excerpt from a UNHCR report – Registration of Repatriates in the Federation of Bosnia and Herzegovina and Entitlement to Identity Documents, Food Assistance and Medical Care – November 1998.

Guidelines to the Field #2 – Guidelines for Dealing with Foreign Citizens Seeking Asylum in Bosnia and Herzegovina. These guidelines have been drafted by UNHCR for the attention of international organisations approached by foreign citizens seeking asylum in Bosnia and Herzegovina. December 1998.

1 Higher education is not within the scope of this paper.

2 Article 13(1): The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall 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. They further agree that education shall enable all persons to participate effectively 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.

3 ESC Covenant, Article 13(1): supra; Universal Declaration, Article 26(2).

4 ESC Covenant, Article 13(3), Universal Declaration, Article 26(3). It is worth emphasising that the right of the parent must be balanced against other, potentially competing rights in much the same way as minority rights need to be weighed along-side matters of social policy, such as the promotion of tolerance and understanding.

5 "…the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

6 Article 2: "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."

7 Article 2 (2).

8 See the Convention generally.

9 Article 14. Note that this article is limited to the enjoyment of rights and freedoms set forth in that Convention.

10 See generally, the Council of Europe Framework Convention for the Protection of National Minorities ("Minorities Convention"). ETS No. 157. This Convention is one of the Human Rights agreements referred to in the Appendix to Annex 6 of the GFAP.

11 Convention on the Rights of the Child, Article 30.

12 As a corollary to the 'peoples' discourse, the Federation Constitution (Article 6) states that both the Bosnian and Croatian languages are official languages, and that the official script is the Latin alphabet. The RS Constitution provides for the Serbian language to be used, "while the Latin alphabet shall be used as specified by law." This Constitution also states that "in regions inhabited by groups speaking other languages, their languages and alphabets shall also be in official use, as specified by law".

13 The preamble to the Convention states that, "the creation of a climate of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor, not of division, but of enrichment for each society;"

14 However, the State does have an indirect obligation in terms of the cross-cutting impact of the European Convention, discussed, infra.

15 BiH Constitution Article II. 4.

16 Chapter III, Article 4.b.

17 Further, the Cantons are expected to self-finance "activities of or under [their] aegis…by taxation, borrowing, or other means" (Sec. III, Art. 4.l). This would appear to cement Cantonal control over education policy, as the Cantons' financial independence in this area leaves the Federation little means of leverage.

18 Section II.A, Art. 2.1.m

19 Virtually the same as the Croatian system.

20 In any event, these Instructions may have been unconstitutional, given that education policy is constitutionally given to the Cantons. An instruction that lays down specific measures about the manner in which human rights in the educational sphere will be protected (which are themselves undermining human rights) appears to overstep the bounds of the Federation's duties as discussed at 3.1, above.

21 It should be noted that these examples are only a selection of known cases. It should not be inferred that they are exhaustive or regionally representative.

22 Information obtained through IHRLG from a local NGO.

23 OHR, "Background paper on Curricular Reform/Textbook Review, December 1998."

24 Not listed in an order of relative importance.

25 School Directors have a great deal of power within their schools.

26 This may be likely in respect of books printed abroad which misstate who the President is.

27 This is in accordance with the principles of the GFAP Annex 7, Article 2, Paragraph 1, "The Parties undertake to create… social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons…,". The State should create a flexible procedure and/or adjust their criteria for school enrollment to encourage and facilitate the quick return of refugees by offering immediate access to education for all returnee children.

28 This is a problem highlighted by the IHRLG in its Report, p. 17, referred to, above.

29 91% of school age Roma children included in the study were

not attending school.

Back to the Human Rights/Rule of Law home page

OHR Human Rights/ Rule of Law Department