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**The American University in Cairo**

**School of Global Affairs and Public Policy**

**Neoliberalism, Violence and Capital Accumulation**

**A Thesis Submitted to the**

**Department of Law**

**in partial fulfillment of the requirements for  
the LL.M. Degree in International and Comparative Law**

**By**

**Reem El Barbary**

**September 2020**

The American University in Cairo  
School of Global Affairs and Public Policy

NEOLIBERALISM, VIOLENCE AND CAPITAL ACCUMULATION

A Thesis Submitted by

*Reem Mo'men El Barbary*

to the Department of Law

September 2020

in partial fulfillment of the requirements for the LL.M. Degree in  
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The American University in Cairo  
School of Global Affairs and Public Policy  
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NEOLIBERALISM, VIOLENCE AND CAPITAL ACCUMULATION

Reem El Barbary

Supervised by Professor Jason Beckett

ABSTRACT

This dissertation looks into the violent, self-serving legal (neocolonial) order that revolves around wealth accumulation and the defense and sustainability of the status quo. The starting point and core idea that guides my discussion is the “redemptive” ideological framework and commitment to free market economies and profit-making. I thus look into the narratives upon which an alliance between development, progress, human rights and neoliberalism rests, in a manner that limits and restricts involvement and action; and normalizes and legitimizes suffering, ill-doing and irresponsibility through law. I examine the interdisciplinary and multilayered reality of repression that state sponsored, and supported, bodies and agencies inflict on individuals in the developing countries; focusing on Egypt in light of the fast-paced economic reform under Sadat Post-Infatih.

**Keywords:** Dependency Theory, Development, Economic Growth, Neoliberalism, Law, Progress, Social Protection Programs, TWAIL, Violence.

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## DEDICATION

As much as I'd like to name a few to whom this is NOT dedicated, I won't, it is wiser to just leave it at this.

Here's to surviving another day in this capitalist purgatory.

To me.

In all seriousness, I would like to dedicate this to my family, my parents in specific who literally slept in the car while I attended class so I do not have to spend money on transportation and save up to pay my tuition fees. Thank you for always standing by me and for being selfless in ways I never knew possible. No amount of words could possibly express my love and gratitude for you or, do you justice. I hope I can one day repay part of the debt I owe you. We (once again) did it! I would also like to extend my thanks to yet another very important person, the one and only, Mostafa Akl. His kindness and patience are truly unmatched. Thank you, to infinity and beyond, for the endless ways you supported me in, and still are, and for all the chocolates you got me every time I was on the verge of bursting into tears. I would also like to express my utmost appreciation to my baby brother for kindly agreeing to help me proof-read my writing, over and over and over...

P.S. Mom, dad, Mohamed and Mostafa you will probably find this extremely disappointing since my undergrad's was like two pages long. What can I say? Adulthood and tighter writing deadlines... but hey, at least it's spontaneous.

With love,

Reem

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I write this with mixed feelings, with great joy, pride and strong nostalgia. I remember thinking to myself on my first day at AUC: “This is gonna be a long rocky ride!”. Surprisingly enough, it was not. It saddens me that my time here, at AUC, is coming to an end, so soon. What is even more surprising is that it was not as hard as I had imagined it to be, thanks to all the generous and continuous help and assistance I received from the Law Department. I would be hardly exaggerating if said that there is not a single class I took or a professor, I had the good fortune of knowing or interacting with, over the course of my study, I did not learn at least one valuable thing from.

I would like to express my heartfelt gratitude and sincere and special thanks to my supervisor who has been a great mentor, an ally, and an endless source of guidance and support through each stage of the process and the reason behind my decision to join the L.L.M. program. I would not have made it this far or come to this decision, in the first place, if it were not for his eye-opening classes and philosophy. As time went by and the deeper I delved into writing, the more I came to the realization that I am (unconsciously and positively) influenced and inspired by his teachings. I would like to take this opportunity to once again thank him for his dedication, passion and compassion which left me with more than just grades and reading material but life lessons, a completely transformed perspective and an example I will, for the rest of my life, follow and look up to.

Thank you for understanding (and patiently and gracefully putting up with) my “creative” mess! I would not have felt as empowered to write and express myself as I do now, which I have always struggled with, without your constant encouragement. Whoever’s reading this, if you ever want to attend a really cool class and come out of it with a completely changed outlook? Attend Prof. Beckett’s! Oh, and he shows great movies! Prof. Beckett, it’s truly been an honor.

*“The development of law as a system was evoked not by the requirements of the state, but the necessary conditions for commercial relations...*

*Commercial relations...*

*Ushered in the jus gentium,*

*The spread and development of international law occurred on the basis of the spread and development of the capitalist mode of production.”*

Pashukanis, E. B, Selected Writings on Marxism and Law.

## **I. Introduction**

In an alternate reality, and in well-intentioned theory, the post-second world war order comes to offer remedies, for *past* injustices. Capable of ending suffering and exploitation, repairing and reforming inequalities and disparities in the system, using international law and economics. Unfortunately, this is not the case. The structure in place, a triumphant global legal and economic order, assisted by the international human rights regime, directly contributes to the maintenance, reproduction, and spread of injustice. To put it bluntly, the system in its entirety promotes harmful economic practices in the name of development, growth, and dignified living. It is actively involved in deepening suffering and exploitation.

Before going any further, it is important to clarify my position. I am not concerned with nor am in denial of *the progress achieved* or the arguments in favor of the *positive outcomes or results*

realized, thus far. This falls outside the scope of my thesis. With this in mind, my thesis focuses on *revealing* the oppression which is currently concealed. The dominant narrative shifts attention, away from the ongoing abuses and deteriorating conditions, and toward the (misleading) conviction that progress and development are taking place. Progress may be statistically demonstrable, but the concurrent human suffering is real, despite being silenced or sidelined.

My main focus here is not to further celebrate the “multifunctionality” of the system, but to expose its less glorified aspects. The other side of the coin, so to speak. I critique the modernization and development project advocated by international institutions, using a structuralist perspective.<sup>1</sup> This reveals the circular, mutual, impact of neoliberalism and human rights.<sup>2</sup> I am not simply concerned with neoliberalism’s effect on the realization of human rights, but on their very essence. To do otherwise would blindly pre-determine the nature of each of them. Exposing the concealed aspects undermines the belief that embracing the neoliberal development plans promoted by international institutions is conducive to the overall prosperity and stability of *nations*.

I explore the underlying factors that contribute to the resilience (and acceptance) of neoliberalism (despite the suffering it inflicts on people). Drawing on Susan Mark’s reconceptualization of planned misery; I examine the techniques deployed by the government to weaponize crisis and nationalism. I look at the connection between law and the organization of irresponsibility, the aggravation of human suffering. I use Scott Veitch’s account of the link between the two to explain my view of the negative or inverse relationship that law and neoliberalism share. I use Veitch’s account, but I do not share his limited perspective on the legalization of practices that result in harm. The examples he provides in his book such as sanctions and the suffering they cause are

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<sup>1</sup>Balaam, D. N. & Dillman, B. (2014). Introduction to International Political Economy. Sixth Edition, Pearson, Chapter 4: “Economic Determinism and Exploitation: The Structuralist Perspective”, 88-99.

Cohn, T. H. (2016). Global Political Economy: Theory and Practice. Routledge, Chapter 5: “Critical Perspectives”, 103-130.

Farrands, C., & Worth, O. (2005). Critical Theory in Global Political Economy: Critique? Knowledge? Emancipation?. *Capital & Class*, 29 (1), 43-61.

<sup>2</sup> International law remains tainted or characterized by its liberalism.

See Koskenniemi, M. (2006). *From Apology To Utopia: The Structure Of International Legal Argument*. Cambridge And New York: Cambridge University Press, 2006.

rather simplistic. These fail to highlight the ubiquity and complexity of the process, or to reveal the direct impact of neoliberalism. Such extreme examples tell us little about the root causes of the more mundane, ubiquitous, harms that my discussion revolves around.

To gain better understanding of the process, one has to look at three levels: the international, the state, and the individual. Each with their own constitutive elements, and intra-level exchanges and linkages. Each layer serves to reinforce the others, using different means and narratives. These range from threat-based, violence-based, and necessity-based, to reliance on the internalization of neoliberal values. Each makes a specific contingency appear as necessary. Together, they form a foundational part of the system, and its continuous reproduction. That said, it is important to highlight that contingencies are not equally or similarly constructed and employed.<sup>3</sup> Several factors, such as geopolitics, country-specific internal dynamics, external alliances, and overall economic situation and standing of states, as well as the divide between North and South, have to be taken into account.

Here I argue that the interaction between nationalism, law and neoliberalism enables capital accumulation; and the normalization and acceptance of the harms this system of exploitation inflicts. The intersection between the three is meant to enhance the regime's survival, legitimacy, and the credibility it is trying to establish. I first unfold the context that leads to multilevel exploitation; and then turn to how this is concealed by the narrative of development and openness. I use Benedict Anderson's conceptualization of nationalism<sup>4</sup>, Naomi Klein's shock doctrine, and Susan Mark's false contingency, to bring this process to light. All three concepts cover grounds similar to Mark's planned misery and Foucault's governmentality; which I later incorporate in my

---

<sup>3</sup> By contingency, here, I mean how neoliberalism (re)creates a space where false-necessity is merged into the very foundation of the ideology and system enabling it to further validate itself and the harmful practices it promotes through law (national and international), state policies, and internalization of values by individuals which creates a false sense of emancipation.

See Van Doren, J. W. (1990) "Understanding Unger", William Mitchell Law Review: Vol. 16: Iss. 1, Article 2. Available at: <http://open.mitchellhamline.edu/wmlr/vol16/iss1/2>

Yack, B. (1988). Toward a Free Marketplace of Social Institutions: Roberto Unger's "Super-Liberal" Theory of Emancipation. Harvard Law Review, 101(8), 1967-1969. Available at doi:10.2307/1341444.

<sup>4</sup> Anderson, B. (1991). Imagined communities: Reflections on the origin and spread of nationalism. London: Verso.

discussion to provide a comprehensive overview of their crosscutting interaction. Having them together illuminates the dynamics and hidden aspects I wish to target.

My study casts light on the ability of neoliberalism to amalgamate itself with development, to produce results which seem, at first glance, favorable to the overall wellbeing of citizens. As I noted above, this is a multifunctional process which also keeps the wealth-generation and accumulation machinery going. An example to that is employment-creation. While it generates income, it dispossesses the working class, and results in the legal transfer and concentration of wealth and resources to the hands of business owners. I primarily seek to break down the process in order to provide an understanding of its dynamics. My questions surround the following seven points:

1. The utilization of the progress narrative to justify economic openness, specifically in times of crisis.
2. How liberalism and violence intersect producing a hybrid authoritarian system.
3. Liberalism as a private-property-based order.
4. The shift from liberalism to neoliberalism in connection to Public International Law (PIL) and states.
5. The contemporary, neoliberal, global order as neoliberal false necessity.
6. How neoliberal policies were spread, and embraced by state leaders and policy makers.
7. How individuals come to accept and embrace the system.

To illustrate this, I examine the genesis of liberal theory, and its development into a neoliberal system that is deeply rooted in law-assisted capital accumulation. I then move on to explore the transformation undergone by Egypt post-Infatih – the “Open-Door Policy”, through which Sadat opened up the economy. This came with a neoliberal development narrative, or promise. I specifically look at the law-assisted shift toward economic openness, as this period is characterized by a shift away from inward-looking policies. Nasser aimed to block attempts, both from inside and outside, to dominate the market. He established the structure, to achieve this through

authoritarian rule. Sadat developed this structure into a hybrid system: state-centralized neoliberalism. The purpose is to take a close look at the fertile ground that jumpstarted the shift toward neoliberalism. That helped it arise and flourish,<sup>5</sup> implemented through the rule of law, and structural adjustment policies. The developments that occurred then, are what Klein describes as shock-induced: imposed in a time of crisis, and directly linked to reform of the structure of the economic, political, and legal systems.

I draw upon Klein's approach to connect between the different aspects and dimensions I try to shed light on throughout my study. Shock *therapy*, as she explains, is a result of sudden or unexpected unrest or turbulence<sup>6</sup>. This state sets in motion, triggers, an alarming sense of urgency;<sup>7</sup> which works as an emergency propagation technique. A tool whereby the state of vulnerability and heightened instability, real or exaggerated, is taken advantage of to impose or cement neoliberalism. This, calls for justifiable and *much needed* outside intervention; promoting the narrative that conditions will keep on deteriorating – *unless* a corrective, pro-market, agenda is implemented. Klein's account situates the discussion on economic reform within the expanding framework of crisis-facilitated neoliberalism.

In the case of Egypt, this was achieved through the implementation of policies that facilitated the transfer of resources into the hands of private entities, especially in land and investment sectors, resulting in them becoming a vehicle for capital accumulation. This system is well-armed and protected, with layers of law-based violence and emergency-fused stratagems. These work in four main, intertwined, directions: heightened nationalism to achieve legitimacy; calls for

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<sup>5</sup>Loewenstein, A. (2017). Disaster capitalism: Making a killing out of a catastrophe.

Klein, N. (2007). The shock doctrine: The rise of disaster capitalism. Toronto: Alfred A. Knopf Canada.

<sup>6</sup>“ Only a crisis, actual or perceived, produces real change. When that crisis occurs, the actions that are taken depend on the ideas that are lying around. That, I believe, is our basic function: to develop alternatives to existing policies, to keep them alive and available until the politically impossible becomes politically inevitable.” Friedman suggests that the government push for the implementation of certain policies in light of the crisis taking place. See Friedman, M. & Friedman, R. D. (1962). Capitalism and freedom. 7. Available at <https://ia801604.us.archive.org/24/items/friedman-milton-capitalism-and-freedom/friedman-milton-capitalism-and-freedom.pdf>

<sup>7</sup> Klein, N. (2017). Naomi Klein: how power profits from disaster. The Guardian. Available at <https://www.theguardian.com/us-news/2017/jul/06/naomi-klein-how-power-profits-from-disaster>

development; alliance-forging; and discrediting former policies and opposition. Different trends and debates in the relevant literature uncover the origins of the dominant neoliberal paradigm and its connection to the state. They explore the peculiar nature of this hybrid system in which *supposed* opposites with *inherently* contradictory foundations, neoliberalism and authoritarianism, coexist. The idea is to put this hybridity under the microscope, to reveal the commonalities between the two which made such concurrence possible; and explore the role that law and nationalism play in fortifying it.

## II. CHAPTER ONE:

### A. May The Odds Be Ever In Your Favor: Law and Violence

*“I hate the indifferent also because I’m annoyed by their whining of eternal innocents. I demand that they account for how they have fulfilled the duty that life has bestowed upon them, and bestows upon them every day; that they account for what they have done and above all for what they haven’t done. And I feel that I can be ruthless, not waste my pity, not share with them my tears.”*

Antonio Gramsci, I hate the Indifferent.

Before analyzing the international institutionalization of neoliberalism, its fusion with development and progress, I would like to outline its history, and highlight certain continuous key features. Over the course of its existence, and as it developed into neoliberalism, liberalism went through several transformations. These were of a regenerative nature; they reframed liberalism’s relationship to the international, the state, and individuals. Liberalism insinuated itself into institutions and disciplines with growing influence; allowing it to rapidly adapt to an ever-changing environment and expand its influence globally.<sup>8</sup>

This system is born out of the classical liberal ideology that attaches much weight to ideals such as individualism, liberty, freedom, competition and meritocracy.<sup>9</sup> I have a threefold purpose in

---

<sup>8</sup> I find it important to do a brief examination of the context in order to shed light on the pivotal moments that shaped neoliberalism and advanced it further. My point is to clarify how the ideology has been able to use the context to regenerate itself. This touches precisely on both Freidman and Klein’s point on the ability of capitalism to recreate itself by taking advantage of the circumstances.

<sup>9</sup> Heywood, A. (1992). Political ideologies: An introduction. New York: St, 23-63.

reviewing the core principles, the ideology, of classical liberalism. I elucidate first the violent and coercive nature of liberalism;<sup>10</sup> second its misrepresentation of the role of law and the state; and third the normalization of structural inequalities. Classical liberalism rests, in my view, on two central assumptions. First, the meritocratic nature and organization of society; although of equal moral worth, individuals are not naturally equal. They have different skills, talents and gifts which dictate their status and standing.<sup>11</sup> This naturalized (yet decontextualized) difference and inequality is not only advocated by liberals but also regarded as inevitably constitutive of social relations. This takes me to the second assumption, *societal progression* is viewed in terms of laissez-faire economics – induced gains and rewards.

Hence, Liberalism becomes in and of itself is a safe space for contingency-creation.<sup>12</sup> Such a system is rooted in Social Darwinism,<sup>13</sup> where the capable rise and the weak or less capable are left to perish.<sup>14</sup> This in itself contains the seeds of violence, and entails institutionalizing and promoting a narrative of othering and conformity. A prime example to that is Jean Jacques Rousseau’s infamous advocacy of the use of coercion, through law, against subjects – if they refuse

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Hobhouse, L.T. (1911). *Liberalism*, ed. J. Meadowcroft (Cambridge: CUP, 1994[1911]);

Dewey, J. (1935). *Liberalism and Social Action*, 21.

Waldron, J. (1987). “Theoretical Foundations of Liberalism,” *Philosophical Quarterly*, 127-140.

Dworkin, R. (1985). “Liberalism,” in *A Matter of Principle*. Available at

[http://fs2.american.edu/dfagel/www/Class%20Readings/ALCReadings/Dworkin\\_A%20Matter%20of%20Principle.pdf](http://fs2.american.edu/dfagel/www/Class%20Readings/ALCReadings/Dworkin_A%20Matter%20of%20Principle.pdf)

Laski, H. J., & Oliver Wendell Holmes Collection (Library of Congress). (1920). *Political thought in England from Locke to Bentham*. New York: Holt.

Mill, J. S. (1959). *On Liberty*. London: John W. Parker and Son, West Strand.

Economic Liberalism is to be found in the work of Adam Smith (the invisible hand), J.J. Rousseau (the social contract), T. H. Green and David Ricardo, Milton Friedman and many others..

<sup>10</sup>In its renouncement or rejection of “monopoly”, through its false and ambiguous endorsement and promotion of ideas such as “diversity” and tolerance of “the other”, it further reinforces its monopoly of truth.

<sup>11</sup>This in and of itself has an element of othering which I will discuss in the upcoming section.

<sup>12</sup>Rorty, R. (1989). *Contingency, Irony and Solidarity*.

<sup>13</sup> Social Darwinism is a theory that builds on the Darwinist notion of natural evolution and selection. Found in the writings of Herbert Spencer. See Offer, J. (2000). *Herbert Spencer: Critical Assessments, Volume 2*, 94-132.

<sup>14</sup> There are variations and different schools and views on the role that the state, some advocate state intervention for welfarist and utilitarian purposes; namely social democrats. Moreover, the liberal conceptions of negative and positive freedom affects one’s understanding of what the role of the state entails.

to be free, they must be *forced*.<sup>15</sup> They must be made to follow the *general will*<sup>16</sup>. It is not clear how the act of *forcing* is performed,<sup>17</sup> this uncertainty opens the door for a wide range of possibilities. On the one hand, this could mean indoctrination and *self-disciplining*. He does discuss the psychological transformation an inhabitant has to undergo in order to embrace the general will and become a fully-fledged citizen.<sup>18</sup> On the other hand, it could mean the actual use of violence through the *sovereign* or state institutions. Or both.

*“Therefore, in order for the social compact not to be an ineffectual formula, it tacitly includes the following engagement, which alone can give force to the others: that whoever refuses to obey the general will shall be constrained to do so by the entire body; which means only that one will force him to be free.”*<sup>19</sup>

*“Although in this state [of civil society] he deprives himself of several advantages given him by nature, he gains such great ones, his faculties are exercised and developed, his ideas broadened, his feelings ennobled, and his whole soul elevated to such a point that if the abuses of this new condition did not often degrade him beneath the condition he left, he ought ceaselessly to bless the happy moment that tore him away from it forever, and that changed him from a stupid, limited animal into an intelligent being and a man.”*<sup>20</sup>

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<sup>15</sup> See chapter 6 of Rousseau, J. J. *The Social Contract*.

Abramson, J. B. (2009). *Minerva's owl: The tradition of western political thought*. Cambridge, Mass: Harvard University Press, 247-253.

<sup>16</sup> I take issue with the notion of “general will”. If we are to examine its essence closely, we will find that general is derivative from (majoritarian) consent which only men, white men namely were able to exercise it. No women or people of color were able to exercise it then. In this context, slavery and servitude were common practice.

<sup>17</sup> *Ibid*, 246.

<sup>18</sup> *Ibid*, 252.

<sup>19</sup> *Ibid*, 8.

See Affeldt, S. (1999). *The Force of Freedom: Rousseau on Forcing to Be Free*. *Political Theory*, 27(3), 299-333. Available at [www.jstor.org/stable/192311](http://www.jstor.org/stable/192311)

<sup>20</sup> Rousseau, J. J. (1978). *On The Social Contract*, edited by Roger D. Masters and translated by Judith R. Masters. New York: St. Martin's.

I find Rousseau's use of the word "freedom" interesting, for he comes to equate the process to being *liberated* and *intelligent*. That is, moving away from *backwardness* to a more *developed* mode of living. What is of interest, to me, here is the unchanged narrative; we use the same progress narrative today.

Carl Schmitt, who is heavily attacked, criticized and looked down on for his affiliation with the Nazis, makes an interesting argument on democracy and constitutionalism.<sup>21</sup> In his view, liberalism and democracy are contradictory. The latter is centered on the primacy of the political, while the first attempts to negate this; to depoliticize difference and promote pluralism and universal moral equality.<sup>22</sup> Schmitt argues that homogeneity and non-difference are foundational for states. Democracies are premised on homogeneity, with citizenships antagonistic to the "other". They are rooted in what he calls the "friend-enemy" distinction<sup>23</sup> whereby citizens with common values are considered "friends". Here, he focuses on the role that the state plays in maintaining public order which "*consists above all in assuring total peace within the state and its territory. To create tranquility, security and order and thereby establish the normal situation is the prerequisite for legal norms to be valid.*"<sup>24</sup> Put another way, the order we live in is one that is violent and illiberal but pretends to be peaceful to mask its willingness and readiness to deploy "justified" violence at all times.

An examination of Robert Cover's work<sup>25</sup> clarifies my argument. Cover notes that there is an inexorable link between law and physical violence;<sup>26</sup> every legal interpretation or decision is inescapably an act of destruction and violence that has consequences, regardless of the moral

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<sup>21</sup> Schmitt, C. (1988). *The Crisis of Parliamentary Democracy*. Cambridge, MA: MIT Press.

<sup>22</sup> Bellamy, R. and Baehr, P. (n.d.). Carl Schmitt and the Contradictions of Liberal Democracy, 2-7. Available at <http://ssrn.com/abstract=2543335>

<sup>23</sup> Xiong, W. (2018). Protecting Democracy from Liberalism: Defending Carl Schmitt's Critiques of Liberal Democracy, 11 Available at <https://openaccess.leidenuniv.nl/bitstream/handle/1887/69445/Protecting%20Democracy%20from%20Liberalism-Wanling%20Xiong%28MA%20Philosophy%29.pdf?sequence=1>

<sup>24</sup> Schmitt, C. (2007). *The concept of the political*. Chicago: University of Chicago Press. 139

<sup>25</sup> Robert, C. (1986). 'Violence and the Word'. 95 (8) *Yale Law Journal* (1986). Eagleton, Terry: *Ideology: An Introduction*. Verso, London 1991, 1601-1629.

<sup>26</sup> *Ibid*, 1628.

behind it. Beckett argues that Cover's (liberal) analysis "*is incomplete, as it has not accurately portrayed the manner in which liberal epistemic violence operates.*"<sup>27</sup> In other words, it fails to take into consideration, first the violent foundation upon which Liberalism is built, and second the role that law plays in shaping the community.<sup>28</sup> This state must be accompanied by violence, which is the authorized outcome of legal decisions, to ensure compliance. The effect of such decisions is what constitutes the link between epistemic and physical violence and makes them justifiable.<sup>29</sup> Beckett argues that this process consists of more than the violent and physical act of enforcement, the epistemic level is in itself violent. This is why the focus here should be on the very foundation or creation, the source, of the law through which (violent) images are created.<sup>30</sup> What remains particularly relevant to my discussion are the following two points:

1. We as individuals deny violence on a daily basis, it denies us back<sup>31</sup>. If this shows anything, it shows how far we have come to internalize violence which to us is no violence at all. Our own choices and actions, which are affected by our *acceptance* of the legal order, recreate it. In turning our heads the other way around, pretending we do not see it, when confronted with it, when a beggar<sup>32</sup> comes knocking on one's car window, thinking that: "we are doing *enough* or what we can and/or that the other person is not, they are probably not even in need of help, they are dishonest and manipulative. We are good and *hardworking*, they are not. If *we* knew for certain *they* would put the money to *good* use, we would not have hesitated for a second." The truth is we are denying that we are directly implicated. This internal dialogue or narrative conceals the cruelty of our involvement and judgment. Pretending is a better alternative for us, it somehow lifts the burden of looking them straight in the eye and laying bare our unwillingness to help. This again is nothing but a small-scale example that serves to clarify how this, too, is the case internationally

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<sup>27</sup> Beckett, J. (n.d.). The violence of wording: Robert Cover on legal interpretation, 6

<sup>28</sup> Ibid.

<sup>29</sup> Ibid, 13.

<sup>30</sup> Ibid, 25-26.

<sup>31</sup> Ibid, 29.

<sup>32</sup> I use the word "beggar" with much antipathy. I believe that language and speech play a central and constitutional role in reinforcing meanings, narratives and knowledge. See Foucault, M. The Archeology of Knowledge, 215-237

with human rights; not addressing the root causes of problems, misery-planning and sustainability and contingency-creation.<sup>33</sup>

2. In many ways, this shows how (liberal) international law with its human rights regime, much like the assumption made by Cover about the American constitution, presupposes human nature, the framework and order of things as if it is a user manual with no regard to the ramifications of such reasoning.<sup>34</sup> Every *development* or change is nothing but an extension of its constitutive ideology. Think of cultural relativism, though presented as a favorable, progressive, and an inclusive solution, is nothing but a façade. Another way to recreate a false dichotomy or order to justify the moral superiority or exceptionalism and tolerance of the liberal west toward the *different*.

#### **B. Tale As Old As Time: False-Necessity Creation (Marx Edition)**

*“The neo-colonial world order operates to extract resources from the under-developed states, and to concentrate them in the over-developed states. Placed in conditions of perpetual deferral, development is a project of maintaining the inequality of the colonial status quo; and presenting this as progress.”*

Jason Beckett, *Harry Potter and The Gluttonous Machine*.

*“Do not be fooled by its **commonplace appearance**. Like so many things, it is not*

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<sup>33</sup> I take this example to be reflective of more than just the aforementioned but the redemptive and self-righteous and self-justifiable narrative, othering, blindness of conviction, self-infliction of misery, non-liability and violence within liberalism.

<sup>34</sup> *Ibid*, 29.

*what is outside, but what is inside that counts.”*

The Peddler, Aladdin.

The past few centuries witnessed a “pre-historic” period of capital accumulation (and concentration of wealth) which Karl Marx describes as a process of uninterrupted separation between laborers and their means of subsistence. This functioned to divorce workers from the conditions that result in the formation of capital, or direct access to or ownership of the means of production. In his endeavor to analyze the transformative effect that this process (which leaves a class or group of individuals with nothing but their labor to sell to secure temporary survival) had on social relations. Marx ultimately examines the “preconditions” or underlying factors surrounding the emergence and materialization of modern-day capitalism and markets. He argues that capitalism is crucially dependent on the former through the annihilation of resistance; the formation of a class whose lives are organized around this system. He called this process “primitive accumulation”.

It would seem to follow from this line of reasoning that primitive accumulation has a finite or a specific timespan. This carries two problematic assumptions; first, that this process somehow predates ‘the maturity of capitalism’, which in a sense disconnects the process from ongoing developments, occurrences, and events whose existence would not have been possible without it.<sup>35</sup> “Predating” implies its end or cessation. Second, it obscures the interdependency and connection between law-making and capital, which is vital to understanding the mutually reinforcing and constitutive legal and economic orders, which together (re)conceptualize our understanding of what development is. Today’s system marks the entrenchment, and extension, of primitive accumulation, which never came to an end. A contemplation of how the current global order is organized demonstrates, as mentioned before, how it persisted through the “different” forms it took; such as the umbrella of international law and development.

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<sup>35</sup> Perelman, M. (2000). The Invention of Capitalism. 25-37

The aim of this section is to provide an overview of the circumstances that midwifed the beginnings, evolution, and resilience of the current neoliberal order. I specifically use the word “resilience” to focus attention on the permanency of law-supported capital accumulation. I emphasize the circular cause-effect interrelation between capital, law, violence, and inequality; and challenge the neoliberal notion that sidelines or limits the role played by law or views it as nothing more than a deregulator. Law has a regulatory function that supports, and is influenced by, neoliberalism. Legal intervention is in fact called for to uphold the system and prevent unwanted interventions.

Following a brief introduction to Marx’s analysis of capital accumulation, I investigate the evolving nature of the process and its relevance in analyzing the development of international law and the framework that both defines and dominates today’s political and economic scene.<sup>36</sup> I then discuss the gradual institutionalization and codification of this episteme; to explain the commodification and neoliberalization of development. By way of illustration, I review the progress narrative produced to advance and validate the process. This casts light on the underlying connection between the (institutionalized) progress narrative and false necessity creation. I argue that the two are actively employed in a mutually complementary manner that serves to reproduce capital accumulation and thus dependency-induced inequality and exploitation; to reinforce a paternalistic sense of responsibility towards the less powerful, internationally and nationally. The chapter ends with a critique of the trends and indicators of modernization, namely modernization theory.<sup>37</sup>

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<sup>36</sup> I intentionally use this singular noun to subliminally showcase the deep interconnectedness of the two scenes.

<sup>37</sup> Having witnessed how many of colleagues and peers (doing research in and for other institutions) being given strict instructions to use such indicators as to assess both modernization and poverty; and having been pressured to use them myself, otherwise my study risks lacking substance and foundation. Upon consultation with my supervisor, I decided not to use any despite them being regarded not only as important but compulsory in order to be able to properly engage with the subject matter. I think this validates my point of view and argument about the conscious and unconscious use of the predominant neoliberal narrative that has a normalizing effect on all aspects of our lives including and especially academia.

See Law, J. (2004). *After Method: Mess in Social Science Research*. Routledge.

Foucault like Haraway has discussed in his work how scientific discourse and entire fields of study produce forms of knowledge that are not objective.

See Haraway D. (2006) *A Cyborg Manifesto: Science, Technology, and Socialist-Feminism in the Late 20th Century*. In: Weiss J., Nolan J., Hunsinger J., Trifonas P. (eds) *The International Handbook of Virtual Learning Environments*. Springer, Dordrecht.

A cursory reading of the available literature on the subject matter shows that relatively little scholarly work and contributions have been made to explain the connections between violence, capital accumulation, and the development of international law. The general inattention to this link – which frames the initial beginnings, development and resilience of the neoliberal order<sup>38</sup> – suggests that there is some sort of an invisible break between capital accumulation (which is more or less viewed as a temporary phase with a specific length and duration) and current, ongoing, events. In my opinion, this divide fits the redemptive “never again” ideology that international law feeds on, and through which the progress and development narrative is promoted.

My first attempt to research the subject was without success, I expected to find a sizable body of literature tackling the issue. Instead, I found that some legal scholarship does in fact engage with it, but only one article explicitly laying out this particular problem with an explicit reference to the link between the two.<sup>39</sup> This piece is that it provides a detailed historical account of capital accumulation outlining the different phases and stages that ushered its systematic development.<sup>40</sup>

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<sup>38</sup>A school of thought or movement that came in opposition and in reaction to the biased and western-dominated views and perspectives that constitute today’s world world; with the aim to address, revisit, reinterpret and deconstruct the neo-colonial discourse upon which international law is built using the experience and lens of the formerly colonized. Makau, M. (2000). What is Twail?. American Society of International Law, Proceedings of the 94th Annual Meeting, 31-39. Available at SSRN: <https://ssrn.com/abstract=1533471>

Anghie, A. & Chimni, B. & Mickelson, K. & Okafor, O. (2006). Third World Approaches to International Law: A Manifesto. *International Community Law Review*. 8. Available at 10.1163/187197306779173220.

<sup>39</sup> In my quest to find already existing literature and supporting views, I performed a typical and basic google search. I typed out “international law and capital accumulation” Neocleous’s article appeared.

Neocleous, M. (2012). International Law as Primitive Accumulation; Or, the Secret of Systematic Colonization, *European Journal of International Law*, Volume 23, Issue 4, November 2012, 941–962. Available at <https://doi.org/10.1093/ejil/chs068>

<sup>40</sup> In the article, Neocleous divides the process into stages whereby he first examines how the transition from feudalism took place beginning with capital accumulation, with the aim of separating workers from their source of subsistence. None of these events would have been possible without the strategic use and ideological employment of (the violence) law. E.g. Outlawing beggary and homelessness. (I will come back to that later in my discussion as I touch on the ideological evolution of the progress narrative of law). To put it in a simpler manner, he basically lists the process as follows: 1. Separation and capital accumulation 2. Legalization and institutionalization of capital accumulation 3. Dependency creation 4. Ideological validation and justification of the process. E.g. Improvement, Idleness-Control, waste-management. 5. Outsourcing and colonization 6. Decolonization and the creation of an international legal order that sustains the permanency of the process which David Harvey and Rosa Luxemburg discuss in great detail.

See Harvey, D. (2006). *The Geography of Capitalist Accumulation: A Reconstruction of the Marxian Theory*. *Antipode*. 7. 9 - 21. Available at 10.1111/j.1467-8330.1975.tb00616.x.

Luxemburg, R. (2016). *A Permanent Challenge for Political Economy*. Palgrave Macmillan UK.

It also offers a good review of the major scholarly insights and contributions made in relation to the topic.

The author, Mark Neocleous, is very much aware of the gap I am pointing out; arguing that few attempts were made to address it, and even fewer were actually explicit. The main argument he is putting forward is that capital accumulation and (successively) colonialism played a major role in policy-making, domestically and internationally. And in state-formation, upon which the violent creation and expansion of international law continues to depend. To quote him *“This process is of obvious crucial historical importance, since without separating workers from the means of production capital could not have come into being; without such separation there could be no capitalist accumulation.”*

In the section he labels “The Bloody Law”<sup>41</sup>, Neocleous places heavy emphasis on the shift or transition away from feudalism in England which was made and facilitated through law.<sup>42</sup> In such a system, then and now, the market or economy and the law are mutually reinforcing.<sup>43</sup> This intersection allows the state to vest its power and violence in the hands of the owners of property against non-owners. This structure sustains itself through the protection of law against any assault on private property. Not only that, it guarantees obedience and compliance through the forcible

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<sup>41</sup> Ibid, 950-957

<sup>42</sup> The author makes explicit mention of England which is why it is being provided here as an example. That said, it is important to clarify that capital accumulation in its earliest forms was not taking place only there. Similarly, in Egypt under the rule of Muhammad Ali; many legislations and decrees were issued making Muhammad Ali the only owner and monopolizer (by law) of agricultural land across the nation. Peasants thus worked for a feudal state instead of lords after the abolishment of the iltizam system whereby taxes or revenues were collected by mediators. Failure to abide by such laws was penalized under Qanun Al-Fialaha by whipping in public using Kurbaj. See Fahmy, K. (1997). *All The Pasha’s Men*. The American University in Cairo Press, 127-130.

The Egyptian penal code then was amended to reflect this.

<sup>43</sup> According to Katz one of the main reasons that affected the formation of social relation and capital accumulation was peasantry which in his opinion Marx underestimated, he looked at it in terms of alienation and land expropriation. He explains *“Medieval peasant villagers were quite capable of reproducing their economy without the intervention of any ruling class. Surplus labor was therefore extracted from them “by other than economic pressure.”* Katz argues that peasants organized their lives and economic activities in a manner that allowed them to a certain extent to have a determining role in the allocation of resources.

See of Katz, C. (1993). Karl Marx on the Transition from Feudalism to Capitalism. *Theory and Society*, 22(3), 369.

integration of labor and manpower into the process, through separation and alienation from the means of subsistence.

I am compelled at this point to return to capital accumulation, to further emphasize its permanency. Drawing on Marx's discussion of primitive accumulation, Rosa Luxemburg seeks, in *The Accumulation of Capital*,<sup>44</sup> to pick up where Marx left off. She is, critically, pointing out that capitalism needs to continuously recreate and regenerate the conditions that led to its early materialization, in order to continue to grow and expand. This non-capitalist stage remains in her opinion integral to accumulation. The historical setting or milieu, as she describes it,<sup>45</sup> is what set the process in motion. However she does not think that it was short-lived or temporary. It lives on and continues to be at the heart of the process of colonization, the plunder of resources and labor force globally.<sup>46</sup>

Mobilized by the "necessity" to improve, manage "idleness", and put everyone to work;<sup>47</sup> property owners, with the support of the state's force and institutions (the protection of law<sup>48</sup>) are able to coerce non-property owners into actively reproducing, then accepting, the condition they are in. Laws were subsequently formulated and formalized to privatize resources traditionally held in common; rendering access to them more and more limited to certain groups. The nobility and the rich, who could block and punish any *attack* on private property.<sup>49</sup> Thompson specifically emphasizes enclosures namely; the Black Act of 1723 which privatized access to forest and hunting making it illegal and punishable by death for unwanted individuals (the poor) to carry out activities in the forest.<sup>50</sup> Such enclosures marked the beginnings of law-based dispossession,

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<sup>44</sup> Luxemburg, R. (1968). *The accumulation of capital*. New York: Monthly Review Press. 345-351.

<sup>45</sup> *Ibid*, 346

<sup>46</sup> See Lenin, V. *Imperialism: The Highest Stage of Capitalism*. 77-80 Available at [https://www.files.ethz.ch/isn/125485/6000\\_Imperialism\\_Highest\\_Stage\\_Capitalism.pdf](https://www.files.ethz.ch/isn/125485/6000_Imperialism_Highest_Stage_Capitalism.pdf)

<sup>47</sup> *Ibid*, 952-956

<sup>48</sup> Including and especially religious institutions for their ability to appeal and reach out to the religious and "gullible" masses.

<sup>49</sup> Peluso, N. L. (2017). Whigs and hunters: the origins of the Black Act, by E.P. Thompson, *The Journal of Peasant Studies*, 44:1, p. 310. Available at <https://food.berkeley.edu/wp-content/uploads/2014/09/Whigs-and-hunters-the-origins-of-the-Black-Act-by-E-P-Thompson.pdf>

<sup>50</sup> Thompson, E.P. (1975). *Whigs and hunters: The origins of the Black Act*. New York: Pantheon Books, 270-277

exclusion, and surveillance. His argument is twofold. First, law played a huge role in the transformation feudal societies underwent. Second, law favors the rich, it is used to their advantage, it restricts the poor and places a heavier burden on them.<sup>51</sup>

*“The essence of property law was developed during the period of the rise of capital in which enclosures were crucial. The same period also saw the development of international law, in the form of the ‘law of nations’ and in terms of the legal justification for the exercise of force linked to a right.”<sup>52</sup>*

*“I want to suggest that the key categories through which enclosures came to be justified legally were key categories of bourgeois ideology and political economy, and that these same categories were central to international law.”<sup>53</sup>*

The passages above from the article capture the point I am raising here about the legalization of suffering-infliction, first domestically, then internationally. Put differently, if one is to argue that law applies equally and blindly to “all individuals” the end result will be the creation of injustice; going against the very purpose it is *supposedly* designed for. If we take a close look at France’s quote, we will find that in many cases law penalizes the poor, and only the poor, because no rich person will actually have to engage in such conduct.<sup>54</sup> No rich person will be penalized for homelessness, vagabonding and beggary as France puts it. This precisely what the Marxist critique of law revolves around. It tends to understand legal relations in connection to the “base” and “superstructure” which are viewed as the foundation upon which law rests. Law is described to be an *“ideological form” in which we “become conscious of the [productive relations] conflict and*

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<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> *“The law, in its majestic equality, forbids rich and poor alike to sleep under bridges, to beg in the streets, and to steal their bread”.* France, A. The Red Lily.

*fight it out.*"<sup>55</sup> This is to say that the law is an ideological tool whereby the interests of the dominant capitalist class are protected. Hunt summarizes the Marxist approach to law in six points:<sup>56</sup>

1. *"Law is inescapably political, or law is one form of politics."*
2. *"Law and state are closely connected; law exhibits a relative autonomy from the state."*
3. *"Law gives effect to, mirrors or is otherwise expressive of the prevailing economic relations."*
4. *"Law is always potentially coercive and manifests the state's monopoly of the means of coercion."*
5. *"The content and procedures of law manifest, directly or indirectly, the interests of the dominant class(es)."*
6. *"Law is ideological; it both exemplifies and provides legitimation to the embedded values of the dominant class(es)."*

For Pashukanis, juridical equality is what constitutes legal relations upon which commodity exchange rests. The most important feature of the law, in this respect, is its interactive or atomized subjects. Contrary to the traditional Marxist position, he thought that the legal order should not be viewed or analyzed from a merely class-based perspective. He understood law in terms of commodity exchange not its historical context per se. Despite his awareness of the class dimension and use of law, he did not reduce or limit it to being nothing more than an instrument that serves the ruling bourgeoisie. Pashukanis was more concerned about the theorization of law; how legal relations came to take the form they have. His aim was to go beyond the ideological notion surrounding class struggle, beyond the idea that legal norms are in line with the interests of the capitalist elite, which he was both praised and criticized for.<sup>57</sup>

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<sup>55</sup> Marx, K. and Engels, F. (1967). *Writings of the Young Marx on Philosophy and Society*, L.D. Easton and K.H. Guddat (trans. and ed.) (Garden City, N.Y.: Doubleday and Company Inc.), 330

Michael. M. (1986). "Marxism and the Rule of Law." *UNB Law Journal* 35, 8-9. Available at [https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=2389&context=scholarly\\_works](https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=2389&context=scholarly_works)

<sup>56</sup> Hunt, A. (n.d.). *A Companion to Philosophy of Law and Legal Theory*. Blackwell Companions to Philosophy. P. 355. Available at <https://legalform.files.wordpress.com/2017/08/hunt-marxist-theory-of-law.pdf>

<sup>57</sup> Koen, R. (2011). In defense of Pashukanism. Available at <http://www.scielo.org.za/pdf/pelj/v14n4/v14n4a06.pdf>

Pashukanis sought to uncover the content of those interactions in order to understand the form of the law and the emergence of legal relations which, in his opinion, Marxists had ignored and failed to engage with. His key point revolved around the commodification process which cannot be isolated from the historical development of law. The transformation of labor into commodities is what marked the transition that gave rise to a certain type of social relations and transactions structured and regulated by law. This system Pashukanis explains:

*“can be traced to a single principle, according to which neither of two people exchanging in the market can regulate the exchange relation unilaterally; rather this requires a third party who personifies the reciprocal guarantees which the owners of commodities mutually agree to as proprietors, and hence promulgates the regulations governing transactions between commodity owners.”<sup>58</sup>*

In other words, the system is rooted in this exchange which is the product of commodification. Proudhon viewed property, in the context of relationships of domination between groups, as (a legalized form of) theft.<sup>59</sup> Whereby the owners of property have been legally empowered, and supported, to appropriate the product, harvest the benefit and profit of labor they were not actually part of.<sup>60</sup> All under the umbrella of liberalism. Presumably if the law prohibits and penalizes theft, it would do so *blindly*, which takes me back to the point I previously raised on the law being a contributor to, an accomplice in, injustice. One form of theft is criminalized before the law, while the other is legalized, facilitated, and protected. Theft is normalized and even accepted by corporates. Wealth and property-holding is viewed as the product of (competitive and free) hard labor, the essence of the neoliberal paradigm. The theory is grounded in its commitment to free-market competition and private property. Consider the definitions that Harvey provides:

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<sup>58</sup> See Pashukanis Law and Marxism, 148-150.

<sup>59</sup> Proudhon, P.J. (2011). Property is Theft!: A Pierre-Joseph Proudhon Anthology. AK Press, 604.

<sup>60</sup> This could be seen in the development of patents and intellectual property law and how such laws are centered on the protection of property and dispossession

*“Neoliberalism is in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices.”<sup>61</sup>*

*“The neo-liberal rationality actually deployed in the 1980s and '90s is not the mere implementation of the doctrine developed in the 1930s. With it, we do not make the transition from theory to its application. A kind of filter, which does not betoken as conscious, deliberate selection, retained some elements at the expense of others, depending on their operational or Neoliberalism and Development –strategic value in a given historical situation.”<sup>62</sup>*

Understanding the impact of neoliberalism on law is important to understanding the driving force that guides and shapes today’s order. Neoliberalism, the dominant ideology in the global scene, presents itself as being about *empowerment*, tolerance, acceptance and inclusion. Challenging the idea that one ideology offers the Truth, it creates its very own *Truth*.<sup>63</sup> Developed in opposition to truth, it ultimately places a certain group on a higher economic, and *moral* ground. Countless divisions and inequalities are created in the process; contradicting everything it claims to support. This is what I mean when I said that certain individuals are blinded by their liberal outlook, it prevents them from seeing the reality behind their ideology.

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<sup>61</sup> Harvey, D. (2005). A Brief History of Neoliberalism. See What is Neoliberalism? University of Oslo Dag Einar Thorsen and Amund Lie <https://folk.uio.no/daget/neoliberalism.pdf>

<sup>62</sup> Dardot, P. and Laval, C. (2013) The New Way of the World, 23.

<sup>63</sup> Ibid.

In an interview, with Jacobin Magazine, Harvey described neoliberalism as a political project, whose aim is to quell actual or potential resistance, *“carried out by the corporate capitalist class as they felt intensely threatened both politically and economically towards the end of the 1960s into the 1970s. They desperately wanted to launch a political project that would curb the power of labor. In many respects the project was a counterrevolutionary project.”*<sup>64</sup> He attributes its emergence in the US to a memo, written by Lewis Powell to the US Chamber of Commerce, containing policy recommendations to alter and closely monitor educational institutions’ activities. To alter the content of publications, school curriculums, textbooks – and national television, which *“should be monitored in the same way that textbooks should be kept under constant surveillance”*. The process, in sum, entails policy reform, coercive implementation, surveillance, internalization, and reproduction.<sup>65</sup>

In light of the above, as Jessica Whyte explains, two major moments could be perceived to have set the current order in motion and in place.<sup>66</sup> The first took place from the 1940s onwards, in a context dominated by the following, interlinked, themes: a) Post-Second World War economic reconstruction and the containment of communism. The second, the emergence of the human rights movement and the “never again” ideology, was a response to the decolonization and self-determination movements of the 1960s. The aim here is not to restate the obvious or to describe past occurrences but to look at the march towards the consolidation of a hegemonic neoliberal order.<sup>67</sup>

I will now address each one of those themes. I will start with the first two and then move on to the other two. All four are correlated. However, I think the best way to map them out is by focusing

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<sup>64</sup> Risager, B. S. (n.d.). Neoliberalism Is a Political Project. Available at <https://www.jacobinmag.com/2016/07/david-harvey-neoliberalism-capitalism-labor-crisis-resistance/>

<sup>65</sup> Green Peace Organization. (n.d.). The Lewis Powell Memo: A Corporate Blueprint to Dominate Democracy. Available at <https://www.greenpeace.org/usa/democracy/the-lewis-powell-memo-a-corporate-blueprint-to-dominate-democracy/>

Micocci, A. Mario, F. D. (2017). The Fascist nature of neoliberalism. Routledge.

<sup>66</sup> Ibid.

<sup>67</sup> United Nations Development Policy & Analysis Division (2017). Post-war reconstruction and development in the Golden Age of Capitalism. Available at <https://wess.un.org/chapter2/>

on the connection that each two have. I will label them “development as world-making”, following Mark Mazower.<sup>68</sup> The reason for this goes back to the fact that this period marked the gradual ascendance of the US to power and its assumption of leadership through capitalist-based development and reconstruction. Truman’s speech perfectly captures this *developmental* objective.

*“We must embark on a bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of underdeveloped areas. More than half the people of the world are living in conditions approaching misery. Their food is inadequate. They are victims of disease. Their economic life is primitive and stagnant. Their poverty is a handicap and a threat both to them and to more prosperous areas. For the first time in history, humanity possesses the knowledge and the skill to relieve the suffering of these people.”<sup>69</sup>*

*“The old imperialism--exploitation for foreign profit--has no place in our plans. What we envisage is a program of development based on the concepts of democratic fair-dealing.”<sup>70</sup>*

His speech reveals a number of things, first and foremost is the shift I discussed earlier. The creation of a break between colonialism, which is now *a past unfortunate event that took place in a non-legal world*, and the rise of a legal order that is based on the *cooperative* and *willful share* of benefits between *sovereigns*. This new order seeks to merge development, liberalized and open economies and human rights; all while countering communism.<sup>71</sup> Here again, we can see how crisis-driven the ideology is. It is important to briefly pause here and think of how (de)colonization remains relevant. Antony Anghie answers this question eloquently. According to Anghie, it is not

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<sup>68</sup>Mazower, M. (2012). Governing the world: The history of an idea. 273-304

<sup>69</sup> (1949, January 20). Harry S. Truman: Inaugural Address. [Television series episode]. NBC News. Available at <https://archives.nbclearn.com/portal/site/k-12/browse/?cuecard=39475>

<sup>70</sup> Ibid.

<sup>71</sup> The other aim of this policy was the containment of communism through economic aid and assistance. This policy or doctrine was developed by George Kennan. See Frazier, R. (n.d.). Kennan, “Universalism,” and the Truman Doctrine. Available at <https://www.mitpressjournals.org/doi/pdf/10.1162/jcws.2009.11.2.3>

the act of colonization itself that should be occupying centerstage but rather its effect on the formation of international law which was created or developed in its image. To further explain his point, he provides a historical overview of the field, arguing that it is a European product that got internationally institutionalized beginning with the peace of Westphalia. He then goes on to discuss the moment of decolonization which simultaneously (and uncoincidentally) witnessed the (re)emergence of international law.<sup>72</sup>

This (re)emergence was characterized by the formation of institutions and doctrines that further promoted decolonization, he adds: *“What follows is the formulation of doctrines that are designed to efface this gap: to bring the uncivilized/ aberrant/violent/ backward/oppressed into the realm of civilization, the universal order governed by (European) international law. This distinction between the civilized and the uncivilized, the animating distinction of imperialism, is crucial to the formation of sovereignty doctrine, which can be understood as providing certain cultures with all the powers of sovereignty, while excluding others.”*<sup>73</sup> The point he was making throughout his discussion is that trade, justified systematic violence (projected as self-defense or appropriate reaction), dehumanizing and othering-based retribution, together shaped the international legal order and the notion of sovereignty. He also touches on the universalization of a “humanitarian” European order; any derogation from which is regarded as barbaric or savage in need of civilizing and taming, is punishable.<sup>74</sup>

Oppression and inequality are thus endlessly reproduced and even normalized (and moralized) through existing legal bodies, channels, and institutions. From a Gramscian perspective, these bodies are nothing more than means to exercise and spread western influence by establishing a set of institutions that aim to cooperate to achieve common objectives and purposes to solve world’s problems and offer remedies and cures. This system is designed specifically to preserve and

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<sup>72</sup> Anghie, A. (2006). *The Evolution of International Law: Colonial and Postcolonial Realities*. Available at <https://www.jstor.org/stable/pdf/4017775.pdf?refreqid=excelsior%3A17dff0177174bd847b2f6271ce71fe08>

<sup>73</sup> Ibid, 742.

<sup>74</sup> Ibid, 744-748.

reproduce oppression by normalizing it. Law in this sense represents the means in which this order is perpetuated. Hegemony<sup>75</sup> builds on the Marxist notion of “false consciousness” whereby the dominant and powerful class utilizes law and agents of socialization (religious institutions, media, schools, political parties...etc) to establish a system that induces passive compliance with a dominant set of ideas, values and institutions without but more often than not with the threat of violence.

Newly acquired sovereignty by *third world* states,<sup>76</sup> as Anghie explains, entailed playing by the rules or fitting into the system that they got formal independence from; this time for their “protection and development”.<sup>77</sup> Along the same line of thought, Kwame Nkrumah explains that the “former” colonial powers changed their methods; going from physical occupation of land to soft occupation and penetration of the economies of their former colonies through the work of international organizations namely; the United Nations, World Bank, International Monetary Fund.<sup>78</sup> Whereby the imperialist countries are able to retain control through exploitative conditional lending practices, which serve to strengthen their position, safeguard and advance their “legitimate” interests.

Nkrumah called this neocolonialism. It works in different ways, and "operates not only in the economic field, but also in the political, religious, ideological and cultural spheres."<sup>79</sup> Everything, including mass media, and the movie industry is weaponized to achieve complete domination.<sup>80</sup> Makua Mutua examines this issue, arguing that the endorsement of western conception of the rule

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<sup>75</sup> Gramsci A. (1971), Selections from the Prison Notebooks. Translated & Edited by Quintin Hoare and Geoffrey Nowell Smith. International Publishers, New York, 508-518.

<sup>76</sup> This is the only time I use this term in my discussion. This is due to the fact that the term is descriptive of a strata that was envisioned by the west. See Wolf-Phillips, L. (1987). Why 'Third World'?: Origin, Definition and Usage. *Third World Quarterly*, 9(4), 1311-1327. Available at [www.jstor.org/stable/3991655](http://www.jstor.org/stable/3991655)

<sup>77</sup> *Ibid*, 749.

<sup>78</sup> Nkrumah, K. (1966). *Neo-colonialism: The last stage of imperialism*. New York: International Publishers. Available at [https://www.prisoncensorship.info/archive/books/Economics/Neo-Colonialism\\_KwameNkrumah.pdf](https://www.prisoncensorship.info/archive/books/Economics/Neo-Colonialism_KwameNkrumah.pdf)

<sup>79</sup> *Ibid*, chapter 18.

<sup>80</sup> See Herman, E. S., & Chomsky, N. (1988). *Manufacturing consent: The political economy of the mass media*. New York: Pantheon Books.

of law by African countries did not free them from colonialism, in fact it further embedded the idea they need to follow their (former) colonizers' lead; to be modern – although problems remain unaddressed.<sup>81</sup>

The second pivotal moment for neoliberalism began in the 1960s, with the rise of the neoliberal human rights movement, the collapse of communism and the complete materialization and victory of the neoliberal order. The influence of the IMF began to grow immensely.<sup>82</sup> Many economies were going into recession, while being under scrutiny by human rights organizations.<sup>83</sup> The IMF responded to shocks by adjusting its lending mechanism; instituting loan conditionality to *better* advance the international order it envisaged.<sup>84</sup> These conditionalities have drawn much criticism over the years, mostly because they intensify debt-dependency; which results exacerbates poverty – and necessitates violent, coercive, governance. These policy reforms, known as SAPs, are required for successful loan acquisition. They mandate privatization, budget curtailment or tightening of government expenditure, cutbacks, reduced access to welfare and public services, and lifting subsidies, which results in the accumulation of debt. Such changes trigger a significant surge, in prices and the cost of living and hence, poverty.

Chalmers and Pahuja illustrate how the “rule of law”, specifically during this period, has become fundamental to development.<sup>85</sup> The IFI’s wide promotion of the rule of law is a prime exemplification of this merger of law and development; which is not new. In fact, it was the guiding rationale behind the earlier interventions made by the west in non-western world whereby

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<sup>81</sup>Mutua, M. (2016). Africa And The Rule Of Law. Available at <https://sur.conectas.org/wp-content/uploads/2016/09/13-sur-23-ingles-makau-mutua.pdf>

<sup>82</sup> Tapia. J. A. (2013). From the Oil Crisis to the Great Recession: Five crises of the world economy.

<sup>83</sup> Ibid.

<sup>84</sup> International Monetary Fund. (1999). The Evolution of the International Monetary System and the Changing Role of the Fund. Available at <https://www.elibrary.imf.org/view/IMF071/14902-9781451947830/14902-9781451947830/ch02.xml?language=en&redirect=true>

<sup>85</sup> Chalmers, S. and Pahuja, S. “(Economic) Development and the Rule of Law”, in Jens Meierhenrich and Martin Loughlin (eds), *The Cambridge Companion to the Rule of Law* (Cambridge University Press, forthcoming).

the latter is modernized by the first under a legal system that imposes their economic conditions and norms.<sup>86</sup>

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<sup>86</sup> Ibid, 1-6.

### III. CHAPTER TWO:

#### A. More False Necessities

*“The main difference between Truman’s development programme and the nineteenth-century ‘civilizing mission’ or the early twentieth-century ‘dual mandate’ was that access to Southern resources would now be formally consented to by ‘sovereign’ nation-states as a necessary precondition to their ‘growth’.”*

Luis Eslava

How does the merger of the progress narrative and law contribute to capital accumulation? In order to answer this question due attention should be first given to the definition of development, and what this entails in context. Development is presented as *dependent* on the liberalization of the flow of goods, services, and capital.<sup>87</sup> This openness prompts growth, through (capital) accumulation by dispossession.<sup>88</sup> This according to Harvey, has been happening, specifically, since the 1970s:

*“By this I mean the continuation and proliferation of accumulation practices which Marx had treated as “primitive” or “original” during the rise of capitalism. These include the commodification and privatization of land and the forceful expulsion of peasant populations (compare the cases, described above, of Mexico and of China, where 70 million peasants are thought to have been displaced in recent times); conversion of various forms of property rights (common, collective, state, etc.) into exclusive private property*

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<sup>87</sup> See UN General Assembly, Declaration on the Right to Development : resolution / adopted by the General Assembly, 4 December 1986, A/RES/41/128, available at: <https://www.refworld.org/docid/3b00f22544.html>

<sup>88</sup> Harvey, D. (2003). *The new imperialism*. Oxford: Oxford University Press, 137-182. Available at <http://eatonak.org/IPE501/downloads/files/New%20Imperialism.pdf>

*rights (most spectacularly represented by China); suppression of rights to the commons; commodification of labour power and the suppression of alternative (indigenous) forms of production and consumption; colonial, neocolonial, and imperial processes of appropriation of assets (including natural resources); monetization of exchange and taxation, particularly of land; the slave trade (which continues particularly in the sex industry); and usury, the national debt and, most devastating of all, the use of the credit system as a radical means of accumulation by dispossession.*"<sup>89</sup>

All of the practices mentioned above have been fully integrated into the neoliberal developmental model and international legal order. The implementation of SAPs demands the dispossession of individuals from surplus value, assets, property and so on. Harvey seeks to condemn the system for its active production of inequality, while projecting a deceptive sense of freedom and empowerment. He also attacks its contribution in the exacerbation of poverty and debt-dependency. This stresses the link between the national and international levels, whereby national legislations and policies are dictated by international laws and organisations. Once enacted these create a ripening environment for dispossession and wealth concentration. All in the name of development.

Despite its countless flaws, neoliberalism's dominance remains to a great degree unaffected in the face of turbulence and crisis. As per Mavelli's account, this is achieved through its resilience and regeneration; maintained through biopolitics.<sup>90</sup> According to Foucault, biopower is "*a power that exerts a positive influence on life, that endeavours to administer, optimize, and multiply it, subjecting it to precise controls and comprehensive regulation*".<sup>91</sup> This productive power governs side by side with repression and coercion. The development of political and economic institutions,

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<sup>89</sup> Harvey, D. Neoliberalism, 159.

<sup>90</sup> Mavelli L. (2017). Governing the resilience of neoliberalism through biopolitics. European journal of international relations, 23(3), 489–512. <https://doi.org/10.1177/1354066116676321>

<sup>91</sup> Foucault, M. (1978). The History of Sexuality, Vol. 1, translated from the French by Robert Hurley, New York: Pantheon, 137.

practices, and fields, that aim to exercise control over bodies marked the emergence of biopower.<sup>92</sup> It governs populations, and extends to all domains, constantly generating discourses about the best and healthiest practices. These use scientifically-supported “facts” to legitimize state intervention, and produce *collective* docility and conformity.<sup>93</sup> Such interferences are made subtly and indirectly, to secure the necessary environment in which the population is both the subject and object; encountering high levels of surveillance.<sup>94</sup>

Another crucial component to this normalization process is racism, whereby the state is continuously engaged in internal and external racism against those who jeopardize the norm; to preserve the stability of the normal, which must be defended.<sup>95</sup> Mavelli seeks to unfold the mutually reinforcing relationship between neoliberalism and biopolitics using the Greek debt crisis as an example. He explains that they act or come together to combine neoliberal values such as free market competition, merit-based inequality, and racism.<sup>96</sup> Mavelli argues that biopolitics control, or limit, the backlash to neoliberalism in times of crisis. This entrenches the ideology’s resilient nature.<sup>97</sup> Here, he lists a number of views that find that the changing (and *contradictory*) tactics that neoliberalism used over the years is what allowed it to persist and kept the machinery going.<sup>98</sup> Other views focus more on the ideology’s ability to adapt to different environments which is not much different from its act of regeneration; regeneration stems from the need to adapt.

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<sup>92</sup> Ibid, 140.

<sup>93</sup> Foucault, M. (2003). Lecture 11, 17 March 1976, in *Society Must Be Defended: Lectures at the College de France*. Picador Press, 243.

<sup>94</sup> Renzi, A. and Elmer, G. (2013). *The Biopolitics of Sacrifice: Securing Infrastructure at the G20 Summit*. DOI: 10.1177/0263276412474327

<sup>95</sup> Foucault, M. (2003). ‘Society Must be Defended’ Lecture Series at the Collège de France, 1975-76 (trans. D Macey), 62.

<sup>96</sup> Being promoted as what Foucault calls a “site of justice” “to such an extent that it had to be a privileged site of distributive justice, [ ... ] then at least some of the poorest could buy things as well as those who were more well-off.” See M. Foucault, *The Birth of Biopolitics – Lectures at the Collège de France 1978-79*, 30.

<sup>97</sup> Peck J. (2010) *Zombie neoliberalism and the ambidextrous state*. *Theoretical Criminology* 14(1): 104–110.

<sup>98</sup> Peck J, Theodore N, Brenner N. (2010) *Post Neoliberalism and its malcontents*. *Antipode* 41(S1): 94–116.

How is neoliberalism able to survive and thrive in light of all the economic crises and depressions? The answer is through biopolitical practices which take years to fully materialize. Once materialized, it becomes plausible for states to re-channel or redirect the failures of the neoliberal ideology to those with less resources. Put another way, it is by attributing this failure to individuals or in this case the entire Greek population and *their* mismanagement of the situation or inability to adequately govern their own affairs. Their *self-inflicted* (deserved) failure is the result of their deviance and derogation from the system; hence an outside intervention by a powerful and superior entity is needed. Renzi and Elmer describe what this “self-inflicted failure” results in.<sup>99</sup> Many sacrifices (i.e. austerity measure) are to be made as a corrective reaction. This will entail management of the crisis through dual destruction of both the existing infrastructure, and the individuals whose lives depends on it. This introduces and creates a *new and* improved, law-supported, order whose purpose is to replace the old inefficient one, and enhance security and control.

Before I proceed, I would like to incorporate nationalism in the discussion for I find it an essential element to the exercise of racism and biopolitics. Benedict Anderson explains that the development of human agency and collective imagination resulted in creating organized communities, of not-directly-related individuals, in face-to-face contact. These are bound together by a commonly constructed, and held, sense of belonging and fraternity, rooted in culture: nationalism. This imagined sense of solidarity is what established the foundation upon which the nation rests. Nationalism, like liberalism, thrives on othering, reinforcing an exclusive form of unity. Anderson does not explain how violence, law and ideology, come into play; nor how foundational they are to retain dominance.

He focuses on the role of the printing press and language. The roles of education, colonialism, and the local intelligentsia, are very much relevant to the discussion. However, overlooking the biopolitical nature of state governance, violence, and how language itself embodies this, limits his

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<sup>99</sup> Ibid, 7.

analysis. It projects a romanticized sense of communeship that fails to capture intra-group *difference*; including class. Anderson describes the nation as “*an imagined community, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep horizontal comradeship. Ultimately it is this fraternity that makes it possible, over the past two centuries, for so many millions of people, not so much to kill, as willingly to die for such limited imaginings*”.<sup>100</sup>

I do not consider his description accurate, but it is of great importance. The key point for me here is his use of the word “imagined”. I would like to build on it further so as to include the ways in which the state-supported neoliberal policies perpetuate themselves and find their way into politics and law. Imagination becomes limitless terrain for truth-monopoly, necessity-creation, and the transformation of the role of the state. According to Heywood, nationalism takes many forms, it can be liberal, conservative, “expansionist”, or anti-colonial. It is an ideology that sets the nation at the center of political organization. His main argument is that one form of nationalism is better and more liberating than the other oppressive ones. The latter is accompanied with militarism while the first is more about the protection, defense and preservation of liberal values. He does not dive to great depths into the economic and legal dimensions. He does, however, discuss supranationalism and trade inter-relatedness. The system reasserts itself even through the act of assistance. Providing emergency, or crisis, relief allowances and funds to counter the negative impact of the crisis on the neoliberal order:

*“The biopolitical governance of neoliberalism may result not just in the adoption of mechanisms of social protection (the social re-embedding of the market), but also in the preservation of the viability of financial institutions — essential to secure the flourishing and well-being of neoliberal financialized life — and in transferring the crisis onto less wealthy and powerful countries through biopolitical racism in order to advance the dynamics of neoliberal exploitation.”<sup>101</sup>*

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<sup>100</sup> Ibid, 7.

<sup>101</sup> Ibid, 507.

The ideology maintains its image as the ultimate problem-solver. The system remains as it is. The poor are forced to accept the terms set by the bailers otherwise they risk falling into famine which would, once again, be of their own doing. They must work to catch up with the rich. In addition to biopolitics, the state puts its coercive institutions to the service, fortification and defense, of its position; imposing general compliance with its policies. It uses *legitimate force*, backed by an international framework which determines its practices. Disgraceful Pogge provides a relevant and detailed account of the process of interaction between the national and international levels.<sup>102</sup> He outlines three main components needed in order to maintain the status quo for, which benefits the local ruling elite and international bourgeoisie: military power; coercion; and wealth. He describes political power as derivative from all three:

*Political power derives from three main sources: military might, the capacity to hurt and kill and thus to coerce other people; economic wealth, the capacity to buy others and their services; and moral strength, the capacity to convince others. Each of these sources of political power are unequally distributed but, because military and economic strength can to some extent be converted into one another, their distributions tend to be correlated (in the case of states, economic wealth and military might tend to go together)."*<sup>103</sup>

This accords with Harvey's view on the territorial organization of capital accumulation as dependent on the existence of the state, and "*a distinctively political project on the part of actors whose power is based on command of territory and a capacity to mobilize its human and natural resources towards political, economic and military ends.*"<sup>104</sup>

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<sup>102</sup>Pogge, T. (2013). Poverty and Violence. Yale University. Available at <https://www.raco.cat/index.php/LEAP/article/view/294762/383297>

<sup>103</sup> Ibid.

<sup>104</sup> Harvey, D. (2003). The New Imperialism, Oxford: Oxford University Press, p 26. In "the limits to Capital", Harvey explains that existence of states is foundational to capital accumulation that if states or spaces did not exist, capitalists would create them to achieve this purpose. See Harvey, D. (2006). The limits to capital. London: Verso, 18.

The question here is what is precisely the role of the state? Is it directly involved? Is it not? Is it purely neoliberal? Could it be labeled as such specifically when discussing a case like Egypt's under Sadat. For this purpose, I pause here and go back to Schmitt. This regulatory role is not alien or new to the state. It is clear from his writings that this regulation serves to maintain or conserve an order whose sole purpose is to establish complete dominance and authoritarianism. The system is constantly engaged in a process of *“intellectual justification for the state's exercise of exceptional executive power in the name of public order and unity, allowing for the suspension of civil and political rights even if these rights are protected in the constitution, and activating the use of coercive police and military forces during critical situations.”*<sup>105</sup>

He does in fact make a distinction between the economic and political. That said, he attempts to reach a level of hybridity whereby the market is able to function *freely* but under the administration of a constitutional order or system. The constitutional rules' and this duality's main function is to protect the economy.<sup>106</sup> It succeeded in merging the power of the state with the market's so that the *“capitalist economy's demand for rational calculation is guaranteed within the framework of a strong authoritarian state.”*<sup>107</sup> This is to say that political illiberalism and economic liberalism do not go in opposite directions. They very much coexist. The economy derives its freedom from the authoritarian nature of the state.<sup>108</sup>

The Ordoliberal school founded during the interwar period comes as a midway or a cross, between extremes. It advocated an interventionist and positive role for the state, to preserve the liberal economic order, and create favorable conditions for it. The state *“should assume an active role, supported by a strong legal system and appropriate regulatory framework.”*<sup>109</sup> It is important to clarify that according to ordoliberals, the state must certainly make welfarist interventions to ameliorate conditions for the working class, and to curb the worst effects of free-market

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<sup>105</sup>Bonn, J. (2018). Authoritarian Neoliberalism: Its Ideological Antecedents and Policy Manifestations from Carl Schmitt's Political Economy of Governance. *Halduskultuur*. 19. 105-136. 10.32994/ac.v19i1.209.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

<sup>108</sup> Glasius, M. (2018). What Authoritarianism is ... and is not: a practice perspective.

<sup>109</sup> Schnyder, G. and Siems, M. (n.d.). The Ordoliberal Variety of Neoliberalism.

competition. The state's primary role nevertheless is to preserve the “*natural order*’ of society where different social strata co-existed”.<sup>110</sup> Not to secure the material wellbeing of citizens, but to provide the necessary framework for individuals to work their way up. To *develop* themselves. This requires that we address the question of whether or not true development can be achieved in light of such hybridity; given the global push toward an understanding of it that is equated with economic openness.

## **B. Development Is A Myth**

Galal Amin argues that both development and underdevelopment are myths; ideologies which primarily serve to create embed the sense that the modernization of society is a *necessity*.<sup>111</sup> The contemporary equates modernization with neoliberalism: market-openness; business-friendly policies; and mass consumption. Opposition to such ideals is “*like swimming against the current*”; costly and exhausting. He highlights that the idea of progress is age-old,<sup>112</sup> it has been present throughout history, specifically during the period of interaction between different civilizations, traditions and cultures.<sup>113</sup> The idea of progress covers more than just economics, affecting arts, sports, culture, and even architecture; to construct ideas about backwardness and progressiveness. Amin goes on then to discuss the constantly reinforced foreigner (or *khawaga*) complex in the minds and identities of many Arabs.<sup>114</sup> He explains that such reinforcement is attributed to the

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<sup>110</sup> Ibid, 6.

<sup>111</sup> جلال أمين (٢٠٠٥) خرافة التقدم والتخلف 1-16

<sup>112</sup> I must make a clarification here. Progress and development can and do hold overlapping and interlinked meanings. That said, a distinction must be made between the two. Development “can be qualified as progress only if it is compared with at least one other development. statements on progress are never neutral. Even if they may appear so on their surface, they express certain values. They are always value-based. They have their own and often hidden agenda.” Development as codified in international law is “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.” See Preamble para. 2 of the UNDRTD. Available at <https://www.ohchr.org/en/professionalinterest/pages/righttodevelopment.aspx>

See Altwicker, T. and Diggelmann, O. (2014). How is Progress Constructed in International Legal Scholarship?, *European Journal of International Law*, Volume 25, Issue 2, 425–444, Available at <https://doi.org/10.1093/ejil/chu035>

<sup>113</sup> Ibid.

<sup>114</sup> Feeling of Western or White superiority and Non-Western inferiority. I find this very similar to Fanon's discussion on the feeling of inferiority that dark-skinned individuals come to develop due to racism and the wide promotion of the superiority of white culture. See Fanon, F. Fanon, F. (2008). *Black skin, white masks*. London: Pluto. Chapters 5 and 6. Available at [http://abahlali.org/files/\\_Black\\_Skin\\_\\_White\\_Masks\\_\\_Pluto\\_Classics\\_.pdf](http://abahlali.org/files/_Black_Skin__White_Masks__Pluto_Classics_.pdf)

media and several other factors which have roots in material wellbeing, the efficiency of the west, and the desire to lead a similar kind of life. This entrenches this illusive sense of progress further.<sup>115</sup>

### **C. Development Is Politicized**

By the same token, Hickel attacks the very idea of development; arguing that it is very much politicized and that the problem of poverty persists and has gotten worse despite the deceptive, growing belief or conception that it is being eradicated.<sup>116</sup> He points out that statistics or numerical figures are misleading. They advance political objectives and agendas, they are not neutral, nor do they adequately reflect reality. Their main purpose is to maintain the dominant order and paint aid-providers in the best light. Inequality simply cannot be understood in a vacuum. In order to gain proper understanding of it, one must look at the historical and contemporary structures surrounding it. Hickel asserts that *“Rich countries aren’t developing poor countries; poor countries are effectively developing rich countries – and they have been since the late 15th century. So it’s not only that the aid narrative misunderstands what really causes poverty, it’s that it actually gets it backwards.”*<sup>117</sup>

This explains the failure of charity or projects aimed to “alleviate property”. No amount of loans is going to achieve this purpose either; institutions such as the IMF and World Bank are accomplices in the creation of poverty. He suggests they get reformed in a manner that would ensure debt cancellation and universal basic income to all. This point in specific addresses one of the arguments I make which is that of the purposeful inefficiency of poverty alleviation programs. Such programs provide only assistance, they do not alleviate the causes of poverty.

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<sup>115</sup> As In socially constructing the idea of progress or promoting as a blue print or a model to be adopted. Doing so creates a binary that puts the west in a superior position. Alternatively, see Gillespie, A. (2014). *The Illusion of Progress: Unsustainable Development in International Law and Policy*. Routledge.

<sup>116</sup> Hickel, J. (2017). *The Divide: A Brief Guide to Global Inequality and its Solutions*. William Heinemann. 2017. Ch 3 & 8.

<sup>117</sup> *Ibid*, 67.

#### D. Development As An Ideological Tool

“What is to be done then?” is both a question and the title of a piece by Radhika Desai.<sup>118</sup> Throughout her discussion, Desai nuances Amin’s ideas on the geopolitical nature of economies, and the materialities these result in for nations. Powerful states manage their own economies – *and others’* – through a combination of domestic and international actions which include formal and informal imperialism.<sup>119</sup> She argues that socialist-oriented policies mainly seek to shield states from the interferences and restrictions that stem from interaction with actors globally.

The struggle for her comes down to ideology; both domestically and internationally. Ideologies are weaponized by the dominant class, the beneficiaries, to continue to serve and reflect their interests. *“Internationally, the dominant ideologies reflect those of the dominant countries. Their function is to inform and justify a world economy opened to dominant capitalist countries’ goods and capital and to serve its labour and raw material needs, an openness necessitated precisely by capitalism’s contradictions and imposed by imperialism.”*<sup>120</sup>

This particular point is of utmost importance to my discussion. I link necessity with ideology, discourse-creation, and dependency on both the international and the domestic levels. Amin comes to warn us though against the weakening of resistance – or more correctly its transformation to misleading symbolism and movements. He is referring to the abuse that could occur at the hands of other groups who have a direct interest in mobilizing individuals, which touches precisely on my view of the reproduction and multiplicity of contingency and the different faces that neoliberalism has.

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<sup>118</sup> Desai, R. (2019) What is to be done? The importance of Samir Amin’s answer, *Globalizations*, 16:7, 1053-1061, DOI: 10.1080/14747731.2019.1654286

<sup>119</sup> I am not sure what she means by formal and informal. I think that she might be referring to is colonization and how it evolved into market-penetration using technology, ideology and soft-power under globalization.

<sup>120</sup> Ibid.

### **E. Little Is Being Done**

Samuel Moyn asks why it is that humanitarian efforts are still helplessly insufficient to put an end to all the capitalist-induced suffering; concluding that it is simply because the bare minimum is being offered; not a solution.<sup>121</sup> I think this is the logical conclusion to reach. The symptoms are temporarily alleviated, but not the illness itself. Little is given, just enough to sustain the poor but not to change their situation. This explains the failure of developmental plans to eradicate poverty. It is pointless to start a discussion on human rights if equality is sidelined or overlooked and not viewed as essential to their realization. Without it and with the mere focus on the language and discourse of human rights, the exploitative structure in place is further fortified however active civil society and human rights movements are. Their *vision* is the issue. This is precisely the point Marks was making when saying that the root causes are left unaddressed.<sup>122</sup> When economic injustice, with its multilayered nature, is not taken into consideration or not viewed as a pressing concern; the achievement or realization of human rights is impeded. In “Confessions of An Economic Hitman”, Perkins starts his discussion with a powerful statement that reads the following:

*“Economic hit men (EHMs) are highly paid professionals who cheat countries around the globe out of trillions of dollars. They funnel money from the World Bank, the U.S. Agency for International Development (USAID), and other foreign "aid" organizations into the coffers of huge corporations and the pockets of a few wealthy families who control the planet's natural resources. Their tools include fraudulent financial reports, rigged elections, payoffs, extortion, sex, and murder. They play a game as old as empire, but one that has taken on new and terrifying dimensions during this time of globalization. I should know; I was an EHM.”*<sup>123</sup>

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<sup>121</sup> Moyn, S. (2018). Not enough: Human rights in an unequal world.

<sup>122</sup> Marks, S. (2011). Human Rights and Root Causes. *The Modern Law Review*, 74(1), 57-78. Available at [www.jstor.org/stable/20869048](http://www.jstor.org/stable/20869048)

<sup>123</sup> Perkins, J. (2016). The new confessions of an economic hit man. 9

Throughout the book he stresses on Moyn's point by telling the story of his professional journey which he eventually left behind. However, for the longest time he genuinely and firmly believed in the righteousness of his cause and role. His mere conviction that he was providing help to the less fortunate was what kept him going and able to justify his actions until he realized that he was in fact actively hurting and cheating others. He was persuading countries of the *necessity* of taking loans to achieve economic growth, which he knew, but could not or did not come to terms with at first, will not fix their situation and will leave them bankrupt or indebted.

### **F. The Crossroads Between Neoliberalization and Humanization**

In "Powerless companions or fellow travelers" Jessica Whyte explains that the development of the neoliberal ideology is marked by a growing acceptance and recognition of the need to have a moral foundation upon which the system can rest.<sup>124</sup> Neoliberalism and human rights are thus not working in different directions. The latter has, in this sense, been ideologized or tainted by the first. This is due to the fact that the first, specifically since the late 1940s,<sup>125</sup> has been keen to create a connection between the two;<sup>126</sup> whereby the global economic system could be moralized and preserved.

Hence, human rights norms and values have been used interchangeably with those of the market. Open markets and commitment to laissez-faire capitalism were promoted as necessary for the creation of a space in which the realization of human rights is possible. With the containment of decolonization and the "triumph of capitalism",<sup>127</sup> this approach has become constitutive of international law and development. Moyn explains that this is the reason behind the emergence of human rights, in the seventies, to begin with, human rights emerged as: "*historically as the last*

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<sup>124</sup> Whyte, J. (2018). Powerless companions or fellow travelers? : human rights and the neoliberal assault on post-colonial economic justice. <https://www.radicalphilosophy.com/article/powerless-companions-or-fellow-travellers>  
Morefield, J. (2020). When Neoliberalism Hijacked Human Rights. Available at <https://jacobinmag.com/2020/01/morals-markets-human-rights-rise-neoliberalism-jessica-whyte>

<sup>125</sup> The first UNHCR meeting was held to discuss how the economic order could be moralized yet preserved. This moralization is to thus to take place through and by the system.

<sup>126</sup> Anghie, A. (2013). Whose Utopia? Human Rights, Development, and the Third World, 64 Available at [https://www.jstor.org/stable/10.5250/quiparle.22.1.0063#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/10.5250/quiparle.22.1.0063#metadata_info_tab_contents)

<sup>127</sup> Fukuyama, F. (1992). The end of history and the last man. New York: Free Press.

*utopia—one that became powerful and prominent because other visions imploded. In the realm of thinking, as in that of social action, human rights are best understood as survivors: the god that did not fail while other ideologies did. If they avoided failure, it was most of all because they were widely understood as a moral alternative to bankrupt political agendas”*<sup>128</sup>

Anghie points out that the utopia that what human rights come to offer, after such a long wait, cannot not be viewed or understood as one, unitary, dream, that everyone had at a certain point. There are different utopias, held by different groups with different objectives and purposes, some of which were in opposition to the system and tried to defy it. Those attempts were unsuccessful and were incorporated into the system, which re-presented its case using the language of human rights.<sup>129</sup> That in turn led to the promotion of the view that “*Justice could be achieved by demanding that states comply with human rights. As such, no need existed to change international economic structures. It is surely not a coincidence that human rights, from its beginnings in the 1970s, flourished and expanded in the following decades, the same decades that saw the relentless promotion of neoliberal policies by the international financial institutions.*”<sup>130</sup>

This goes in line with modernization theories which came to elucidate the inevitable connection between market-friendly policies, economic growth and democratization. Human rights organizations, in turn, played a (problematic) role in promoting this narrative by shifting focus to the coercive nature of state intervention which resulted in reinforcing the narrative that freedom is tied to market-openness giving further validity to the system and IFIs.<sup>131</sup> Upendra Baxi developed an approach known as “Trade-related market-friendly human rights (TREMFR)” whereby human rights are understood in relation to markets and property.<sup>132</sup> The two are, in this sense, tied together with a capital-intensive bond.

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<sup>128</sup> Moyn, S. (2010). *The last utopia: Human rights in history*. Cambridge, Mass: Belknap Press of Harvard University Press, 5.

<sup>129</sup> *Ibid*, 75-77.

<sup>130</sup> *Ibid*, 74.

<sup>131</sup> *Ibid*.

<sup>132</sup> Baxi, U. (2008). *The future of human rights*. New Delhi: Oxford University Press, 216

This paradigm reconstructed the role of the state, to create a safe space where global capital is expanded and universalized. I believe that this paradigm cannot be discussed without shedding light on its overarching effect on human rights. Baxi suggests that “human rights markets” have been created where activists and organizations are continuously competing for limited resources and funding which affects their activities and capacity. Human rights, thus, undergo a process of commodification and marketization *sympathy* and resources are selectively allocated,<sup>133</sup> with the aid of media:<sup>134</sup> “*the more human rights producers and consumers succeed in diffusing horror stories the better it is believed they sustain, on the whole, global human rights cultures.*”<sup>135</sup> As a result, the interpretation (and application) of human rights has been made to reflect neoliberal ethos. This shows how structurally reversible international law is. This is to say that any argument made can be counter-argued and any legally constructed concept can be easily deconstructed. This demonstrates how meaningless (yet meaningful) the current order is; all stances and views are plausible.<sup>136</sup>

### **G. Neoliberalism is The Norm**

I would like to discuss the effect of neoliberalism on individuals, before moving further, so as to ensure that levels are covered and included in my analysis. David Graeber offers an unusual insight into the normalizing effect that capitalism has on individuals by keeping them constantly occupied, busy and monitored.<sup>137</sup> This he labels as the “Bullshit Jobs Theory” according to which individuals are expected to work for long hours carrying out trivial tasks to make a living. I find his view interesting as it touches on surveillance, exploitation and, most importantly, how individuals come to accept and reproduce neoliberalism. To internalize the sense of dependence that validates the system. It is thought-provoking how we as employees and workers can and do actually contribute to the sustainability of the very system that is directly responsible for *our* exploitation and misery.

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<sup>133</sup> Ibid, 223-226

<sup>134</sup> Herman, E. S., & Chomsky, N. (1988). *Manufacturing consent: The political economy of the mass media*. New York: Pantheon Books.

<sup>135</sup> Ibid.

<sup>136</sup> Mieveille, C. *The commodity-form theory of international law*. Available at <https://legalform.files.wordpress.com/2017/08/mieveille-commodity-form-theory-of-international-law-2008.pdf>

<sup>137</sup> Graeber D. (2018). *Bullshit Job: A Theory*. Simon and Schuster, 16-26.

This highlights the sophisticated manners in which the system operates, which in my opinion, is what makes his work stand out.

Some, however, critique Graeber's work for being offensive and for undermining the significance of labor however big or little it is, which makes him no different than the group of people he is critical of. I think that his aim was not to ridicule jobs, per se, but rather to show the exploitative, yet *normal and usual*, side of the system. Mark Fisher makes a similar argument in an essay<sup>138</sup> he published in reaction to the movie "In Time". Here, the poor are shown to be having very little time, as little as hours and even minutes to live, while the rich have an uncountable amount on their hands. There he highlights how the poor, unlike the rich, are not in control of their time. They do not own it nor are they secure with what they have, simply because they work to survive the day; to literally make a living. They suffer from a shortage of time which controls their very existence and movements. We are in what he describes as "*a state of harassed busyness from which – we are now promised – there will never be any relief.*"<sup>139</sup> This entails uninterrupted surveillance, routine internalization, passive compliance, forcible integration into the system.

The only problematic aspect, for me, is the vicious cycle this theory leaves us in. If practically all jobs are bullshit, then when do they become of actual importance (provided that "importance" is measurable and quantifiable)? What would render them important if they do not generate personal gains or tangible rewards? To answer this question, he compares a *useless ordinary job* to that of a hitman's arguing that the latter, unlike the first, does not present or promote itself under false pretenses. It does not surround itself with a false sense or an appeal of righteousness or general welfare, "it owns up to its nature". He further explains:

*"Bullshit jobs are not just jobs that are useless or pernicious; typically, there has to be some degree of pretense and fraud involved as well. The jobholder must feel obliged to*

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<sup>138</sup> Fisher, M. (2012). Time Wars. Available at <https://www.gonzocircus.com/exclusive-essay-time-wars-towards-an-alternative-for-the-neo-capitalist-era/>

<sup>139</sup> Ibid.

*pretend that there is, in fact, a good reason why her job exists, even if, privately, she finds such claims ridiculous. There has to be some kind of gap between pretense and reality. (This makes sense etymologically: “bullshitting” is, after all, a form of dishonesty)”*<sup>140</sup>

While I can see his point, I am not certain when one is able to draw the line? When is one able to deem someone dishonest or pretentious? I could be reading too much into the definition Graeber provides but, perhaps, certain individuals are guided by or act on the (misguided) genuine, utilitarian,<sup>141</sup> belief that they are, to the best of their ability and potential, doing what is right for their community. Much like many human rights activists, philanthropists, clergymen, soldiers, teachers, and anyone with a cause they believe in. What they are doing is noble for some, for others it is vile. It is a matter of perspective. It is not that they are necessarily dishonest or careless; but that they have internalized certain value systems

Despite the context being different, Arendt raises this issue by attributing the commission of atrocities and violence to individuals who are not ill-intentioned nor are they characterized by abnormalities or irregularities.<sup>142</sup> It is rather the opposite; they are in fact “terribly and terrifyingly normal.” *“They were devoid of any ideology and indoctrination and that their “regularity” reacted to the external as it would to a job, a work habit of simple collection, registration and dissemination – a routine.”*<sup>143</sup> Eichmann and many others committed the unthinkable because it truly was unthinkable. It was not thought through, as if those individuals were mechanized to find satisfaction in the accomplishment of the task itself, with a complete disregard to its actual effects: the suffering, misery and harm inflicted upon others.

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<sup>140</sup> Ibid, 18.

<sup>141</sup> Maximization of happiness and pleasure to the great number and minimization of pain.

See Burns, J. H. (n.d.). Happiness and Utility: Jeremy Bentham’s Equation. Available at <https://www.utilitarianism.com/jeremy-bentham/greatest-happiness.pdf>

<sup>142</sup> Arendt, Hannah (2006): Eichmann in Jerusalem. A Report on the Banality of Evil. London: Penguin Classics, 292

<sup>143</sup> Vuger, D. (2017). Incubation of Evil: Evil as the Problem of Human Thinking and Praxis. *Synthesis Philosophica*. 63 (1/2017), 55.

This, according to Arendt, is something that goes beyond evil. If we are to think of this in today's neoliberal context; everyone is, in many similar ways, involved in the process, be it producers or ordinary consumers, directly or indirectly. Culpability and guilt are concealed, as irresponsibility is more and more organized and normalized. The neoliberal political economy "*reanimates attitudes and values that legitimate the consolidation of power over others, evidenced for example in the creation of an indebted population who must play by the dominant rules of the game in order to survive. It promotes new servitudes, operating on a planetary scale.*"<sup>144</sup>

*"History's profoundest moments of iniquity are not performed by extremists or psychopaths, but by ordinary people potentially you and me as we come to accept the premises of the existing order. The banality of evil is thus an erasure that deprives us of our ability to recognize violence as a moment that is at once both exceptional and exemplary"*<sup>145</sup>

Here, Springer restates Arendt's argument: in accepting and embracing the existing order ordinary people could commit the unthinkable. In his piece, he makes a connection between the banality of evil and the violence of neoliberalism which directly speaks to the normalization that the system produces.<sup>146</sup> Another view suggests, the exact opposite, violence is in fact exceptional and shocking; which explains our inability to accept war crimes, torture and death while turning a blind eye to a different and a more *quotidian* form of violence.<sup>147</sup> This third scenario is not much

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<sup>144</sup>Venn, C. (2019). How neoliberalism is normalising hostility. Open Democracy. Available at <https://www.opendemocracy.net/en/opendemocracyuk/how-neoliberalism-is-normalising-hostility/>

Cooper, M. (2017). Family Values: Between Neoliberalism and the New Social Conservatism. MIT Press. In this book Cooper looks into the way in which the typical white middle-class family unit is used to advance neoliberal policies. This is an important aspect I will return to later in my discussion.

Jacob Hamburger explains in his article "The Unholy Family" that the family unit had a pivotal role in transmitting neoliberal values in a non-centralized or politically organized manner. "Neoliberals did not always share the moralistic convictions of the neoconservatives, nor the religious or traditionalist beliefs of others within Cooper's pantheon of "new social conservatives." But they nonetheless recognized that their ambition to transfer state responsibilities to the market required the enforcement of a strictly normative view of the family. Privatization, it turns out, required a moral vision of what exactly the "private" is. With the help of social conservatives, neoliberals reimagined the family as the basic unit of a market society." Hamburger, J. (2018). "The Unholy Family". Available at <https://www.jacobinmag.com/2018/01/family-values-neoliberalism-melinda-cooper>

<sup>145</sup> Springer, S. (2015). The Violence of Neoliberalism, 158.

<sup>146</sup> Ibid, 156-159.

<sup>147</sup> Marks, S. (2004). Apologising for torture. Nordic Journal of International Law 73(3), 365-386.

different from the first or the second. I would say it is more of a continuation to them, whereby individuals do what they think they can in a completely rigged system they are either unwilling or unable to change or notice (depending on one's standing). This gives rise to wide spectrum of possibilities which paves the way for false-necessity creation and crystallization.<sup>148</sup>

The alternative is to admit that, as Hickel suggests, human rights, law, the system as a whole is “bullshit” and that their lifework is a self-serving façade. The alternative is to admit that some of us are knowingly, one way or another, contributing to the misery of the vulnerable and less fortunate. Then again, having a (familiar, profitable, and deeply rooted) system in place is better, for beneficiaries, than having none; no matter how unfunctional it can be. To quote Fredric Jameson and Slavoj Žižek: “*It is easier to imagine the end of the world than it is to imagine the end of capitalism*”.<sup>149</sup> I would phrase this differently. It is easier to promote and frame neoliberalism as necessary to *prevent the end of the world* than to think of alternative solutions, which explains the evolution of the different and “*competing*” schools of economic thought.<sup>150</sup> As obvious as this is, it is important to remember that they are maintaining the same pro-capitalist position, but advocating different methods of governance and administration. I will not delve any deeper into this debate as I plan to discuss it in connection to capital accumulation and the neoliberal discourse of progress and development in the coming chapter.

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<sup>148</sup> Ibid.

<sup>149</sup>Fisher, M. (2009). Capital Realism, 2. Available at [https://libcom.org/files/Capitalist%20Realism\\_%20Is%20There%20No%20Alternat%20-%20Mark%20Fisher.pdf](https://libcom.org/files/Capitalist%20Realism_%20Is%20There%20No%20Alternat%20-%20Mark%20Fisher.pdf)

<sup>150</sup> Tubaro, P. (2010). History of economic thought. Rhona C. Free. 21st Century Economics: A Reference Handbook, 1, Sage, available at [https://hal.archives-ouvertes.fr/hal-01372974/file/History\\_of\\_Economic\\_Thought-DraftVersion.pdf](https://hal.archives-ouvertes.fr/hal-01372974/file/History_of_Economic_Thought-DraftVersion.pdf)

The fourth and last scenario is more focused on inequality(ies) of powerplay, which plays a huge role in shaping one's priorities and choices,<sup>151</sup> what Hale would call "bargaining power".<sup>152</sup> Can a low-wage employee or worker be blamed for trying to make a living which could potentially involve coercion and censorship by management and a great deal of institutionalized deceptive publicity; potentially affecting and shaping one's belief system and convictions, or at the very least one's actions (irrespective of what they believe).

It is important at this stage and in reference to Hale's argument to understand what he meant by coercion. It is not necessarily the threatening or physical sense of it. Coercion for him covers much more ground. It is basically what constrains individuals even when they willingly and voluntarily choose to engage in certain activities and with individuals. It is important, however, to note that the exercise of coercion is not always mutual. To give an example if the workers are coerced into accepting exploitation, this indeed is a conscious choice they make. It is, in the legal sense, a transaction they willingly choose to enter. Their labor for wages, as simple as that. For this agreement to be mutually coercive both parties should be able to bargain. This scenario is one-sided. There is a party that has very limited bargaining power.

As Hegel puts it "work is repressed desire" or fear of violence.<sup>153</sup> As I previously mentioned, the system shapes and influences our desires and objectives. One puts up with certain conditions and work-relations, for example, because they have unfulfilled plans or goals they think they are working towards. It is similar to what is known in economics as "opportunity cost".<sup>154</sup> One loses all other alternatives when making a certain choice or decision. Challenging or rebelling against a

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<sup>151</sup> In-group differences such as race, gender, religion, ethnicity undermines the complexity and multilayered nature of oppression which in turn affects one's standing and bargaining power so to speak. By the same token, different economic, judicial and political systems produce different forms of coercion.

Crenshaw, K. W. (1994). "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color". In: Martha Albertson Fineman, Rixanne Mykitiuk, Eds. *The Public Nature of Private Violence*. (New York: Routledge, 1994), 93-118. Available at <https://www.racialequitytools.org/resourcefiles/mapping-margins.pdf>

<sup>152</sup> Hale, Robert L.: "Coercion and Distribution in a Supposedly Non-Coercive State," *Political Science Quarterly* 38 (3), 1923: 470-494.

<sup>153</sup> Kojève, A. (1980). *Introduction To The Reading of Hegel*. Cornell University Press, 24-30.

<sup>154</sup> Opportunity cost. Oxford Reference. Available at <https://www.oxfordreference.com/view/10.1093/oi/authority.20110810105528518>.

line-manager or a group of powerful individuals is not always feasible, that I would say is in fact a luxury that not everyone can afford, not if it means costing them their source of income. The unequally structured exchange of coercion is an important aspect of the process. From a Marxist perspective, this is known as economic determinism whereby the human experience of the world is affected by, and understood in connection to, the evolution of modes of production and capitalism.<sup>155</sup> The process should not be seen as passive reception but rather adaptation through engagement. Human needs and aspirations are shaped and molded accordingly.<sup>156</sup>

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<sup>155</sup> Hodges, D. & Gandy, R. (1982). Marx and Economic Determinism. *Review of Radical Political Economics*, 14(1), 33–41. <https://doi.org/10.1177/048661348201400105>

<sup>156</sup> Schmaus, W. (2015). Determinism: Social and Economic in *International Encyclopedia of the Social & Behavioral Sciences* (Second Edition), 241-246.

#### IV. CHAPTER THREE:

##### A. The Road to Economic Openness Is Paved With Crisis And Nationalism

Sadat's Egypt experienced rising crony capitalism and deteriorating socioeconomic conditions. These very same conditions have been reproduced and presented in a different light, offering the poison as remedy. In a dominating state of uncertainty and disorientation, the public are easily coerced into accepting or coping with imposed changes; without which, they are told, the *nation* will be on the brink of collapse. Klein's approach lays the groundwork for understanding pro-market expansion, nationally and internationally, in times of turmoil; and the methods utilized to achieve this purpose. However, it lacks what I was able to find in what I later come to discuss in connection to false contingency and biopolitics. The point is to address this missing element: the multiplicity of contingency, and the ways it serves to push forward a politics of human underdevelopment.<sup>157</sup> My analysis of the case revolves around the following two themes:

1. The techniques and narratives adopted by the government to promote neoliberalism and reinforce its position in the face of turbulence. I specifically look at the role that legal reforms play in drawing businesses in and opening up the economy for investment and capital flow.
2. The growing influence of the state to achieve dominance, masquerading as social solidarity or problem-solving; winning over public opinion. The government creates the problem and offers the solution; demonstrated time and again in crises.

These variables are codependent. I analyze the interplay between them in light of legislation adopted to attract foreign investors. This reveals the intersection between them. None of them operates independently or in isolation. Together, they enable the successful implementation of neoliberal policies.

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<sup>157</sup> In my discussion of underdevelopment, I do not refer to the economic performance of Egypt but rather the poverty and human rights abuses and violations that accompanied this transition.

## B. Historical Background

The Nasserist era was characterized by a stark opposition to the liberal economics embraced by the former monarchy. A series of interventions, alongside a general shift toward nationalization, and bureaucratic expansion, transformed the political, social, and economic landscapes. The introduction of nationalization laws 117 and 118 paved the way for a military-centered system, dominated by Nasser's entourage and closed circle. All the key positions, managerial posts, and institutions became a "*pillar of what may be labeled the informal wing of the military economy, since the bodies they head or influence and the resources they command do not belong formally to the military as an institution*"<sup>158</sup> but remain under the control and supervision of the state, whose authority is unlimited.

*"The officers' republic emerged as the result of several factors, but its roots lie in the Nasser-era practice of appointing EAF officers to key ministerial or civil service posts as a means of ensuring both technical competence and loyalty in a public sector that grew to 900,000 by 1960, and then expanded massively in the wake of the socialist decrees of July 1961 that led to nationalization of much of the economy. Reliance on EAF officers was additionally a function of the power play at the head of the state."*<sup>159</sup> Opposition and contesting power centers were constantly eliminated. The aim was to achieve complete dominance, to prevent dissent and resistance from spreading. The ideological base of this movement was overwhelmingly guided by the leadership role Nasser assumed, as well as the pan-Arab and patriotic image he wanted Egypt to be known for. This brand of nationalism secured the regime's power base, and helped consolidate mass support. It guided the inauguration of a new nation which was utilized to shape the Egyptian and Arab imagination so as to embrace the newly formulated policies of the government.<sup>160</sup>

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<sup>158</sup> Mapping the Informal Military Economy: The Officers' Republic. Carnegie Middle East Center. Available at <https://carnegie-mec.org/2019/11/18/mapping-informal-military-economy-officers-republic-pub-80337>

<sup>159</sup> Carnegie Middle East Center (2019)> Mapping the Informal Military Economy: The Officers' Republic. Available at <https://carnegie-mec.org/2019/11/18/mapping-informal-military-economy-officers-republic-pub-80337>

<sup>160</sup> Lampridi, A. (2011). Egypt's National Interest: A Sociology of Power Analysis, 62-67. Available at [https://ddd.uab.cat/pub/tesis/2013/hdl\\_10803\\_117451/al1de1.pdf](https://ddd.uab.cat/pub/tesis/2013/hdl_10803_117451/al1de1.pdf).

This was exemplified in the introduction of the Charter for National Action, and the 1956 Constitution. These outlined the main principles of the Nasserist vision and modus operandi: 1. eradicating imperialism, foreign control and its Egyptian allies, 2. eradicating feudalism 3. eradicating monopolies by self-interested capitalists 4. establishing social justice, 5. building a powerful army that protects the nation and the revolution, 6. establishing a democratic system that will preserve nationalism and achieve its goals.<sup>161</sup>

The legitimacy of the regime was anchored in the nation, whose guardian is the military; interwoven with politics, law and economics.<sup>162</sup> The nation was the driving force behind policy-promotion and action-taking. It was also the justification for authoritarian practices, centralization of power, and attacks targeting the judiciary; which Sadat later made use of to promote his liberal agenda. In short, Nasser framed the question of economic development as one that is rooted in the nation's anti-colonial struggle; the fight against injustice and unequal wealth accumulation and distribution. Contrary to popular belief, Nasser did not abolish capitalism.

As per Aoude's account, the economic arena was not deranged by the free officers. Private enterprises were allowed to function freely and stimulate economic growth. In fact their contribution to the country's GDP amounted to 87% while the public sector's was 13%.<sup>163</sup> Nasser used the exceptional circumstances to push a state-led mode of capitalism rooted in nationalism.<sup>164</sup> This would not have been possible without the creation of an imagined community; united behind a cause, and fueled by widespread poverty and discontent.<sup>165</sup>

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<sup>161</sup> Horton, A. W. (1962). "The Charter for National Action of the UAR: A Résumé of the Complete Document," Northeast Africa Series, Vol. 9, No. 5. <http://www.icwa.org/wp-content/uploads/2015/09/AWH-5.pdf>

<sup>162</sup> Democratic Transition and Human Rights Support Center. (2017). The independence of the judiciary in Egypt.. An endless history of clash with the executive authority. Available at <https://daamdh.org/archives/1908?lang=en>

<sup>163</sup> AoudÃ, G. I. (1994). From national bourgeois development to "infitah": egypt 1952-1992. *Arab Studies Quarterly*, 16(1), 1-23. Available at <http://www.jstor.org/stable/41858749>

<sup>164</sup> See P. 15, Article 5 of the Charter for National Action which makes an explicit distinction between bad ownership and good nationalistic ownership. The latter serves the nation and the first does not.

<sup>165</sup> Nasser, G. A.. Discours de Gamal Abdel Nasser (Alexandrie, 26 juillet 1956). [online]. In: *Notes et études documentaires*. Paris: La Documentation française. 20-08-1956. Documents relatifs au Canal de Suez, n° 2206. 16-21. ISSN 0029-4004. Available at <https://www.cvce.eu/s/3a>.

*"Nous n'avons pas négligé l'indépendance économique: car nous étions fermement convaincus du fait que l'indépendance politique ne pouvait être réalisée que par la voie de l'indépendance économique.*

This sense of belonging was heightened by the common struggle against western domination, and through Nasser's emphasis on the Arab identity, the relatable language he used in his speeches, and his making Pan-Arabism a central theme.<sup>166</sup> The integration of Nationalism in state policies allowed the regime to construct an identity-based discourse, upon which their progress narrative was built – with all the violence and authoritarian state practices it produced. This was successfully done through official statements, speeches addressing the Arab Umma, radio broadcasting, alteration of school curriculums, film industry, and other means of propaganda.<sup>167</sup> This shared experience of nationalism and collectivism was embedded in the minds of Egyptians, by violence – which Anderson fails to account for.

Violence, political repression, torture, and disciplinary techniques were employed by the regime to ensure compliance.<sup>168</sup> Bodies such as the State Security Service (SSI) were created to maintain an iron grip on power. They carried out round the clock surveillance and arrests *“by the end of the 1970s—with an estimated 100,000 personnel (and as many informants) fortified by the paramilitary Central Security Forces (CSF)—State Security was dominating Egypt. With its vast network of surveillance, prisons and fully operational torture chambers, it was more powerful than the army in internal affairs and, in fact, monitored all levels of military command.”*<sup>169</sup>. Prisons

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*C'est pourquoi, nous avons accordé toute notre attention à la production et à son développement, en comptant uniquement sur nous-mêmes et sur nos propres moyens. Nous avons réussi à augmenter le revenu national dans une proportion de 16 % en deux ans de 1952 à 1954 et durant les deux autres années, de 54 à 56 l'augmentation du revenu national était dans la même proportion. Après les fêtes de l'Evacuation, j'ai dit que l'Egypte oublie le passé et elle donnera la main à tous ceux qui seront pacifiques avec elle et elle sera hostile à ceux qui le seront avec elle. J'ai aussi proclamé que la politique de l'Egypte est issue du cœur même de l'Egypte et non de Londres ou de Washington, ou d'ailleurs. J'ai aussi dit que nous étions tout disposés à coopérer avec n'importe qui, à condition que cela ne soit pas au détriment de l'Egypte et de ses intérêts.”*

<sup>166</sup> Konik, M. J. A. (2017). Code-switching in Political Discourse: A Study of Nasser's Political Speeches. 19-25.

<sup>167</sup> Arif, M. (2017). Constructing the National Past: History-Writing and Nation-Building in Nasser's Egypt. Available at [https://www.bibalex.org/Attachments/Publications/Files/2017121114173047484\\_ShorofatEnglish1.pdf](https://www.bibalex.org/Attachments/Publications/Files/2017121114173047484_ShorofatEnglish1.pdf)

<sup>168</sup> Al-Masry Al-Youm (2012). Your torture still shows on our bodies, Brothers tell Nasser's defense minister. Available at <https://egyptindependent.com/your-torture-still-shows-our-bodies-brothers-tell-nasser-s-defense-minister/>

<sup>169</sup> El Raggal, A. (2019). “The Egyptian Revolution's Fatal Mistake”. Middle East Research and Information Project. Available at <https://merip.org/2019/09/the-egyptian-revolutions-fatal-mistake/>

were overcrowded; government-built concentration camps accommodated the rising numbers of prisoners.<sup>170</sup>

In the early stages of the regime's five-year plan, "guided capitalism" was encouraged. "*The 1952-1957 period of the Nasser regime was characterized by an alliance between the ruling Free Officers and the industrial capitalist sector of the old ruling class. This alliance designed the land reform of 1952 to strengthen industrial capitalism as much as to break the economic power of the largest and most conservative agricultural landowners.*"<sup>171</sup> The only group that was affected by the reforms were the members of the royal family whose properties were confiscated. Other wealthy families and property owners were hardly affected by the limit set by the government on individual fedan holdings. In fact "*other large landowners received government bonds as compensation. Although their economic and political power was radically diminished, many were able to preserve their capital during the Nasser period. The principal result of the land reform was to increase the size and influence of the rich peasant class.*"<sup>172</sup> A considerable part of the economy remained accessible to the private sector, despite the state's control of the economy.

The machinery of the state was powered and driven by the military. Under Nasser, military professionals and companies "*took the lead in land reclamation projects, public infrastructure, the provision of basic commodities, and the domestic manufacturing of consumer appliances and electronics, as well as the production of industrial and agricultural inputs like steel and fertilizer. High-ranking members of the officer corps were also appointed to replace civilian factory managers, the presence of these military administrators in various state-owned and quasi-public*

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<sup>170</sup>Khalil, Z. (2014). The Rise of Egypt's Prison Industrial Complex. Available at <https://tcf.org/content/commentary/the-rise-of-egypts-prison-industrial-complex/?agreed=1>

<sup>171</sup>Beinin, J. & Goldberg, E. (1982). "Egypt's Transition under Nasser". Middle East Research and Information Project. Available at <https://merip.org/1982/07/egypts-transition-under-nasser/>

<sup>172</sup> Ibid.

*enterprises created an influential constituency primed to support a continued EAF presence in the economy.*”<sup>173</sup>

Despite the government’s focus on wealth redistribution and narrowing the gap between social classes, Mansour explains, socialism under Nasser was an elitist project; no socialism can exist without the actual presence of socialists to defend it. “*The Free Officers were a nationalist military group of petty bourgeois origin.*”<sup>174</sup> As such, “*their ideology was capitalist. They, as well as the old industrial bourgeoisie, wanted to industrialize.*”<sup>175</sup> The whole idea behind the passing of new agrarian laws and land reforms is to restrain the landed aristocracy, and apply pressure on them to stimulate local industrial economy.<sup>176</sup> To create and integrate a new class of, formerly landless, peasant owners into society; to reorganize social relations and curb the influence of landlords.

Laws were passed to ensure that families owned no more than 200 feddans, and to compel them to have their properties and tenants registered, to provide them the necessary security.<sup>177</sup> These agrarian reforms remain of interest, as they resulted in land redistribution, which was to be done with the *peaceful* cooperation of landowners. It is important to note that agricultural land remained under the control of the state.<sup>178</sup> Land acquisition – property confiscation and redistribution – were foundational to the regime’s development plan. That said, there was no attempt by the government to compete with the private sector. Their project was more about creating a hybrid system where the two share benefits; evidenced by the legally-granted privileges cooperative business owners enjoyed.<sup>179</sup>

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<sup>173</sup> Marshall, S. (2011). *The Egyptian Armed Force and The Remaking of An Economic Empire*. Carnegie Middle East Center. P. 11. Available at [https://carnegieendowment.org/files/egyptian\\_armed\\_forces.pdf](https://carnegieendowment.org/files/egyptian_armed_forces.pdf)

<sup>174</sup> Mansour, R. S. (2020). *Egypt’s Quest for Social Justice: From Nasser to Sisi*. Available at <https://online.ucpress.edu/caa/article/13/2/8/110642/Egypt-s-Quest-for-Social-JusticeFrom-Nasser-to>

<sup>175</sup> *Ibid*, 3.

<sup>176</sup> *Ibid*, 6.

<sup>177</sup> Joya, A. (2013). *Accumulation by Dispossession and the Transformation of Property Relations in Egypt: Housing Policy under Neoliberalism*, 129.

<sup>178</sup> *Ibid*, 38.

<sup>179</sup> *Ibid*, 6.

Defeat in the Six-Day War of 1967 devastated Egypt's economy. The state treasury was drained, and economic conditions deteriorated. Due to rising war expenses, the cost of subsidies and services for a growing population, added to the debt accumulated over many years.<sup>180</sup> Nasser's reign was unsustainable, the 1967 war was just the straw that broke the camel's back.

### C. Sadat's Neoliberal Reign

Sadat, Nasser's successor, adopted a more open or inclusive approach. His strategy has been summarized as "the contain, repress and divert" technique,<sup>181</sup> I would describe it differently. Using the nationalistic power structure he inherited, Sadat created idols and heroes behind whom the nation was united. With patriotism and religion, internal and external enemies were also created – against whom repression could be practiced.<sup>182</sup>

*"This dual strategy which combined elements of liberalism with elements of populist authoritarianism ensured Sadat's continued control of the populist coalition forged by his predecessor while also earning him the loyalty of the Egyptian bourgeoisie, which had grown increasingly outspoken against the constraints imposed by the Nasser regime on political and economic life. This strategy also allowed the regime to balance the interests of different social groups against one another and prevented newly established opposition parties and movements from mobilizing the support of the lower classes, the middle class,*

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<sup>180</sup> Esfahani, H. S. (1993). The Experience of Foreign Investment in Egypt under Infitah, .5. Available at <https://msuweb.montclair.edu/~lebelp/CERAFRM046Esfahani1993.pdf>

<sup>181</sup> Curtis, R. R. (n.d.). Political Strategies and Regime Survival in Egypt.

<sup>182</sup> Sadat relied on al-Azhar by giving more space to achieve the results he initially desired. Unlike Nasser, he utilized al-Azhar to influence public discourse and giving it a religious twist. The symbolism made upon the rise of any agitation or resistance is a perfect exemplification. Al-Azhar clerics issued fatwas condemning leftists and other members of opposition. As Socratic as it sounds, al-Azhar in-fact described as heretics who were trying to *corrupt, convert the youth and spread immorality* and that they should repent and go back to God. See Zeghal, M. (1999). Religion and Politics in Egypt: The Ulema of al-Azhar, Radical Islam, and the State (1952-94). International Journal of Middle East Studies, 31(3), P. 381. Available at <http://www.jstor.org/stable/176217>

*and the private sector bourgeoisie—all of whom had been co-opted by the regime in one way or another.”*<sup>183</sup>

This allowed Sadat to employ nationalist discourses and narratives to contain potential challengers; using the carrot and the stick to legitimize the regime’s agenda – and to shift attention away from its repressive techniques. In order to implement this, Sadat needed the judiciary to perform a role in upholding the system he was establishing; amends had to be made with after its so-called “massacre” under Nasser. The regime’s survival has thus depended heavily on the expansion of the hybrid structure inherited from Nasser to tighten its grip on power. This was achieved by the promotion of nationalistic speech, introduction of a series of laws and decrees that drew businesses in and facilitated wealth accumulation, and presenting an appearance of democracy, judicial independence, and political openness.

I would like to start by emphasizing the continuing centrality of the state. The first order of business that Sadat made was to revoke and invalidate Nasser’s economic reforms,<sup>184</sup> initiating a witch-hunt to dismantle the remaining Nasserist web. Former ministers and government officials were imprisoned, and excluded from participating in his “corrective” movement. People considered problematic by Nasser were released, making the system appear more inclusive. Sadat, as Salman explains, was keen on presenting himself and his regime as part of a movement to fix past mistakes and achieve progress.<sup>185</sup> The aim of this movement was twofold: discredit former the leadership and gain the public’s confidence and support. The next section is divided into two parts, it examines further the authoritarian foundation that Sadat continued to base his reign on and how it intersects with his nationalistic discourse. The second part highlights the roles that legislation and

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<sup>183</sup> Shehata, D. (2018). “Sixty Years of Egyptian Politics: What Has Changed?”. Available at <https://www.thecaireview.com/essays/sixty-years-of-egyptian-politics-what-has-changed/>

<sup>184</sup> Salman, S. (2018). Egypt's desert paradoxes, promises, and possibilities: A study of land reclamation policies along Cairo-Alexandria desert road [Master’s thesis, the American University in Cairo]. AUC Knowledge Fountain. <https://fount.aucegypt.edu/etds/474>

<sup>185</sup> Ibid, 43.

the constitutional court played in cementing neoliberalism; legalizing it, and making the system a vehicle for capital accumulation.

According to Waterbury, economic openness was initially the path the country set itself on, not Sadat's choice.<sup>186</sup> I agree. Sadat picked up where Nasser left off; their policies are not contradictory. Sadat's policies are a natural development of Nasser's. In many parts of the world, economies embarked on state-led, inward-oriented, industrialization strategies, only to shift toward more open ones. Sometimes a combination of both was put in place.<sup>187</sup> Sadat's decision to open up the economy was determined by a number of factors. First and foremost, he wanted to readjust Egypt's position so as to gain more allies; and used the allegedly devastated economic conditions, to validate his policy reorientation. The armed confrontation with Israel was costly, with almost half of the budget allocated for arms.<sup>188</sup>

Sadat's aim was to transition from import-substitution industrialization toward an outward-oriented economy by opening it up to foreign investment. The Open-Door or Infitah Policy was implemented after the 1973 war to attract foreign capital. The introduction of Law 43/1973 failed to do so, due to the debt problem and the economy falling into recession. A general political uncertainty dominated the scene, caused by the rise of Islamists. Western investors were reluctant to invest in such a fragile environment.<sup>189</sup> More favorable conditions had to be created to attract foreign investors. Law 230/1989 was passed, followed by Law 65/1971, to provide guarantees and legal protection to foreign investment. The constitution of 1971 provided an additional layer of

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<sup>186</sup> Waterbury, J. (1983). THE OPEN DOOR TO THE TRIPLE ALLIANCE. In *The Egypt of Nasser and Sadat: The Political Economy of Two Regimes* (123-157). Princeton, New Jersey; Guildford, Surrey: Princeton University Press. doi:10.2307/j.ctt7ztt52.14

<sup>187</sup> Roberts, G. T., Hite, A. B. (Eds.). (2007). *The Globalization and Development Reader: Perspectives on Development and Global Change*. Blackwell Publishing, Chapter 8: "Rethinking Development Theory: Insights from East Asia and Latin America", 114-134.

<sup>188</sup> McLaughlin, G. T. (1978). Infitah in Egypt: An Appraisal of Egypt's Open-Door Policy for Foreign Investment, 46 *Fordham L. Rev.* 885. Available at: <https://ir.lawnet.fordham.edu/flr/vol46/iss5/1>, 4.

<sup>189</sup> Esfahani, H. S. (1993). The Experience of Foreign Investment in Egypt under Infitah, 3. Available at <https://msuweb.montclair.edu/~lebelp/CERAFRM046Esfahani1993.pdf>

security,<sup>190</sup> protecting private property against confiscation and seizure.<sup>191</sup> Law 45 was passed, offering incentives to Arab and non-Arab investors alike.

This combination motivated investors to pour capital into the Egyptian economy. Law 45 provided tax exemptions and other privileges; and led to the establishment of free zones, where businesses were allowed to operate without being subject to any additional fees or payments imposed on imported goods.<sup>192</sup> This new legal framework attracted hundreds of projects – until the Camp David Peace accords. After signing the peace treaty with Israel many turned away from investing in Egypt. And so, a new complementary investment law was passed, law 230/1989, to prevent any interventions with businesses and restrictions on their pricing mechanism. Upon the enactment of the aforementioned laws, over 173,200 jobs were created with much lower wages due to relaxed labor laws.<sup>193</sup>

During this period, the international system was also pushing toward the widespread adoption of neoliberalism, as a precondition for the acceptance and integration of states, with problematic economies specifically *third world countries*. In 1978, the government was advised, and then pressured, by the IMF to implement austerity measures and further market-friendly reforms; to fix the structural problems the economy still suffered from. Access to foreign aid was conditioned on the reform of market conditions.<sup>194</sup> The state continued to play its role orchestrating such changes, it “*was to serve the role of an 'enabler' of capitalist relations by providing guarantees to capital mobility and facilitating the opening of various aspects of the economy to the private sector*”.<sup>195</sup> To make conditions more attractive to investors, a strong emphasis was placed on the existence of an *independent* judiciary. Tamir Moustafa explains that the establishment of the constitutional

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<sup>190</sup> See articles 34 and 36 of the 1971 constitution Constitution of the Arab Republic of Egypt [Egypt], 1971, available at <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=54917e9c4>

<sup>191</sup> Ibid, 4-6.

<sup>192</sup> Ibid, 7.

<sup>193</sup> Ibid, 11.

<sup>194</sup> Ibid, 59.

<sup>195</sup> Ibid, 67.

court was intended to strengthen Sadat's position. He refers to a testimony made by one the members of the committee that was in charge of drafting the SC constitution:

*“The establishment of the Supreme Constitutional Court was really the result of internal and external pressure. From inside, the legal profession was pushing and they were very upset about the old Supreme Court because it was really a tool to legitimize the government's acts and views and it was not an independent body. But more importantly, from the outside there was pressure from foreign investors and even the foreign embassies. They all said, “you are crying for investments to come but under what circumstances and with what protections?”<sup>196</sup>*

Similar testimony was made by several other government officials. The then prime minister, Mustafa Khalil, confirmed that the guiding rationale behind the court's establishment was to legalize the process of incentive-granting.<sup>197</sup>

#### **D. Santa's Little Helpers: The Interplay of Two Levels Of Contingency-Making and Dependency-Manufacturing: IFIs-to-State and State-to-Individual**

The global push for neoliberalism's expansion directly affected policy-making; constraining decision-makers' capacity to develop circumstance-specific solutions or strategies. However, I prefer to understand decision-makers as local collaborators and beneficiaries, rather than helpless victims. I draw on Frantz Fanon's view of national bourgeoisie and consciousness.<sup>198</sup> In *“The Wretched of the Earth”*, Fanon discusses the active role that national bourgeoisie plays in

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<sup>196</sup> Moustafa, T. (n.d.). Law versus the State: The Judicialization of Politics in Egypt, 889-893.

<sup>197</sup> Ibid.

<sup>198</sup> Fanon, F. (1963). *The Wretched of The Earth*. New York: Grove Press. Ch 3. Available at <https://www.marxists.org/subject/africa/fanon/pitfalls-national.htm>

I was very reluctant to use Thomas Pogge's work; given his predatory nature, derogatory stance toward women, I am unable to overlook his criminal history. For someone whose lifework is grounded in social justice and non-discrimination, I find him very hypocritical that I am questioning the credibility of all the arguments and critiques he puts forward. Turning a blind eye to sexual assault and misconduct will normalize and tolerate what happened rendering it irrelevant to academic discussion which it is not nor should it be.

sustaining their privileged status and blocking any form of resistance or challenge to the system. He describes this class as powerless compared to its international counterpart saying that:

*“It has practically no economic power, and in any case it is in no way commensurate with the bourgeoisie of the mother country which it hopes to replace. In its willful narcissism, the national middle class is easily convinced that it can advantageously replace the middle class of the mother country. But that same independence which literally drives it into a corner will give rise within its ranks to catastrophic reactions, and will oblige it to send out frenzied appeals for help to the former mother country.”*<sup>199</sup>

This short passage touches on two important elements that together constitute the backbone of my thesis. First, it lays emphasis on the collaborative role that the local beneficiaries play in sustaining profit and deepening exploitation. Second, it clearly sets the stage for the structuralist perspective namely; the dependency argument<sup>200</sup>. An alliance is forged between the international and local bourgeoisie to keep the structure of oppression intact. This is not to underestimate the agency of citizens or their ability to act against the government.<sup>201</sup>

In *The Dual Mandate*, Lord Frederick Lugard, a former colonial governor of Nigeria, explains the occupier’s reasoning behind their policies.<sup>202</sup> Through their rule, they attempted to achieve two objectives. First, safeguarding their economic and political interests, second uplifting the colonized natives. The first would not be possible without promising the second. This is done through the hierarchization of society and the deployment and involvement of local governors or chiefs whose

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<sup>199</sup> Ibid.

<sup>200</sup> Balaam, D. N., & Dillman, B. (2014). Introduction to International Political Economy. Sixth Edition, Pearson, Chapter 4: “Economic Determinism and Exploitation: The Structuralist Perspective”, 89-94.

<sup>201</sup> Hannah Arendt makes an argument in favor of citizens shouldering responsibility not only through physical action and violence but non-participation and civil disobedience. Such acts could destabilize the government whose existence is highly dependent on consent. See Arendt, H. (2009). Responsibility and Judgment. Knopf Doubleday Publishing Group. P. 41. See Gessen, M. (2020). Judith Butler Wants Us to Reshape Our Rage. The New Yorker. Available at <https://www.newyorker.com/culture/the-new-yorker-interview/judith-butler-wants-us-to-reshape-our-rage>

<sup>202</sup> Lugard, F. D. (1926). The dual mandate in British tropical Africa. Edinburgh: W. Blackwood and Sons. Available at <https://ia600205.us.archive.org/8/items/cu31924028741175/cu31924028741175.pdf>

cooperation is needed to maintain a strong grip on society.<sup>203</sup> Lugard's reading of the situation remains relevant. His "dual mandate" characterizes today's order and state of dependency. On a larger scale or wider level, the cosmopolitan bourgeoisie utilizes international institutions, including the human rights regime, to advance their interests; further embedding neoliberalism. They do so in co-operation with the ruling elites and bourgeoisie of the underdeveloped states.

Under Sadat, Egypt relied heavily on foreign aid. Aulas explains in her balance sheet<sup>204</sup> that the *"economy has been in the service of politics and ideology, not the other way around."*<sup>205</sup> Egypt received over one billion dollars from the United States then, which surpasses the aid that other countries in the Middle East received combined. This aid came with conditions; political and strategic objectives that the US wanted to realize. These pushed Egypt toward developing economic ties with Israel and the European Community; including guaranteed market access for each.<sup>206</sup> The international brought the national under its control:

*"The new global order also requires the reproduction of a core of internal hardness within these same generally soft states. Thus, to paraphrase Baxi, a progressive state is also conceived under the TREMF paradigm as a state that is market efficient in suppressing and de-legitimizing the human rights based practices of resistance of its own citizens and that is also capable of unleashing (and, when necessary, does in fact unleash) a reign of terror on some of its citizens, especially those of them that actively oppose its excessive softness toward global capital."*<sup>207</sup>

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<sup>203</sup> Mitchell, T. (1988). Colonizing Egypt. CUP Archive, 34-62.

<sup>204</sup> Aulas, M. (1982) "Sadat's Egypt: A Balance Sheet," Middle East Report 107. Available at <https://merip.org/1982/07/sadats-egypt-a-balance-sheet/>

<sup>205</sup> Ibid.

<sup>206</sup> Ibid.

<sup>207</sup> Okafor, O, 'Assessing Baxi's Thesis on an Emergent Trade-Related Market-Friendly Human Rights Paradigm: Evidence from Nigerian Labour-Ideological Struggles,' 2007 (1) Law, Social Justice & Global Development Journal (LGD), 4.

### E. Between Resistance And Endorsement?

For the individual level (as in individual-to individual interaction), and in partial examination of the state-individual level, I combine two similar, interrelated, but different views: Foucault's, and Asef Bayat's.<sup>208</sup> I use Foucault's governmentality schema to place emphasis on the effect and influence of internalized knowledge on individuals' way of being, values and behavior. Power and knowledge are mutually reinforcing and cannot be separated from one another.<sup>209</sup> They constitute the foundation upon which power-relations are built and apparent necessities are tailored.

In other words, they construct "normality" and "deviance"; affecting our perception and creating a growing desire within us to conform. Bayat specifically discusses the influence of neoliberalism on individuals and their day-to-day interaction and (in)action and the forms of resistance or endorsement that materializes in the process. *"For example, some of the lower class's activities in the Middle East, which some authors read as 'resistance', 'intimate politics' of defiance or 'avenues of participation', may actually contribute to the stability and legitimacy of the state. The fact that people are able to help themselves and extend their networks surely shows their daily activism and struggles. However, by doing so the actors may hardly win any space from the state (or other sources of power, like capital and patriarchy) – they are not necessarily challenging domination."*<sup>210</sup>

Bayat is not claiming is that individuals have no potential for resistance whatsoever; they do at all times; it just does necessarily have to be revolutionary. Individuals also develop coping mechanisms and strategies in response to the *"decline in their moral and material conditions, but often carried out at expense to themselves or fellow humans. Thus cutting down on consumption or working multiple jobs may ensure one's survival, but at the cost of possible malnutrition or*

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<sup>208</sup> Bayat, A. (2000). Social Movements, Activism and Social Development in the Middle East. Civil Society and Social Movements Programme Paper Number 3.

Bayat, S. (2003). From 'Dangerous Classes' to 'Quiet Rebels'. Politics of the Urban Subaltern in the Global South. *International Sociology*, 15(3), 533–557. <https://doi.org/10.1177/026858000015003005>

<sup>209</sup> Foucault, M. (1980). Power/knowledge: Selected Interviews and Other Writings, 1972-1977. New York: Pantheon Books.

<sup>210</sup> See Hermann, D. H.J. Max Weber and the Concept of Legitimacy in Contemporary Jurisprudence. Available at <https://pdfs.semanticscholar.org/2834/0de471b4cc645df7872ee6e4c26978213cac.pdf>

*exhaustion. These strategies are often adopted where resources and opportunities for resistance are seen to be absent.*"<sup>211</sup> The approach I use to address this part of the discussion is based on Foucault's examination of multilevel governance and surveillance, panopticism:

*"Panopticism is one of the characteristic traits of our society. It's a type of power that is applied to individuals in the form of continuous individual supervision, in the form of control, punishment, and compensation, and in the form of correction, that is, the molding and transformation of individuals in terms of certain norms. This threefold aspect of panopticism – surveillance, control, correction – seems to be a fundamental and characteristic dimension of the power relations that exist in our society. ... Today we live in a society programmed basically by Bentham, a panoptic society, a society where panopticism reigns."*<sup>212</sup>

What is interesting about Foucault's adaptation of Bentham's model is how he comes to link it to liberalism. He argues that it is not just a model but a formula for liberal governance.<sup>213</sup> A society becomes more and more ordered, or organized, as discipline spreads through it. Its members exercise self-surveillance – which has become decentralized, de-institutionalized, and highly diffused with its fabric.<sup>214</sup> With this model of surveillance in place, the concealed neoliberal state practice is further embedded in the minds, (re)actions and choices of individuals; who also affect one another.

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<sup>211</sup> Bayat, A. (2000). Social Movements, Activism and Social Development in the Middle East. Civil Society and Social Movements Programme Paper Number 3, 5.

<sup>212</sup> Foucault, M. 2000. Power, ed. J. Faubion. New York: The New Press. Available at [https://monoskop.org/images/b/b9/Foucault\\_Michel\\_Power\\_2000.pdf](https://monoskop.org/images/b/b9/Foucault_Michel_Power_2000.pdf)

<sup>213</sup> Ibid, 67.

<sup>214</sup> Johnson, A. (2014). Foucault: Critical Theory of the Police in a Neoliberal Age. Theoria. 61, 9. Available at 10.3167/th.2014.6114102

In reaction to Sadat's policies, protests erupted in different parts of the country. The government responded by suspending the general workers' union's fund.<sup>215</sup> Its main focus at the time was transforming agricultural spaces and having them transferred to the private sector. That, and to entrench its own rule with no resistance. With this formula in the background, a number of laws were passed to give more powers to the central government.<sup>216</sup> The connection between violence and the state is pivotal to the examination of law-enforcement and public order.<sup>217</sup> Weber called this "*the legitimate use of force by the state*". The state, and its apparatuses and order, is the product of historical struggles and conflicts between different forces.<sup>218</sup> Representing the victors, it has the monopoly over the legitimate use of physical force.<sup>219</sup> Weber viewed force as an inseparably linked element, or prerequisite, to maintain obedience and the very existence of the state.<sup>220</sup> While material incentives and interests affect and motivate (psychologically) individuals (habituated or accustomed) to behave in a certain way; coercion, or coercive execution,<sup>221</sup> is fundamental to maintaining order, non-violent social spaces, and a sense of obligation.<sup>222</sup> This extends the Hobbesian conception of the state and the Leviathan, which subjects fear and obey.<sup>223</sup> The state derives its ability to exercise its authority from three sources that have traditional, charismatic and legal characters;<sup>224</sup> in addition to powerful bureaucracy.<sup>225</sup> These function best when their legitimacy has been internalized by the citizens.

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<sup>215</sup> Ibid, 158.

<sup>216</sup> Ibid, 160-164.

<sup>217</sup> Statehood or sovereignty is usually traced back to the foundation to the inter-state system set by the Westphalian peace of 1648. See Croxton, D. (1999) The Peace of Westphalia of 1648 and the Origins of Sovereignty, *The International History Review*, 21:3, 569-591, DOI: 10.1080/07075332.1999.9640869

<sup>218</sup> Dusza, K. (1989). Max Weber's Conception of the State. *International Journal of Politics, Culture, and Society*, Vol. 3, No. 1. 71-105. Available at

<https://www.jstor.org/stable/pdf/20006938.pdf?refreqid=excelsior%3Af1d501513bb838f55d78e08b793b3a5f>

<sup>219</sup> Weber, *Politics as vocation*, P. 78 and 158-159; See also Dusza, K. (1989). Max Weber's Conception of the State. *International Journal of Politics, Culture, and Society*, Vol. 3, No. 1, 71-105.

<sup>220</sup> Ibid, 25-29.

<sup>221</sup> Ibid, 421-434.

<sup>222</sup> Weber, M., Roth, G., & Wittich, C. (1978). *Economy and society: An outline of interpretive sociology*. Berkeley: University of California Press, 69.

<sup>223</sup> Abramson, J. B. (2009). *Minerva's owl: The tradition of western political thought*. Cambridge, Mass: Harvard University Press. Pp. 171-176.

<sup>224</sup> Weber, M. (1948). *From Max Weber. Essays in sociology*. London: Routledge & Kegan Paul. 215-223.

<sup>225</sup> Dusza, K. (1989). Max Weber's Conception of the State. *International Journal of Politics, Culture, and Society*, Vol. 3, No. 1., 89

Although Sadat pledged to eradicate the Nasserist repressive state security apparatus, he actually relied on it, *when necessary*. A prime example is the military's role in suppressing in the bread riots that broke out in reaction to the lifting of subsidies and austerity measures. The military stepped in to re-establish public order.<sup>226</sup> The Sadat regime also took punitive action against dissent and issued the "law of shame", which prohibited attacks against the "nation's values". The law says "*everyone who perpetrates what involves the denial of divine laws, or contravenes their rulings, either by inciting children and youth to abandon religious values, or through disloyalty to the nation, shall be subject to punishment according to what is stipulated in article 171 of the penal code, including all males and females over the age of 25.*"<sup>227</sup> These measures were taken to maintain a nationalistic image:

*"In addition to attempts to contain or repress political pressures, each president of republican Egypt has also turned to external affairs in pursuit of legitimacy and, most importantly, to divert attention from domestic problems. Foreign policy, in short, has been of paramount importance in Egyptian domestic politics. Such linkages between domestic and international political realms are natural for governments that equate their own survival with national security. Domestic political pressures can thus easily be treated as national security crises, and the global stage offers an arena to which governments may divert domestic attention."*<sup>228</sup>

While Sadat abandoned the Pan-Arab foundation Nasser relied on, he showed constant support to the Palestinian cause. His direct involvement in the Arab-Israeli conflict gave him a support base and savior element. He used mitigated political instability and agitation by facilitating labor emigration to the Gulf<sup>229</sup>, and made strategic use of his public appearances and speeches<sup>230</sup>. Right after the eruption of riots, he announced his trip to Jerusalem. When diversion and nationalism

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<sup>226</sup> Ibid, 9-10.

<sup>227</sup> Anwar Sadat issues "Law of Shame," Veto Gate (Egypt), 22 January 2014. Available at <https://edinburgharabicinitiative.wordpress.com/2014/02/09/anwar-sadat-issues-law-of-shame/>

<sup>228</sup> Ibid.

<sup>229</sup> Ibid, 11-12.

<sup>230</sup> See Sadat's Speeches. Available at <https://sadat.umd.edu/resources/presidential-speeches>

failed, the regime went back to mass-arrests and repression.<sup>231</sup> In every case, the diktats of the global order were mediated through the state, and impressed upon its individual citizens. The openness and relatively relaxed control the regime allowed a bigger fraction of society to be more involved and included in the system.

This was particularly demonstrated by Sadat's keenness on tightening ties with influential elites. The idea behind this was to construct a less centralized hierarchy than Nasser's, whereby control can trickle down and spread across society. Each group had a specific role to play within this hierarchy. He positioned and recruited allies in each class and divided them to monitor and balance each other; the top elite, middle elite, sub-elite, upper middle class, lower middle class and so on and so forth. No group was allowed to occupy political spaces unrestrictedly including, and especially, the ones he worked alongside. The regime maintained the upper hand and kept all of them in check by rewarding collaborators, protecting their interests, *and* putting a ceiling on their growing influence.<sup>232</sup> A prime example is Sadat's short-lived reconciliation with the Muslim Brotherhood – until they openly challenged his rule. His changing position demonstrates that the system was not as open as it seemed. He was willing to eliminate whoever posed a threat; and did so by increasing the powers of the regime; constitutionally.<sup>233</sup>

Given the structure and propaganda Sadat instituted, upon which his power base rested, one could argue that citizens found themselves stuck between violence and patriotism, being bad citizens and good citizens which affected their views and choices. This effect was not imposed from above only: citizens, families and groups pressured one another. This peer pressure influenced the behavior, and thoughts, of individuals, impacting a wide range of choices; moral, political, and economic.<sup>234</sup> This managed network of interaction between individuals rendered their information

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<sup>231</sup> Ibid.

<sup>232</sup> Hinnebusch, R. (1981). Egypt under Sadat: Elites, Power Structure, and Political Change in a Post-Populist State. *Social Problems*, 28(4), 443-451. Available at doi:10.2307/800057

<sup>233</sup> Ibrahim, S. (1982). An Islamic Alternative in Egypt: The Muslim Brotherhood and Sadat. *Arab Studies Quarterly*, 4(1/2), 75-93. Available at <http://www.jstor.org/stable/41857618>

<sup>234</sup> Mallinson DJ, Hatemi PK (2018) The effects of information and social conformity on opinion change. *PLOS ONE* 13(5): e0196600. Available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0196600>

bounded and biased. As Mallinson and Hatemi explain, social pressure serves to “*induce compliance with desired social norms. In this case, members of the network provide information regarding the group’s expectations for appropriate engagement in politics. Individuals that are concerned about whether or not the group will continue to accept them therefore conform out of a desire to be liked, broadly defined. Norms are often self-enforcing, with merely the perceived threat of potential sanctions being enough to regulate behavior through compliance and self-sanctioning.*”<sup>235</sup> The findings of this study demonstrate that individuals have a tendency to conform with the choices of their peers even if “*they disagree and even when they believe the group opinion does not match reality.*”<sup>236</sup> This includes the normalizing effects of neoliberalism; and how they are internalized through contractual obligations, religious ethic, surveillance, socialization, and notions of normality and deviance.<sup>237</sup>

The neoliberal path Egypt took caused an unprecedented rise in poverty, income disparity, suffering, and corrupt crony capitalism.<sup>238</sup> These were not the unintended consequences of poorly

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<sup>235</sup> Ibid.

<sup>236</sup> Ibid.

<sup>237</sup> In Islam, much like Christianity, individuals are urged to look beyond the material gains of life and work for their afterlife which entails dealing with pain and suffering with patience which will be rewarded. One thus has to remain loyal and dedicated to their work which is equated with worship.” العمل عبادة”.

See Ahmad, S. and Owoyemi, M. Y. (2012). The Concept of Islamic Work Ethic: An Analysis of Some Salient Points in the Prophetic Tradition. Available at

[https://ijbssnet.com/journals/Vol\\_3\\_No\\_20\\_Special\\_Issue\\_October\\_2012/12.pdf](https://ijbssnet.com/journals/Vol_3_No_20_Special_Issue_October_2012/12.pdf)

Islam also calls for obeying just and suitable rulers and individuals in power. A verse from al-Quran explicitly requires Muslims to obey those in power. يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ

“O you who have faith! Obey Allah and obey the Apostle and those vested with authority among you.” See Surat an-Nisa’ 4:59. Whether or not the verse could be understood in its literal sense, it can and is used to enhance the legitimacy of rulers in times of crisis. This was done, years later, in the transitional period between 2011-2012, whereby both al-Azhar and the Coptic church were discouraging mobilization and describing it as going against the teachings of Gods. See Ibrahim, E. (2012). “Egypt’s experimental steps to civil disobedience”. Available at <http://english.ahram.org.eg/NewsContent/1/64/34104/Egypt/Politics-/Egypt's-experimental-steps-to-civil-disobedience.aspx>

Sadat performed the Eid prayer alongside the Grand Sheikh of al-Azhar then. He made sure in several occasions to appeal to Islam and include it in his speech. He used the power and influence that al-Azhar has as a religious institution to strengthen his support base and increase his popularity.

“*In the second half of the seventies, Sadat also came up with his revolutionary political philosophy of “listening to the village elders” — ushering the reversal of the quasi-Maoist policies of Nasser, and coming to loggerheads with the Egyptian former royal family’s fixation on emulating the west, not the sclerotic village elders.*” See El-Abyad, A. (2015). “Has Al-Azhar Stifled Egypt’s Intellectual Enlightenment?”. Available at

<https://egyptianstreets.com/2015/07/27/has-al-azhar-stifled-egypts-intellectual-enlightenment/>

<sup>238</sup> Achcar, G. (2020), On the ‘Arab Inequality Puzzle’: The Case of Egypt. Development and Change, 51 Available at doi:10.1111/dech.12585

implemented policies; though this is precisely what the proponents of modernization claim. They blame such issues on internal factors, necessitating further intervention and reform. And so the cycle goes on. Consider the arguments of Rostow,<sup>239</sup> or Huntington,<sup>240</sup>; the embodiment of the argumentative repertoire that guides the progress narrative.<sup>241</sup> While each of them offers a slightly different view of modernization, they agree that it requires the adoption of the western model in order to transform society and achieve growth. These are little different from the narratives of improvement, waste-management, and idleness-control we have internalized over many centuries. Modernization is now deployed to endorse the progressive potential of neoliberalism. To entrench a new, contingent, normal.

## V. Conclusion

Throughout this study, I have attempted to shed light on the relationship between law, nationalism and neoliberalism. Their mutual fortification affects the entire flow of this discussion. Together, they constitute today's global order. No examination of any issue can be done without considering the points of intersection between the three; the ways in which they affect one another. My main focus was on the narrative that was, and is still, guiding their evolution and reinforcement. Despite its ability to *regenerate* itself, the colonial and violent structure of PIL remains remarkably predictable and unchanged. To study this narrative, I looked at the ways in which it was able to renew itself and maintain its relevance. Its resilience as I demonstrated is rooted in contingency-creation. False necessity, is multileveled and based on the interaction between actors internationally and nationally. My analysis focused on the party that seeks to maintain a privileged order, dominance, the *beneficiary*. The domestic order works in similar ways; whereby the intersection of law and ideology operates in a manner that strengthens each other using different (often violent) methods to validate the system.

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<sup>239</sup> Rostow, W. W. (1960). *The stages of economic growth: A non-Communist manifesto*. Cambridge [England: University Press.]

<sup>240</sup> Huntington, S. P. (1971). *The Change to Change: Modernization, Development, and Politics*. *Comparative Politics*, Vol. 3, No.3 (Apr., 1971),283-322. Available at <https://dokumente.unibw.de/pub/bscw.cgi/d10747726/6-3%20Huntington%20Modernization%20Development%20Politics%201971.pdf>

<sup>241</sup> See Skouteris, T. (2006). *The Notion of Progress in International Law Discourse*, 6-15.

The emergence of neoliberalism in Egypt was, paradoxically, enabled by Nasser's ascent to power, and the centralized structures he developed to block any outside attempts to dominate the market. He established a new societal order promising a *new dawn of change, justice and progress*. This was cemented by a new, unspoken, pact between the government, certain elites, and the middle classes; whereby obedience and support were reciprocated with employment, subsidies, and socialist land and agricultural reforms. All of this was bound together by state-controlled nationalism, and the internalization of state values. Disobedience, on the other hand, was met with violence and repression. I demonstrated that Sadat made use of this established structure to normalize and entrench his own agenda. He used the hybridity and centrality of the system which Nasser developed, to advance neoliberal economic policies. He successfully channeled the power that Nasser consolidated for his *corrective revolution*; using the very same tactics that helped his predecessor remain on top.

I started off by tracing the current structure back, through liberalism to capital accumulation, to demonstrate that the primitive accumulation of capital is permanent and ongoing. This played a foundational role in the emergence of international law which, in turn, legalized it under the umbrella of development through economic liberalization; currently manifesting as neoliberalism. Like the multi-headed Hydra of Greek mythology, neoliberalism is continually renewed. Regenerated through its inescapable promise of salvation, or constructed sense necessity. These cause national governments, and individual citizens, to embrace and internalize neoliberal values and ideals, for their own survival. The result is an entrenchment, institutionalization, and internalization of a deceptive sense of problem-solving; and ineffectual human rights activism. In reality, very little is done to combat capitalist-induced suffering.

One would think that inflicting suffering goes against the primary objective that law, or this reformative movement, is designed for; unfortunate and unintended consequences of innocent mistakes. Upon closer inspection, we find that these globalized trends are quite intentional; but hidden by the widely held view that human rights and neoliberalism conjointly support development to alleviate poverty. This is a process of legalized irresponsibility; the most recent

iteration of the primitive accumulation at the heart of law. It functions through international institutions determining the nature of national policy implementation; and state governments ensuring this is accepted by their citizens. This continuously reproduces the neoliberal system by internalizing its claims of redemption, or, at least, its necessity.