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**The American University in Cairo
School of Global Affairs & Public Policy**

**‘We can simply not survive without education’¹
But can’t we?**

**A Thesis Submitted to the
Department of Law**

**In partial fulfillment of the requirements for the Degree of Master
of Arts in International Human Rights Law**

**By
Cynthia A.A. Wijtsma**

May 2019

¹This quote originates from Nepal’s first statewide education report in 1956. While using the word ‘education’, its actual meaning in this sentence is schooling. This rhetorical question was asked in regard to the to be imposed British informed education system. This one simple question captures its colonial approach and roots. THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, EDUCATION IN NEPAL 72 (1956).

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in partial fulfillment of the requirements for the
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This thesis is dedicated to Yangkey Sherpa. Thank you for allowing me to be part of the special project you worked with and giving me the idea for this thesis

My gratitude is great.

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A special thanks to all the children I had the privilege to meet in Nepal. Each and every one of you have touched me deeply, your curiosity for this world and individual interests have taught me so much. I will never forget your hospitality and friendship. Thank you for teaching me Nepali, laughing at my inability to remember it and playing outside when the rain would finally bring down the temperature. But most of all thank you for giving me hope that we can undo the injustice that has been done. Without you I would have never considered to write this thesis.

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

‘WE CAN SIMPLY NOT SURVIVE WITHOUT EDUCATION’
BUT CAN’T WE?

Cynthia A.A. Wijtsma

Supervised by Dr. Jason Beckett

ABSTRACT

This thesis examines dynamics of the right to education and argues that this right is used to continue to spread an education system that still has colonial roots and aims at extracting people from their traditional way of living into a western consumer culture. It does this through working towards the universal enrollment of children into a western-style education system that caters towards a western consumer culture. Taking Nepal as the main example, this thesis argues that the right to education and its advocate equivalent, the Sustainable Development Goal 4, have been used to bring about an education system that does not pose a break with previous forms of education, but a continuation of the purposes of ‘previous’ colonial education systems. In doing so, all other forms of education are eliminated, mainstreamed into the western-style education system or done away with as ‘non-educational’. This thesis will argue for the decolonization of education and separation of education from schooling. Only then, a right to education can be beneficial.

Nepal is often portrayed as one of the poorest and least developed countries in the world. This then serves as the foundation for several development projects to ‘improve’ the life of Nepali’s. One way to achieve the ‘development’ of Nepal is the establishment of a strictly government regulated western-style education system. For the past thirty years several international organizations, countries and corporations have invested in, and influenced, the Nepali education system. In this process the detrimental aspects of both education and the right to education have been ignored and resulted in a problematic education system. The roots for this can be traced back to Nepal’s relationship with the British empire, as well as the following neo-liberal reforms promoted and enforced by the United States.

I begin by discussing the human right to education and trace its western oriented roots. Thereafter, I will debate the assumption that education is ultimately good and rebuke some of the myths. Next, I will look at Nepal’s most recent history and trace the development of a western-style education system alongside Nepal’s political history. It will show how the development of a western-style education system was heavily influenced by foreign countries and international organizations, as well as corporations. It will therefore complicate the idea that Nepal was never colonized. Lastly, the right to education and the current education system in Nepal will be brought together and it will show how the current education system is not a break from the colonial past, but a continuation. This thesis concludes with proposals to decolonize education.

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PREFACE

This thesis includes sources from all around the world, from all genders and all nationalities. It includes written sources, as well as documentaries and podcasts. This thesis includes sources from academics, from people who wrote opinion pieces, and people who spoke about their life or their experience. This is a conscious decision. In order to decolonize education we need to start with ourselves. I cannot write about decolonizing education and continue to colonize education at the same time. While in the process of writing this thesis I was exposed to several questions, two of which deserve some elaboration.

The first is the question of what counts as a source, which source is ‘thesis worthy’? The answer was unsatisfactory, because while an opinion piece written by a Nepali woman is more useful than an academic article written by a man in the UK, the use of his article would be accepted without questions, but the opinion piece might raise some questions of trustworthiness. This does not say anything about the knowledgeability of the British man, nor about that of the Nepali woman. All it says is that the British man had enough money, and enough support to continue studying and dedicating his life to reading and observing, while paying, and most likely not getting paid, to eventually write something that was published. I am aware that published articles serve as an extra safety net that prevent ‘fake news’ from easily reaching a broader public. Yet, academia is single handedly responsible for some of the world’s biggest errors, such as the lie of ADHD being a possible consequence of vaccination. This is not to say that academia or science are untrustworthy, all it is to say is to question what we consider trustworthy and what not. At the end of the day, only those that could afford such a long education, both financially and time wise, are able to publish articles that will be referenced in other articles. Even more so, only those that were ‘lucky’ enough to be educated in English were able to publish articles that are circulated within academia as ‘trustworthy’ and ‘knowledgeable’. Who better could have written about the Nepali education system and its colonial roots than a Nepali? Yet, I am here, privileged enough to write a thesis on this topic. Few will question my knowledgeability on the topic, despite the fact that I only speak three words of Nepali. Yet, if a Nepali would write a thesis on this topic in Nepali it will most likely never get

published, nor even considered to be of importance. Eventually, we are recycling the same type of knowledge over and over again. I think it is time that we question what all can be considered a source, from what can we learn, and how do we determine knowledge.

Which brings me to the second issue, my position as someone from the Global North, writing about the education system of a country in the Global South. Writing on decolonizing education, I am aware of my uneasy position in this debate. It is because of this that I have tried to stay away from focusing too much on the Nepali education system itself, and instead focus on the dynamics around the creation of this system and its curriculum. Discussing the Nepali education system I could not leave it completely aside, however, the aim was to mainly focus on the influence of foreign countries and International Organizations. There are great projects and initiatives from people all around the world that have taken up the task of decolonizing their own curriculum, and with that critiquing their current curriculum and systems that put and keeps them in place. There is, and should be, no place for me in those internal debates. Yet, at the same time it is important to point out the Global North's position and take responsibility for its actions. It is because of this that I found it important to discuss the dynamics around Education for All projects.

ABBREVIATIONS

BPEP	Basic Primary Education Program
CEDAW	United Nations Convention on the Elimination of all Forms of Discrimination against Women
CERD	The International Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CSSP	Community School Support Project
EfA	Education for All
EIC	East India Company
EU	European Union
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International covenant on civil and political rights
ICPRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
(I)NGO	(International) Non-Governmental Organization
IMF	International Monetary Fund
MDG	Millennium Development Goals
MoE	Ministry of Education
NEC	National Education Commission
NEP	National Education Plan
NNEPC	Nepal National Education Planning Commission
ODA	Official Development Assistance
RIDP	Rapti Integrated Development Project
SAP	Structural Adjustment Program
SDG	Sustainable Development Goals
SSDP	School Sector Development Plan
UDHR	Universal Declaration of Human Rights
UK	United Kingdom

UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations International Children's Emergency Fund
US	The United States of America
USAID	United States Agency for International Development
USD	United States Dollar
USOM	United States Overseas Mission
USSR	Union of Soviet Socialist Republics

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I. INTRODUCTION

When it comes to education, one point is clear, it seems to be the magical solution to many issues in this world. It has the possibility to eradicate poverty, equalize gender relations, eliminate racial discrimination, improve the environment, abolish child marriage, promote democracy, improve human dignity, safeguard tolerance and justice, and so on. Assuming that the Universal Right to Education is an ultimate good, governments, corporations, multi-lateral and international organizations have been at the forefront of ‘fighting’ for this right. For some centuries now, the right to education has occupied an almost untouched position of inherent goodness. It has played an important role in the development and maintenance of European nation states, as well as the ‘civilization’ of the colonies. Statistics such as years of education and literacy rate have become indicators of development. Education as a whole has been equated to, or considered a prerequisite to, development. Education has become big business, and the center of attention for countries, aid organizations, the private sector and several non-governmental organizations (NGOs). In this all, the origins of education have been lost and forgotten. Education has become equal to schooling² and ones worth and intelligence dependent on a piece of paper. However, as this thesis will argue, this right to education and the subsequent Education for All program (EfA) are extremely problematic and facilitate the spread of an education system that has not undone itself from its colonial roots.

This thesis will specifically look at Nepal. Often described as one of the poorest and least developed countries in the world, Nepal gets billions of dollars in foreign aid every year. Under the banner of ‘development’ and EfA initiatives, Nepal is getting submerged in ideas from abroad on how to ‘improve’ the Nepali education system and enhance the number of valuable human capital. Different projects have been set up, all approaching education differently, all taking with them their Western opinions and underlying objectives. All projects are addressing different kinds of symptoms of a poor education system. However,

² In this thesis a difference is made between schooling and education. Schooling is education that occurred inside a school, a set structure, limited in time and space. With a hierarchical structure and set test moments. Education on the other hand is broader and can occur at any moment, education can happen at any age and at any place.

not one of these projects address the root causes of a poor education system, the very foundation of education, the source of all that they try to eliminate.

It is important to have a conversation about the dynamics of human rights, since they can be harmful. Universal access to education, and the goal to enroll all children in the national education system, is one of the main ends to the development of Nepal, and the second largest receiver of foreign aid. With all the eyes focused on this specific goal, it is important to be aware of different dynamics and consequences of programs that work towards universal education.

This thesis will therefore argue that, the human rights agenda, which pushes the right to education, and with that the EfA projects, is inextricably linked to the idea of development and universalization. The universal right to education in their notion of being universal in their essence, fail to note the pluralistic character and uniqueness of every human being. Education turned schooling has from the very beginning served as a mechanism to create docile human beings, that produce and are consumers of this world economy. The push for EfA undermines local interaction, customs and teachings and instead has turned our focus to the fact that not everyone has access to this type of education e.g. schooling. Through the focus on the right to education and the push for EfA, a specific type of education, schooling, has been forced upon Nepali people. One that is strictly grounded in (neo-)colonialism. By focusing on the symptom of the inability of every child to access a western form of education, the right to education has effectively overshadowed the origins of this oppressive system and allows us to ignore it. Even more so, the right to education specifically describes a certain type of education to be education. This allows for the narrative of education to be a western one and erase any trace of other forms of education.

This thesis will first provide several critiques on the right to education. It will trace the history of the right to education and its western roots. It will then discuss some general critiques on human rights and touch upon the debate of the link between human rights and ‘development’. Having discussed the rights portion of the right to education, the chapter will then move on to the education part of the right to education. It will discuss three myths

of education, namely, their inherent goodness, its ability to eradicate poverty and the fact that education needs to be structured. Lastly, it will trace the development of education through the history of several oppressive systems, namely the industrialization, colonialism and neo-liberalism. In the second chapter the history of Nepal in terms of colonization will be discussed. While Nepal was never formally colonized it experienced and is still experiencing several forms that are similar to (neo-)colonialism. It will specifically focus on Nepal's history with the British Empire and the international aid organizations. It will argue that the history of the education system in Nepal is almost synonymous to the several foreign influences. Hence, the development of the Nepali education system is heavily influenced by these foreign powers. The last chapter will bring both chapter 1 and chapter 2 together and trace how the use of the right to education has helped maintain and enforce an education system that has clear colonial roots and continues to create inequality.

The purpose of this thesis is not to argue that a human right to education is futile. Yet, it aims to point out that the current right to education is a right to schooling, that is used to spread one very specific type of education, that serves a specific purpose. This is not to argue for the abolishment of western-style education, nor to argue that children should not go to school, or to tell parents where to enroll their children. The purpose is quite the opposite, to argue for the eradication of the assumption that we, the West, know best how to educate children and instead allow people to educate their children the way they seem most fit. To stay away from a value judgement, and instead appreciate the plurality of lifestyles, cultures and education. This is not to say that there were/are no shortcomings in other educational forms. However, no culture, idea or pedagogy is without shortcomings. Equally not one should be superior to the other. Yet, calling for the compulsory education of a certain type of education certainly is doing this. This is the purpose of decolonizing education, decolonizing our minds and understanding of what education is, what knowledge is and how we receive it. Changing our perspectives of what is valuable knowledge, how we value knowledge and how it is valued. The purpose of this study is to explore the plurality of education, to contribute to a debate, that has been started a while ago in South-America, South-Africa, Zambia and India, that questions the general premise on which education acts and is allowed to act.

II. THE RIGHT TO EDUCATION: A HISTORY OF EDUCATION AND DOMINATION

Education, and the universal right to education are often readily accepted as ultimately good. However, this assumption is inaccurate. In reality the right to education is more problematic. This chapter will look at education as right, critiques of the right to education and three oppressive power structures that accompany and are accompanied by education. Through this it will complicate the assumption that the right to education, and the universal access to education is ultimately good.

A. EDUCATION AS A RIGHT

Education has been around for as long as texts have been written about it, and much longer. Education as a right that requires the state to regulate and facilitate it, however, is more recent, and programs and goals that promote the universal enrollment of all children into a specific form of education is even more recent. In recent years, the right to education has increased in perceived importance for many reasons and is universally applied. This despite its Western-centric focus that lays both at the foundation of this right and its current implementation. It is therefore important to first look at the foundations of education as a right.

1. History

The history of the right to education often starts with the note that it was long considered something for the elite. In Greek and Roman cities, during classical times, education was viewed as a right for certain classes.³ However, it was only at the end of the 18th and beginning of the 19th century that education was addressed as something that should be accessible to all citizens.⁴ Education, as something that was guaranteed in a constitution and facilitated by the state was first addressed in the French Constitution of 1791 when it was noted as one of the “fundamental provisions guaranteed by the Constitution.”⁵

³ COLIN POWER, THE POWER OF EDUCATION: EDUCATION FOR ALL, DEVELOPMENT, GLOBALIZATION AND UNESCO 16 (2015).

⁴ In England education was made compulsory in 1880, in France education as something that should be universally accessible to everyone was first addressed in the constitution in 1791 but was incorporated in provisions starting 1830. Note, *infra* note 125.

⁵ 1791 CONST. Titre Premier (Fr.); Power, *supra* note 3, at 17.

As for the story of the universal right to education, it is often argued that this was first addressed in the 1948 Universal Declaration of Human Rights (UDHR).⁶ It states that “[e]veryone has the right to education [which] shall be free, at least in the elementary and fundamental stages.”⁷ This moral obligation was made legally binding in 1976⁸ when it was enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁹ The right to education, its universal character, and the aim to have all children enrolled in free primary education has since gained momentum and has become one of the main focusses in terms of ‘development’.

Besides this short collection of moments little can be found on the origins of the right to education. When education started to be considered a right is obscure. It is as though it is considered common knowledge that education is a universal human right. The few articles that do discuss the history of education becoming a universal human right do not cite any sources for this history.¹⁰ It is taken as common knowledge that education as something universal and accessible to everyone is a European idea and advancement.¹¹ However, long before education started to be accessible to a larger group in Europe, other societies had already developed an elaborate education system.

During the Umayyad Caliphate, from 661-750 AD, education was encouraged by the leaders.¹² The Umayyad rulers developed a comprehensive elementary education system that was not just for the wealthy and influential. When the Abbasids took over, from 750-1258 AD, they continued this education system and further expanded it. Education was free of charge, teachers were either paid through funding or directly by the government and

⁶ The Universal Declaration of Human Rights (adopted by General Assembly Resolution 10 December 1984) 217 A(III) [Hereinafter, *UDHR*].

⁷ *Id.* at Art. 26.

⁸ Drafting started in 1954, it was adopted by the General Assembly in 1966 and came into force in 1976.

⁹ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 [hereinafter, *ICESCR*].

¹⁰ See e.g.: Tristan McCowan, *Reframing the Universal Right to Education*, 46 *Comparative Education* 509, (2010) and Manfred Nowak, *The Right to Education - Its Meaning, Significance and Limitations*, 9 *Neth. Q. HUM. RTS.* 418 (1991).

¹¹ Both Nowak and McCowan for example only discuss events in Western-Europe and the US.

¹² MUHAMMAD AKHTAR & KHALID JAMIL RAWAT, A HISTORIOGRAPHY OF THE EDUCATIONAL SYSTEM OF THE MUSLIMS DURING THE Umayyad's AND THE Abbasid's PERIOD 9 *The Dialogue*, 356, 359 (2014); Ingaz Goldziher, *Muslim Education*, in 43 *EDUCATION AND LEARNING IN THE EARLY ISLAMIC WORLD* 13, 14 (Claude Gillot ed., 2012).

students were provided with food, school materials and a place to stay.¹³ Education was not state-controlled, but the state invested in education and facilitated it.¹⁴

Another example can be found during the Han Dynasty of China, from 206 BC–220 AD. General knowledge of child development was widespread. Education was widely discussed among leaders and officials and a child's education was considered important and a part of developing into adulthood.¹⁵ The Han Dynasty is known for its imperial education in which children were trained for the dynasty. This system was thorough and elaborate.¹⁶

A last example can be found in 1994, during the drafting of the UDHR. The USSR noted that their elementary and secondary level education was free for all and at the time had more students enrolled than the total number of citizens of all European countries together. This, they said, was in contrast to the US where the people of color were mainly illiterate due to the high cost of education.¹⁷ Taking into account that these comments were made at the beginning of the Cold War and therefore might be politically motivated, it shows that countries such as the USSR, 'the second world', already had an elaborate public school system, long before the so-called 'first world countries' even had provided full access for all its citizens.

Therefore, while these are examples of developed education systems that were accessible to the masses, a history on the development of education as a universal right, that should be free and accessible to all only includes events in Western-Europe.¹⁸ These three examples pose a contradiction to this, hence claiming that the universal right to education is a European developed idea is untrue. In reality, the development of education as something widely accessible to citizens was long present in other cultures and civilizations.

¹³ AKHTAR & RAWAT, *supra* note 12, at 363-664.

¹⁴ *Id.* at 368.

¹⁵ MARK E. LEWIS, *THE EARLY CHINESE EMPIRES* 165-169 (2007).

¹⁶ *Id.* at 64-70.

¹⁷ Third Committee of the GA, 147th meeting, nos. 95 to 179, U.N. Doc. A/C.3/SR.147 (Nov. 19 1948) at 588.

¹⁸ Even more so, those that do discuss the history of education outside of the European world actually cite their papers and clearly substantiate their argument. See e.g. LEWIS, *SUPRA* NOTE 15, AKHTAR AND RAWAT, *supra* note 12 and Goldziher *supra* note 12.

2. The Right to Education in International Law

On the international level, the right to access education is grounded in the UDHR. Article 26 states that “[e]veryone has the right to education” that should be free in “at least the elementary and fundamental stages.”¹⁹ However, the UDHR is not a binding document, its purpose is mainly to have a political impact and start a debate.²⁰ Therefore, several international treaties and conventions have been formulated to ensure the binding effects of those human rights.

The right to education was made legally binding with the entry into force of the ICESCR in the 1976.²¹ In Article 13(1) it ensures the right to access free primary education. Fourteen years later,²² the Convention on the Rights of the Child (CRC) came into force and in Article 28(1) ensured the right to access free primary education for all children.²³ While both conventions include the right to education generally, they clearly differentiate between primary, secondary, tertiary and vocational education. The only right to education that is arguably legally binding is the right to primary education.²⁴

Besides the CRC and the ICESCR, several other instruments have been drafted that reiterate the right to education without discrimination. The 1951 Refugee Convention Art. 22(1)²⁵ and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRMW) Art. 30²⁶ both protect the right to access education for refugees and/or migrants. Several other conventions, namely, the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) Art. 10, the UNESCO Convention against Discrimination in

¹⁹ UDHR, *supra* note 6, at Article 26

²⁰ Kurt Willems & Jonas Vernimmen, *The fundamental human right to education for refugees: Some legal remarks*, 17 EUROPEAN EDUCATIONAL RESEARCH JOURNAL 219, 220 (2018).

²¹ ICESCR, *supra* note 9.

²² The drafting of the CRC started in 1978, it was adopted by the General Assembly in 1989 and entered into force in 1999.

²³ Convention on the Rights of the Child, (adopted 20 November 1989, entered into force 2 September 1999) 1577 UNTS 3 [hereinafter, *CRC*].

²⁴ This is due to the fact that only primary education is mentioned to “be compulsory and available free to all”

²⁵ Convention Relation to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954, 189 UNTS 137 [Hereinafter, *Refugee Convention*].

²⁶ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted on 18 December 1965, entered into force 1 July 2003) 2220 UNTS 3 [hereinafter, *CMW*]. Article 30 states that “[a]ccess to public [...] schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State.”

Education, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) Art. 5(E):v and the Convention on the Rights of Persons with Disabilities Art. 24(1) more generally emphasize that the right to education should be applied without discrimination.²⁷

Arguably the strongest convention is the CRC.²⁸ It has been signed and ratified by almost all countries in the world,²⁹ with the exception of the United States,³⁰ and is the first convention to include both political and civil rights, as well as social, economic and cultural rights.³¹ During the drafting of the UDHR into a legally binding document, it was decided that the civil and political rights, later the ICCPR, and the social, economic and cultural rights, later the ICESCR, would be divided into two conventions. At the time of drafting the ICCPR was considered more in line with the purpose of human rights and included legally binding rights. The ICESCR in contrast was considered secondary and leaves space

²⁷ International Convention on the Elimination of All Forms of Racial Discrimination, (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195 [hereinafter, *CERD*] Article 7; Convention on the Elimination of All Forms of Discrimination against Women, (adopted 18 December 1979, 3 September 1981) 1248 UNTS 13 [hereinafter, *CEDAW*] Article. 10; Convention on the Rights of Persons with Disabilities, (adopted 24 January 2007) 2515 UNTS 3 [hereinafter, *CPRD*]. In Article 24(1) it states that “States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning”; Convention against Discrimination in Education, (adopted in 14 December 1960, entered into force 22 May 1962) 429 U.N.T.S. 93. [hereinafter, *UNESCO Education Convention*].

²⁸ The right to education is one of the ‘second-generation human rights.’ The failure to abide by these rights, in contrast to the ‘first-generation human rights,’ have often received less immediate consequences. (Willems & Vernimmen, *supra* note 20, at 221) When drafting the UDHR into a binding legal instrument the rights were divided in two groups, the civil and political rights, the first-generation human rights, were included in the ICCPR and the social, economic and cultural rights, the second-generation Human Rights, in the ICESCR. During the drafting of the convention(s) it was oftentimes noted that the social, economic and cultural rights were not able to be implemented at the same rate at the civil and political rights since countries did not all have the same economic standing. (See e.g. Daniel J. Whelan, *Indivisible Human Right: A History* 59–86 (2010)) It was therefore argued that the rights mentioned in the ICESCR are subject to the so-called ‘progressive realization clause’. (Whelan, *supra* note, at 112, 116-121; Willems & Vernimmen, *supra* note 20, at 221) Therefore, in contrast to the ICCPR which requires immediate realization of the rights set forth in the convention, the ICESCR allows for those rights to be realized progressively. However, this does not mean that states can leave fulfillment of social, economic and cultural rights aside. The social, economic and cultural rights too, “[prohibit] the State from taking measures that would imply a significant deterioration of the protection of the right the State provided before entering into the treaty.” (Willems & Vernimmen, *supra* note 20, at 221.) This is called a ‘stand still’ effect which in case of education reassures the fact that if the state rolls back access to education regulation, it needs to proof “that they have been introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the State party’s maximum available resources.” (UN Committee on Economic, Social, and Cultural Rights, *General Comment No. 13 on the Right to Education* E/C.12/1999/10 (1999) at para 9. [Hereinafter, *CESCR Comment No. 13*]).

²⁹ A total number of 196 countries have signed the convention. UN News, *Hailing Somalia’s ratification, UN renews call for universalization of child rights treaty* (Oct.2, 2015), <https://news.un.org/en/story/2015/10/511312-hailing-somalias-ratification-un-renews-call-universalization-child-rights>

³⁰ Convention of the Rights of the Child, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en

³¹ Sonia Harris-Short, *Listening to ‘the Other’? The Convention on the Right of the Child*, at 1, 2. (This article is not paginated, the page numbers correspond with the page order)

for the progressive realization of those rights.³² This division was a consequence of the inability to agree on the place of the social, economic and cultural rights within the human rights framework.³³ It was mainly the US and its European allies that were opposed to the equal placing of the social, economic and cultural rights with the civil and political rights.³⁴

All together it can be argued that the right to primary education, on the international level, is a universally acknowledged right. Even more so, in several human rights instruments, as well as the preamble of the UDHR, education is viewed as a vital component for the development of human rights. In recent years the right to Education has gained momentum and received increased attention, especially in relation to its supposed connection to poverty reduction and development.

3. Sustainable Development Goal 4

One of the most known initiatives to achieve, among other things, the universal enrollment of all children in primary education are the UN's Sustainable Development Goals (SDGs). The SDGs consist of 17 goals and 169 targets. The goals are built upon three main pillars: poverty reduction, sustainability and economic growth.³⁵ The SDGs are a successor to the Millennium Development Goals (MDGs), which were set up in 2000 and intended to be achieved within fifteen years. The new SDG goals are aiming at fulfillment by 2030. The SDGs are explicitly grounded in several human rights treaties. In the preamble for example it is stated that the SDGs "seek to realize the human rights of all"³⁶ and that the SDGs are "grounded in the Universal Declaration of Human Rights, international human rights

³² Elizabeth Shura, *New Strategies for Progressive Realization Assessments of Economic, Social, and Cultural Rights: Cambodian AIDS-Related Orphans and Vulnerable Children as the Hard Case*, 32 FORDHAM INTERNATIONAL LAW JOURNAL, 1668, 1697 (2008).

³³ Nowak, on this topic, mentions that it is ironic that the socialist states were responsible for the fact that several social, economic and cultural rights were included in the UDHR, yet it is now the non-socialist states that undertake "serious efforts for the international implementation of these rights." (Nowak, *supra* note 10, at 418) However, it is equally, probably even more, ironic that the social, economic and cultural rights, that were originally not considered to be of extreme importance to some of the drafters, have now gained extreme importance. The right to access education for example seems to be generally agreed upon and an ultimate good, something that should be pursued by all states. (Example of article that have written about the positive effects of education are: LEARNING FOR A FUTURE: REFUGEE EDUCATION IN DEVELOPING COUNTRIES (Jeff Crisp, Christopher Talbot & Daiana Cipollone eds., 2001); THE TWO FACES OF EDUCATION IN ETHNIC CONFLICT: TOWARDS A PEACEBUILDING EDUCATION FOR CHILDREN (Kenneth Bush & Diana Saltarelli, eds., 2000); Lynn Davies & Christopher Talbot, *Learning in Conflict and Postconflict Contexts*, 52 COMPARATIVE EDUCATION REVIEW 509, (2008).)

³⁴ Third Committee of the GA, *supra* note, at 588.

³⁵ UNDP, *Our Focus Next generation UNDP*, UNITED NATIONS DEVELOPMENT PROGRAMME (2019), <https://www.undp.org/content/undp/en/home/our-focus.html>

³⁶ G.A. Draft Res., U.N. GAOR, 69th Sess., Supp. No. 13(a) and 115, U.N. Doc. A/69/L.85, at. 2 (Aug. 12, 2015)

treaties, the Millennium Declaration and the 2005 World Summit Outcome.”³⁷ Yet, while they are grounded in several human rights treaties, only one of the 17 SDGs refers to human rights directly. SDG 4, the goal to “[e]nsure inclusive and equitable quality education and promote lifelong learning opportunities for all” is the only goal that directly refers to human rights.³⁸ Human rights here are highlighted to show that one of the goals of quality education is to “ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, [...] human rights.”³⁹ This once again reinforces the understanding that one of education’s main goals is to advance knowledge of human rights.

While there are several possible critiques of these SDGs, two are of particular interest. First, the premise on which all goals are built, the link between economic growth, poverty reduction and a sustainable environment. Attaining all three ultimate goals as the SDG resolution aims at is simply impossible. The attainment of one makes the attainment of the other impossible. Their collective achievement therefore is mutually exclusive. Of particular interest here are economic development and poverty reduction, two goals that clearly underly the SDG4. Assuming that universal access to education automatically leads to poverty reduction through economic development fails to show that poverty is often a consequence of economic growth. It therefore does not only fail to see the source of poverty, it also considers the solution to poverty to be something that is actually a source of poverty.⁴⁰ Secondly, the SDG4 clearly promotes an ideal type of education. While it does not directly state that the western-type of education is the ‘correct’ type, it is clear from its formulation that a qualitatively good education mirrors an education from the Global North. Target 4b for example aims to “expand globally the number of scholarships available to developing countries [...] for enrolment in higher education [...] in developed countries and other developing countries.”⁴¹ Target 4c furthermore aims to “increase the supply of qualified teachers, including through international cooperation for teacher

³⁷ *Id.* at. 14

³⁸ *Id.* at 17.

³⁹ *Id.*

⁴⁰ Usha Natarajan, Prof. of Law, American University in Cairo, address at the Wisconsin International Law Journal Annual Symposium: Sustainable Development Goals and International Law: Intersections of Environmental Law, Human Rights and Environmental Justice (Apr. 6, 2018).

⁴¹ G.A. draft Res., *supra* note 36, 18.

training in developing countries.”⁴² It is clear that the SDGs reflect the opinion that education in the developing countries is not, or not yet, at the level of the developed countries, and therefore needs ‘help’. Altogether, there seems to be a universally accepted understanding that the right to education is good and should be achieved everywhere. However, at the same time it seems that the right to education, as it is often understood, is very Western-centric. This next section will look closer at this specific point.

B. A CRITIQUE OF THE RIGHT TO PRIMARY EDUCATION

The perceived importance of education for development, among other factors, has led to an increase in international attention to the right to education. The conferences on EfA in Jomtien in 1990, and Dakar in 2000, the MDGs, and later the SDGs have created a momentum that have directed the world’s focus to the right to education.⁴³ Yet, the right for everyone to access free quality primary education has not led to universal enrollment, nor to the supposed ‘development’ of these countries.⁴⁴ While there are many reasons provided why this has not been the case,⁴⁵ few actually question the premises on which this right is built.

The human right to education is based on three assumptions that have been presented as inherently good and therefore often left unquestioned. First of all, human rights are presented to be inherently good, the critical note then is that this implementation is often flawed. Secondly, the development, that human rights and the SDGs aim for is presented as inherently good. This is despite the fact that what development entails exactly has never been clearly established. Lastly, education is considered to be inherently good, despite the fact that several articles have proven otherwise.⁴⁶ A critique of the right to education

⁴² *Id.* at 17.

⁴³ McCowan, *supra* note 10, at 509.

⁴⁴ This is not to say that there is not link between education and economic development. However, how this link exists is not clear. Does economic development lead to an increased enrollment in education, or does enrollment in education lead to an increased development? Secondly, economic development and enrollment are not the only two components that are of influence. Janet R. Dickson, Barry B. Hughes & Mohammed T. Irfan, *Advancing Global Education: Patterns of Potential Human Progress* 16 (Vol. 2, 2010).

⁴⁵ Examples are a lack of commitment from the state parties, lack of enforcement mechanisms, lack of implementations, and corruption. See e.g. UNSECO, *Don’t just blame the teacher when the system is at fault, says UNESCO*, UNESCO (24 Oct. 2017), <https://en.unesco.org/news/don-t-just-blame-teacher-when-system-fault-says-unesco>

⁴⁶ See *supra* note 33.

therefore is threefold: whether human rights are inherently good, whether development is inherently good and whether education is inherently good.

1. A Critique of Human Rights in General

Human rights suffer from many defects. Hence, critiques on human rights are abundant and long. However, for the purpose of this thesis the critique will focus on its Western-centricity, which leads to a dynamic of ‘teaching the native,’ which eventually allows us to look at problems in this world without addressing the root causes.

Human rights have put an excessive weight on both events in the Global North, and dynamics and solutions from the Global North. A history of human rights, for example, is often traced back to the 1920s when the Federation International de Droit de l’Homme was created.⁴⁷ This is despite the fact that a history of laws and customs were in place all around the world that mirrored what we now recognize as human rights. As Makau Matua noted “[t]he basic human rights texts drew heavily from the American Bill of Rights and the French Declaration of the Rights of Man. There is virtually no evidence to suggest that they drew inspiration from Asian, Islamic, Buddhist, Hindu, African, or any other non-European traditions.”⁴⁸ While different forms of human rights exist, their stories have been written out of history.⁴⁹ On the contrary, the origins might be portrayed to lay in western countries,⁵⁰ the drafting of the UDHR itself is often portrayed as ‘universal’ in the sense that countries from the so-called first, second and third world were included, including some ex-colonial countries such as Egypt and Iraq.⁵¹

Yet, as Barreto noted, colonized countries had no say in the drafting of the UDHR.⁵² Furthermore, both Peng-Chun Chang from China and Charles Malik from Lebanon, the

⁴⁷Suzan Walz, *Universalizing human rights: The role of small states in the construction of the Universal Declaration of Human Rights*, in HUMAN RIGHTS FROM A THIRD WORLD PERSPECTIVE: CRITIQUE, HISTORY AND INTERNATIONAL LAW 353, 359-360 (José-Manuel Barreto ed., 2013).

⁴⁸MAKAU MUTUA, HUMAN RIGHTS: A POLITICAL AND CULTURAL CRITIQUE 154 (2008).

⁴⁹ Edward Said, *Foreword to Selected Subaltern Studies* i, v (Ranjit Guha & Gayatri Chokravorty Spivak eds., Oxford University Press, 1988).

⁵⁰ There is a school of thought that argues that the origins of human rights are in the nature of human beings. However, even this school of thought traces it back to Western history.

⁵¹ E.g., Walz, *supra* note 4745.

⁵² Zehra F. Kabasakal Arat, *forging a Global Culture of Human Rights Origins and Prospect of the International Bill of Rights*, in HUMAN RIGHTS FROM A THIRD WORLD PERSPECTIVE: CRITIQUE, HISTORY AND INTERNATIONAL LAW, *supra* note 47, 388, 395.

two non-Western UDHR committee members, were both from wealthy families and European trained and therefore hardly represented non-Western countries.⁵³ Years later, when the CRC was drafted, this critique was taken into consideration and the drafting process was opened up to both member states and (I)NGOs to present their opinion in front of the committee.⁵⁴ However, only the states had voting power and only (I)NGOs that had enough money to send members to the Working Group's debates were able to participate. Furthermore, no independent representatives from three of the four largest world religions, Islam, Hinduism and Buddhism, were present, as well as NGOs from the Arab and 'developing' countries.⁵⁵ Human rights therefore are Western-centric in inspiration, even in situations where their aim was to be inclusive.

A non-inclusive drafting process will always be the case because the current foundation of human rights is a doctrine that is "part of a colonial project in which I [a writer from the 'third world'] am a subject – not a citizen."⁵⁶ A truly inclusive drafting procedure, assuming that there is a hypothetical possibility of a universally accepted bill or rights, requires that all states participate equally. Yet, this, due to power imbalance, whether economically, politically or historically, is and will not be the case.⁵⁷ It is grounded in European and American history, and through its universality claim, depicts Western ideas about human rights as universal. The very foundation of human rights as being universal and agreed upon by all countries in the world is therefore incorrect. Hence, the fact that human rights are considered a norm for all countries these days is not proof of their universality but "a telling testament to the conceptual, cultural, economic, military, and philosophical domination of the European West over the non-European peoples and traditions."⁵⁸

⁵³ Charles Habib Malik studied philosophy at Harvard University and later became a diplomat. Peng-chun Chang was trained by on the committee members, John Humphrey and believed that the only way for China to 'catch up' with the West was through education. Henry Li, Peng-chun Chang, American Pragmatism, and the Universal Declaration of Human rights (March 1, 2016) (unpublished B.A. thesis, Harvard College) 4, 8; *Drafting of the Universal Declaration of Human Rights*, DAG HAMMARSKJÖLD LIBRARY, <http://research.un.org/en/undhr/draftingcommittee>.

⁵⁴ Harris-Short, *supra* note 31, at 13. (This article is not paginated, the page numbers correspond with the page order)

⁵⁵ *Id.*, at 18.

⁵⁶ Mutua, *supra* note 48, at 156.

⁵⁷ Harris-Short, *supra* note 54, at 25

⁵⁸ Mutua, *supra* note 48, at 154.

Not only does such a history of human rights neglect the fact that it is not as universal as it claims to be, and therefore still speaks *for* the ‘colonized’, it also denies the actual link between colonization and human rights. As Barreto argues, “[b]eing born out of the experience of the bourgeois revolutions, the Eurocentric theories of human rights deal mainly with the relations between the state and society, or between governments and individuals, while putting aside the problematic side of the interactions between empires and colonies.”⁵⁹ Human rights in the past have been used to treat colonialism as something from the past, that is solved and in the future prevented by the existence of human rights.

This dynamic is problematic, not only because it does away with colonialism as something from the past, but also because it actively denies the current dynamics of neo-colonialism. By arguing that human rights apply to everyone equally they fail to acknowledge that people do not start from an equal place. It is similar to what Foucault argued, that what is considered knowledge and what is not is decided through acts of power.⁶⁰ It is therefore, eventually the Global North that will decide that their ‘knowledge’ is correct, and that from the Global South is not, and therefore backwards.

Through its Western-centric approach, human rights allow the Global North to ‘teach’ the Global South how to be civilized. However, this dynamic is not just a consequence of the foundation of human rights. As was argued before, during drafting of the UDHR, a large portion of the world was still living under colonial rule. Those that were colonized were not represented in the negotiations.⁶¹ The fact that some ex-colonies and ‘third world’ countries were included in the drafting process, does not suffice to discredit this.

As was further argued, the human rights treaties following the UDHR, namely the CRC, were at times aiming to be more inclusive, yet failed as well. The dynamic that then came into existence is one of teaching the native. Implementing human rights universally means that they “attempt to change local cultures and replace them, at least partially, with one that

⁵⁹ Jose-Manuel Barreto, *Imperialism and Decolonization as Scenarios of Human Rights History*, in HUMAN RIGHTS FROM A THIRD WORLD PERSPECTIVE: CRITIQUE, HISTORY AND INTERNATIONAL LAW, *supra* note 47, at 140, 142.

⁶⁰ MARK HOBART, AN ANTHROPOLOGICAL CRITIQUE OF DEVELOPMENT: THE GROWTH OF IGNORANCE 9 (1993); MICHEL FOUCAULT, DISCIPLINE AND PUNISH 22 (Alan Sheridan trans., Vintage Books 2nd ed. 1995).

⁶¹ Kabasakal Arat, *supra* note 52, at 395.

upholds equality and human dignity.”⁶² Human rights were, and are, used to point out shortcomings of other mainly third world countries. International aid often depends on it and international sanctions are often partly wrapped in a human rights focused justification.⁶³

It is through this dynamic of countries in the Global North pointing at countries in the Global South in case of human rights violations, that human rights have covered up the reasons for human rights abuse. They allow us to look at them as tasks to be accomplished. All children need to be in school, all children have access to healthcare, all children should have a safe house to live in. Yet, what this approach results in is that human rights are measured in numbers. They are just goals, without addressing the reasoning behind the fact that there are human rights violations.

In this way human rights are apologetic to the root causes of human rights violations. Marks notes “human rights emerged as a set of ‘blindness’ that narrow our field of vision and prevent us from seeing (and hence from challenging) the wider scene.”⁶⁴ She later notes that root causes currently form an important part of the debate around human rights, however it does not take away the fact that human rights allow us to look at problems simply as situations that need to be solved. Natarajan, on this same topic, noted that human rights have moved away from addressing the root causes of human rights violations, such as colonialism, environmental degradation and inequality through eliding its association to race, gender and class, to addressing human rights violations with ‘palliative measures.’⁶⁵ The real issue therefore is not addressed, just the problem that is in front of us. This eventually creates a vicious circle of human rights violations that will never be resolved, unless the actual root causes are addressed. As both Natarajan and Marks note, the current practice of human rights means that there is a focus on the poor and therefore fails to address the real causes: the rich. Human rights deter the focus on the Global North as the

⁶² *Id.* at 390.

⁶³ One clear example of sanctions as a response to human rights violations are the US sanctions on North Korean Officials.

⁶⁴ Susan Marks, Human Rights and Root Causes, 74 THE MODERN LAW REVIEW 57, 59 (2011).

⁶⁵ Natarajan, *supra* note 40.

root cause of misery and look at the Global South in isolation to solve human rights issues.⁶⁶

2. A Critique on the Link Between Human Rights and ‘Development’

The relationship between countries in the Global South and countries in the Global North has long been one about development.⁶⁷ There is a supposed ideal accompanying human rights, that all countries and people(s) will eventually ‘evolve’ into prosperous human rights abiding democracies that mirror those in the Global North. The most ideal circumstance for this is a free market economy where individuals are free and therefore capable of attaining their human rights.⁶⁸ Yet, this concept of development is complicated.

The word development is often used without clearly identifying its meaning. Its meaning depends on the principles of the discussant. In the terms of the SDGs, development is strictly related to an increase in economic activity and a participation in the world economy. When one gets better pay or is paid at all in the case of someone entering wage-labor, this is considered development. Yet, the fact that this person might now be away from home for longer hours, is hard to conceive as development. Is entering the wage-labor market, and with that the world economy, where there is only space for a limited number of people for good pay,⁶⁹ where one depends on the payment received as the main source of their living, better than depending on your own source of income?⁷⁰ The response is often affirmative, because economic growth and poverty reduction are linked.⁷¹ However, there are several examples that show that despite growth, or sustenance of economic wealth, the number of people living in poverty increased at the same time.⁷²

⁶⁶ *Id.*; Marks, *supra* note 64.

⁶⁷ HOBART, *supra* note 60, at 1.

⁶⁸ See e.g. EDGAR OWENS, *THE FUTURE OF FREEDOM IN THE DEVELOPING WORLD: ECONOMIC DEVELOPMENT AS POLITICAL REFORM* (1987).

⁶⁹ I have chosen to specifically note ‘good pay,’ because there is a multitude of jobs, however few will actually pay enough for someone to live a humane life.

⁷⁰ On this topic, see Jason Hickel, A letter to Steven Pinker (and Bill Gates, for that Matter) About Global Poverty, JASON HICKEL (Feb. 4, 2019), <https://www.jasonhickel.org/blog/2019/2/3/pinker-and-global-poverty>

⁷¹ The World Bank for example notes that “We face big challenges to help the world’s poorest people and ensure that everyone sees benefits from economic growth.” They make a direct link between economic growth and poverty reduction. *Understanding Poverty*, THE WORLD BANK, <http://www.worldbank.org/en/understanding-poverty>

⁷² Gaurav Datt & Martin Ravallion, Is India’s Economic Growth Leaving the Poor Behind?, 16 JOURNAL OF ECONOMIC PERSPECTIVES 89 (2002); *Extreme poverty returns to America*, THE WASHINGTON POST (Dec. 21, 2017), https://www.washingtonpost.com/news/made-by-history/wp/2017/12/21/extreme-poverty-returns-to-america/?utm_term=.73aff73e2e3a; Hickel, *supra* note 69;

There are several reasons for this, Hobart attributes this partly to the role played by Western scientific knowledge. As he argues “[n]ot only are indigenous knowledges ignored or dismissed, but the nature of the problem in underdevelopment and its solution are defined by reference to this world-ordering knowledge.”⁷³ Furthermore, as Natarajan noted, the solution provided by the Global North, economic development, is more often the reason for underdevelopment.⁷⁴ The solution provided is the source of the issue. Ultimately, the purported purpose of so-called development projects is for matters to get better, in spite of the fact that development projects often make matters worse. Development therefore is a difficult term to define, what progress means depends on what one sees as progress.

Nevertheless, the word development is omnipresent in today’s world. The SDGs aim to develop, the several international organizations aim to develop, and countries aim to develop. As Pahuja noted, “*development* as both word and concept has become a *proxy* for, or synonymous with, the way we talk about questions of material well-being and global inequality.”⁷⁵ The fact that development is often readily considered to be good and used extensively by all different types of entities in combination with the fact that what development entails is not clearly defined, is problematic. It has rendered the word both almost meaningless and one of the most powerful words in human rights discourse and aid organizations. This is because, as Rist noted, its ambiguity has created an “aura of self-evidence surrounding a concept which is supposed to command universal acceptance but which – as many have doubtless forgotten – was constructed with a particular history and culture.”⁷⁶ This has led to the believe that the development human rights are working towards is positive. Yet, even if this is not the case, “[t]he need to believe is often stronger than the constant of the belief itself.” [...] [T]he fact remains that, over five decades, it has

<https://www.forbes.com/sites/ralphjennings/2018/02/04/why-tens-of-millions-remain-poor-in-china-despite-fast-growing-wealth/#300e417b7e9e>

⁷³ HOBART, *supra* note 60, at 1.

⁷⁴ Natarajan, *supra* note 40.

⁷⁵ Sundhya Pahuja, *The Poverty of Development and the Development of Poverty in International Law*, in SELECT PROCEEDINGS OF THE EUROPEAN SOCIETY OF INTERNATIONAL LAW 365, 366 (James Crawford & Sarah Nouwen eds. 2012).

⁷⁶ Gilbert Rist, *The History of Development: From Western Origins to Global Faith 2* (Patrick Camiller trans., Zed Books New Ed. 1997).

legitimized the establishment of enormous bureaucracies, notably UN bureaucracies.”⁷⁷ Thus, the link between human right and development might be a complicated one, but its unquestioned use has advanced the expansion many international aid organizations.

3. A Critique of Education

The last component of the human right to education, is education. Despite the fact that education has enjoyed an almost untouched position of ultimate goodness and usefulness, there are structural issues with education, or the benefits attributed to it.

*i. Myth 1: Education needs to be at least somewhat structured*⁷⁸

Education exists in many forms, it can differ from a college lecture to a conversation with an elderly woman. However, in the field of education, there is often⁷⁹ only one form of education that results in an acknowledged certificate that provides proof of what has been learned: formal education or ‘schooling’. Formal education is the standardized form of education that is hierarchically-organized, both grade-wise and teacher-student relationship, is pre-determined, has a teacher, and state-sponsored or at least acknowledged by the state. Important is the fact that it has a set curriculum that results in a diploma with national and often international acknowledgement.⁸⁰ Education therefore is only that which is defined by the state.⁸¹ When we look at several human rights treaties that discuss the right to education, they often refer to institutionalized forms as education e.g. primary or secondary education.⁸²

Some, such as the ICESCR, leave room for parents to choose the type of education for their children arguing that the Covenant leaves “the liberty of parents [...] to choose for their

⁷⁷ Rist, *supra* note 76, at 248.

⁷⁸ This is a summary, a more detailed description of the different types of education can be found in: Cynthia A.A. Wijtsma, Access to Education for Ethiopian Refugees in Cairo: A Refugee Centered Approach (March 2019) (unpublished M.A. thesis, The American University in Cairo) (on file with the American University in Cairo).

⁷⁹ I say ‘often’ because some forms of non-formal education might lead to an acknowledge certificate. However, these certificate too are depending on certain predetermined subjects and levels of knowledge about these topics.

⁸⁰ Haim Eshach, *Bridging In-School and Out-of-School Learning: Formal, Non-Formal, and Informal Education*, 16 JOURNAL OF SCIENCE EDUCATION AND TECHNOLOGY 171, 174 (2007); Ayla Bonfiglio, *Learning outside the classroom: non-formal refugee education in Uganda* 3 (New Issues in Refugee Research, Research Paper No. 193, 2010).

⁸¹ Selena George and Shilpha Jain, *Exposing the Illusion of the Campaign for Fundamental Right to Education*, SHIKSHANTAR (Dec. 2000), <http://shikshantar.org/articles/exposing-illusion-campaign-fundamental-right-education>; ICESCR, *supra* note 9, at Article 13(3).

⁸² The CRC refers to education as primary, secondary, and higher education. The ICESCR refers to education as something broader and less defined by the institutionalized primary, secondary, and higher education. However in Article 2 it also refers to these forms of education.

children schools, other than those established by the public authorities,” however, those types of education are only allowed when they “conform to such minimum educational standards as may be laid down [...] by the State.”⁸³ The term ‘education’ in the right to education therefore has become equal to schooling.⁸⁴ However, many children, especially in the Global South, do not attend this form of formal education, but attend non-formal or informal forms of education. As a consequence their educational achievements are often not acknowledged.

Non-formal education differs from formal education because it is outside the formal school system. It does not necessarily need to be hierarchically organized, both the teacher-student relation, as well as the hierarchy in age of the students. Because of this, it can address specific needs for learners who have missed out on school or start school at a later age.⁸⁵ It can serve as supplementary, complementary or a substitution to formal education,⁸⁶ and is often offered in the form of a community school, short courses, community center trainings or continuing education programs.⁸⁷ Besides non-formal education the term informal education is also often used. Both words are often used interchangeable.⁸⁸ Yet, despite its interchangeable use, their meaning differs.⁸⁹ Informal forms of education are not

⁸³ ICESCR, *supra* note 9, at Article 13(3). The Article states that: “[t]he States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.” [emphasize added]

⁸⁴ George and Jain, *supra* note 81.

⁸⁵ Bonfiglio, *supra* note 80, at 3.

⁸⁶ Angela Willmott, *Non-formal education for urban refugees in Kampala*, 6 TRANSNATIONAL SOCIAL REVIEW 215, 216 (2018).

⁸⁷ UNESCO, *Non-formal education glossary*, GLOSSARY, <http://uis.unesco.org/en/glossary-term/non-formal-education>.

⁸⁸ Wijtsma, *supra* note 78. In this Thesis I argued that: “[w]hat exactly encompasses non-formal or informal education is not strictly defined and the words non-formal and informal are interchangeably used. One article by Ahmed Baker, *Informal Education Programs*, for example explores forms of informal education, namely education for the handicapped, illiteracy programs and pre-school. (Ahmed Baker, *Informal Education Programmes*, 2 JOURNAL OF REFUGEE STUDIES 98 (1989)) Whereas UNESCO reported on one of their informal education projects in Zaatari refugee camp focused on basic Arabic and Math classes. (*Informal Education Project in the Zaatari Refugee Camp Changes the Lives of More than 200 Students*, STATES NEWS SERVICE (March 1, 2016), <http://go.galegroup.com/ps/i.do?p=BIC&u=aucairo&id=GALE|A444730440&v=2.1&it=r&sid=BIC&asid=2a16153e>) Bonfiglio on the other hand defines informal education as ‘learning that takes place ‘continuously and incidentally for each individual.’ (Bonfiglio, *supra* note 80, at 3) Some authors have tried to bring some more structure in dividing educational opportunities in different fields. Eshach for example argues that a distinction should be made that ‘takes into account not only physical differences, i.e. in or out of school, but rather includes other factors as well such as motivation, interest, social context and assessment to distinguish between three types of learning: formal, informal and non-formal.’ (Haim Eshach, *Bridging In-School and Out-of-School Learning; Formal, Non-Formal, and Informal Education*, 16 Journal of Science Education and Technology 171, 174 (2007))

⁸⁹ It should however be noted that the line between formal, non-formal and informal is blurry sometimes. The three forms might overlap. Eshach for example notes that a museum visit qualifies as an informal way of learning, however,

institutionalized or based on a planned curriculum. It can be taught everywhere and often includes ad-hoc learning.⁹⁰ Informal forms of education might include visiting a museum, religious classes or learning a skill from a family member.⁹¹

While many children access non-formal and informal forms of education, these forms are often not officially acknowledged. There is often no official way of evaluation and many do not have an acknowledged certificate.⁹² Added to this is the fact that some (non-)formal forms of education might grant certificates that are only acknowledged inside the country.⁹³ This is especially problematic with certificates granted in the Global South, those often need to be validated when transferred to a country in the Global North. Assuming that education needs to be formal and corresponding with a Western model in order to provide a ‘quality’ education is not only problematic, it also creates a global hierarchy of education, one that directly and indirectly perpetuates inequality.

ii. *Myth 2: Education is inherently good*

Education has enjoyed a positive position that has gone almost uncontested. It has been widely believed to provide a safe space for children, a place where identity is built and character shaped.⁹⁴ Because of the many positive factors of education, there has been an increased attention among international organizations for the use of the right to education as a negotiation tool.⁹⁵ Yet, it is often overlooked that education can also do more harm than good. For example, the teaching methods can be a stressor for children. It has been proven that authoritative teaching methods can cause distress for children, and oversized classes can add to abuse.⁹⁶ Teachers might feel overwhelmed and not adequate enough to teach, leading to teachers adopting a more authoritarian role and didactic way of teaching.⁹⁷

the guide, structured way of following the path and predetermined idea of what one should learn overlap with a more formal form of education. (Eshach, *supra* note 88, at 173-174)

⁹⁰ Eshach, *supra* note 88, at 174.

⁹¹ *Id.*; UNESCO, *supra* note 87.

⁹² Eshach, *supra* note 88, at 174.; Bonfiglio, *supra* note 80, at 3; CERTIFICATION COUNTS: RECOGNIZING THE LEARNING ATTAINMENTS OF DISPLACED AND REFUGEE STUDENTS (Jackie Kirk, ed., 2009).

⁹³ Kirk, *supra* note 92, at 24.

⁹⁴ Susan Nicolai & Carl Triplehorn, *The role of education in protecting children in conflict*, 42 HUMANITARIAN PRACTICE NETWORK 1, 10 (2003).

⁹⁵ *Id.* at 1-36.

⁹⁶ Davies & Talbot, *supra* note 33, at 515.

⁹⁷ Francina Moloi, Nomusic Morobe & James Urwick, *Free but inaccessible primary education: A critique of the pedagogy of English and Mathematics in Lesotho*, 28 INTERNATIONAL JOURNAL OF EDUCATIONAL DEVELOPMENT 612, 613 (2008).

Often times abusive power dynamics and patriarchal structures in society are replicated in the schools, and vice versa.⁹⁸

Besides the teaching methods, other parts of education can also be harmful. The curriculum in particular is of importance here. In order for a school to provide a child with an acknowledged school certificate it needs to include certain topics in the curriculum. These are centralized topics agreed upon by the government. Education therefore can never be completely objective. This can be used to marginalize people and cultures and “to enhance, mistrust, intolerance, and separate identities.”⁹⁹ It is known that Serbia, Burundi, Sri Lanka and Rwanda all have used education to heighten ethnic tension.¹⁰⁰ One of the most obvious examples through which this is done is through history teaching. Many civil wars or internal conflicts have been preceded by decennia of stereotyping ‘the other’.¹⁰¹ But not just conflict is a consequence. Many countries, for example, teach that Cristopher Columbus ‘discovered America,’ completely eliding the existence of the Native American population before Columbus massacred and enslaved them. Histories furthermore tend to focus on Western history, completely omitting Asian, African, South-American and Polynesian histories.¹⁰² History is important, yet it can easily marginalize and alienate groups from societies. The Palestinians are one example of this. In Israel they are only taught Israeli and European history.¹⁰³ This is yet another way through which Israel marginalizes Palestinians.¹⁰⁴

⁹⁸ George and Jain, *supra* note 81; In Nepal for example corporal punishment for the child is normalized and considered to be the only way through which children learn. Parents will ask the teacher if they punished their children well enough and might ask for more physical punishment as an incentive, (own observation) and in Afghanistan, the curriculum has been shown to reproduce patterns in society that represent violence, corruption and inequality (IIEP, *Understanding education's role in fragility: Synthesis of four situational analyses of education and fragility: Afghanistan, Bosnia and Herzegovina, Cambodia, Liberia* (IIEP research paper 2011) 35-41.).

⁹⁹ *Id.* at 32.

¹⁰⁰ Nicolai & Triplehorn, *supra* note 94, at 5.

¹⁰¹ Sarah Warshauer Freedman, Harvey M. Weinstein, Karen Murphy & Timothy Logman, *Teaching History after Identity - Based Conflicts: The Rwanda experience*, 54 COMPARATIVE EDUCATION REVIEW 663, 675 (2008).

¹⁰² In the Netherlands, the Greek and Roman era is often mentioned as the beginning of civilization, from where on Europe evolved. The rest of the world is only discussed when colonialism is discussed.

¹⁰³ It should be noted that this does not only happen in Israel. In Lebanon, Palestinian children have a distorted image of their history as well, since teachers are required to teach history from a Lebanese standpoint (Nicolai & Triplehorn, *supra* note 94, at 6).

¹⁰⁴ There have been several examples of countries where the topic of history has been approached as less set in stone. In Guatemala for example curricula have been developed without an ultimate truth to history, but one that allows for different historical narratives. Freedman, Weinstein, Murphy & Logman *supra* note 101, at 667.

The language of instruction is another way through which education can be harmful. While there might be many reasons to choose a certain language of instruction practicality, educational purposes, and cultural and political reasons, it can also be used as a method for marginalizing people. Language is often fundamental to identity and culture.¹⁰⁵ This is why “language often becomes a tool to reconstruct and legitimize notions of nation and identity.”¹⁰⁶ The language of instruction might be considered the language of the oppressor. It might be used to marginalize people or enforce national identity. This has for example been the case with the South-Sudanese in Sudan and the Kurds in Turkey.¹⁰⁷ The same dynamic has been present in settler colonial states, where native inhabitants of the land were, and often still are, forced to learn in the language of the colonizer.¹⁰⁸

The several NGOs providing ‘help’ in organizing education, are actually a large source of harm that is being done as well. This is because “external intervention, no matter how well meaning or thoughtful, will always be subject to the existing political context.”¹⁰⁹ Their influence on the curriculum and what is taught cannot be underestimated. Many NGOs facilitating the access to education develop their own curriculum, bring in one from their ‘home’ country or supplement the local curriculum with a foreign curriculum.¹¹⁰ Many of these curricula are Western-oriented, ignore local culture and history, and refer to topics that are un-relatable to the students. Through the use of these curricula, cultures and histories are marginalized and a negative image is reinforced. Especially in relation to the North-South divide, this often means that children living and receiving education in the Global South have received education that partly neglects their own history and/or portrays their cultures as inferior to Western cultures.¹¹¹

Education is not just harmful for children in the ‘third world.’ As Jain notes “[w]here schooling levels are the highest you have the highest rates of overshooting ecological

¹⁰⁵ Bush & Saltarelli, *supra* note 33, at 11.

¹⁰⁶ Su-Ann Oh & Marc van der Stauwe, *Education, Diversity, and Inclusion in Burmese Refugee Camps in Thailand*, 52 COMPARATIVE EDUCATION REVIEW 589, 607 (2008).

¹⁰⁷ *Refugee Education: A Global Overview*, UNHCR, 2011, at 64.

¹⁰⁸ Examples of this are the US, Canada, Australia and New Zealand. (Eve Tuck & K. Wayne Yang, *Decolonization is not a metaphor*, 1 DECOLONIZATION: INDIGENEITY, EDUCATION & SOCIETY 1, 21(2012).)

¹⁰⁹ Freedman, Weinstein, Murphy & Logman *supra* note 101, at 684.

¹¹⁰ Oh & van der Stauwe, *supra* note 106, at 610.

¹¹¹ Bush & Saltarelli, *supra* note 33, at 14.

footprints [...], the highest levels of social depression and community breakdown, the highest levels of military expenditure and fear, the highest levels of corruption, the highest levels of pornography, the highest levels of pesticides and poisons in food, and the highest levels of diet-related health diseases such as diabetes, obesity, cancer, etc.”¹¹² However, any of the abovementioned drawbacks of education are often ignored. One of the reasons for this is the fact that education is big business and a source of income for many NGOs, as well as a center of politics. Education has become part of the capitalist market.

However, not just what and how schools teach can be harmful, the very foundation of education as we know it, the Western style that is enforced upon the majority of this world, is harmful. Fasih compares education with the modern commercial chicken farms. They are put in a row, they are force fed, so that they will lay eggs.¹¹³ Education drills information into children, teaches them that the only form of success is to reach the top in school. It teaches them unhealthy forms of competition and the fact that their value depends on it. Year after year students are ranked, highest of the class, lowest, most improved, and the like. From an early age on, education teaches children that life is a competition.¹¹⁴ This ‘prepares’ them for the work field, where competition is even more fierce.

iii. Myth 3: Education decreases poverty

Poverty reduction is often mentioned as one of the biggest positive consequences of education.¹¹⁵ And while there is undeniably some link between poverty reduction and education, it does not mean that access to education reduces poverty all together. Even more so, there have been several examples of situations in which poverty increased.¹¹⁶ This is mainly due to the fact that while children may get trained for a certain job, there are often not enough jobs for the number of graduates. Besides, children, being forced to enter formal education due to compulsory education are denied the chance to learn, or conditioned to

¹¹² Manish Jain, *Seven Deadly Sins of Schooling*, SHIKSHANTAR, <http://shikshantar.org/articles/seven-deadly-sins-schooling>.

¹¹³ TEDxRamallah Munir Fasheh منير فاشه Occupation of knowledge الاحتلال المعرفي, YOUTUBE, (May 24, 2011), <https://www.youtube.com/watch?v=D0MVsjhTdsQ> at 8.23 min.

¹¹⁴ George and Jain, *supra* note 81.

¹¹⁵ See e.g. Harry A. Patrinos, Why education matters for economic development, THE WORLD BANK (May 17, 2016), <https://blogs.worldbank.org/education/why-education-matters-economic-development>; Masood Sarwar Awan, Nouman Malik, Haroon Sarwar & Muhammad Waqas, *Impact of Education on Poverty Reduction*, 3 INTERNATIONAL JOURNAL OF ACADEMIC RESEARCH 659 (2011).

¹¹⁶ *Schooling the World: the last white man's burden*, SCHOOLING THE WORLD (2010), <https://schoolingtheworld.org/viewfilm/>.

believe in the backwardness of traditional forms of livelihood.¹¹⁷ Consequently a number of graduates will have to take jobs below their education level.¹¹⁸ The chances that the scarce number of jobs will be taken by the already more prosperous section of society are high, therefore further enlarging the gap between rich and poor. A second reason why education will not automatically lead to poverty reduction is the simple fact that a diploma does not guarantee a job.¹¹⁹ Even more so, the larger the number of people who have a certain diploma the less the diploma is worth, the more the person needs to get certified in order to ‘stand out.’ Lastly, that what is taught might not fit the needs of the child, or the needs of the market. This effectively renders their education practically useless.¹²⁰ This is not to say that education cannot lead to poverty reduction, however the assumption that access to education automatically leads to poverty reduction is both naïve and incorrect.

C. EDUCATION AND DOMINATION

Having discussed the history of the right to education and several critiques relating to this right, the last step is to look at education and more specifically how it has been connected to different dynamics. The main focus of this section is to show the link between education, colonialism and neo-liberalism. Through this it will show that the ‘origins’ of education, as we know it today, are in oppressive systems of power that are mainstreamed into society and left unquestioned.

1. Education & Industrialization

Before industrialization, education was reserved for the elite. People were often trained in classics and/or facilitated by the church.¹²¹ This changed at the beginning of the 19th century when industrialization was in full swing. Education changed to something that was universally accessible and eventually ‘free for all.’¹²² The standardization of education and

¹¹⁷George and Jain, *supra* note 81.

¹¹⁸ Egypt is one of these examples, many people have obtained a higher education degree, however their unemployment rate is 30.8%. The market does not match up with the degrees people have received. Ibrahim Awad & Nourhan Abdel Aziz, *Egyptian Irregular Migration in the GCC Countries*, in *SKILLFUL SURVIVALS: IRREGULAR MIGRATION TO THE GULF* 225, 229-232 (Philippe Fargues & Nasra M. Shah eds, 2017).

¹¹⁹ George and Jain, *supra* note 81.

¹²⁰ Gandhi in his book *Towards New Education*, under the section English Education, discusses his dislike of the English school system which has actively alienated the people from their heritage. M. K. GANDHI, *TOWARDS NEW EDUCATION* (Bharatan Kumarappa ed.), https://www.mkgandhi.org/ebks/new_edu.pdf

¹²¹ Jim Carl, *Industrialization and Public Education: Social Cohesion and Social Stratification*, in *22 INTERNATIONAL HANDBOOK OF COMPARATIVE EDUCATION*, 503, 503 (Robert Cowen & Andreas M. Kazamias ed., 2009).

¹²² Note, *infra* note 125.

the industrial revolution went hand in hand. People needed to be trained in order to do the jobs the factory assembly lines required. The elementary schools therefore trained their students for the jobs in the factory.¹²³ This required both a standardization of knowledge and of skills. However, this did not mean that the standardization and universalization of education happened simultaneously with industrialization. The universalization and standardization of education usually¹²⁴ happened around half a century after the start of industrialization.¹²⁵ It was therefore industrialization that made the development of universal education possible. Nevertheless, universal access to education did not make for equal opportunities. The elite that had access to education before mass access was instated were still the ones that accessed the higher forms of education.¹²⁶

Whereas the mass education focused on basic literacy and math skills, it was the elite that had the means and the needs to continue onwards to secondary and tertiary education, where the more classical subjects such as science and Latin were still prevalent.¹²⁷ Besides enforcing an even greater class difference, the universalization of education had another effect. As is noted by several authors, the subjects taught in school were disconnected from what the jobs require(d) people to do.¹²⁸ Ultimately, many assembly line jobs did not require being able to read or calculate. The added value of education therefore was not so much *what* they learned, but *that* they learned. Through learning a new generation was ‘socialized’ into a new world economy. In this way, “public education [...] contributed to the cohesiveness of nation-states even as they emerged to determine and legitimate new forms of social stratification.”¹²⁹

¹²³ Carl, *supra* note 121, at 507.

¹²⁴ I say ‘usually’ because both industrialization and universalization of education happened at different paces and at different times in different countries.

¹²⁵ In England the industrialization started at the end of the 18th century, the universalization of education came in steps. Education was made compulsory in 1880 and school fees were abolished in 1891. In France industrialization started around the beginning of the 19th century. The universalization of education also came in steps. Different provisions in 1830, 1860 and 1880 eventually established compulsory free primary education. The 1860 provision made education compulsory and the 1880 provision made it free. Carl, *supra* note 121, at 507-508.

¹²⁶ *Id.*, at 507.

¹²⁷ *Id.* at 509-511; Mara Squicciarini & Nico Voigtländer, *Human Capital and Industrialization: Evidence from the Age of Enlightenment* 33, (National Bureau of Economic Research, Working Paper 20219, 2014).

¹²⁸ One example is: DAVID BILLS, *THE SOCIOLOGY OF EDUCATION AND WORK* (2004).

¹²⁹ Carl, *supra* note 121, at 515.

2. Education & The Empire

Education has long been used as a tool ‘to teach the native.’ Substantial literature exists on the history of the forced education of thousands of Native American children,¹³⁰ and the education of the Philippine natives by the Spanish.¹³¹ Others have written on the missionary schools that were established¹³² and increasingly on the decolonization of current higher education systems.¹³³ All topics have one thing in common: the colonizer teaches. The colonizer taught ‘to civilize’ the native and to consolidate their rule within the territory.¹³⁴

Colonizers left a significant mark on education systems around the world. The British Empire is one of them. Their influence on education systems around the world therefore does not surprise. Education in the British Empire was dominated by the English education tradition.¹³⁵ This English tradition was identified by their Protestant Christian ideals, patriotism, obedience and self-reliance. Through education, boys, and eventually also girls, “learnt the basic tools for imperial command: courage, endurance, assertion, control and self-control.”¹³⁶ This education system was implemented, or mirrored, in several former British colonies and its effects have long lasted even after the independence, assuming that independence exists, of some of these countries.¹³⁷ Not just former colonies have implemented or were forced to implement the British education system. Several settler colonies, such as New-Zealand have copied it too, as well as countries that have been severely influenced by the British Empire. Nepal is one of the examples of this.

¹³⁰ See e.g. J.R. GRAM & PROJECT MUSE, *EDUCATION AT THE EDGE OF EMPIRE: NEGOTIATING PUEBLO IDENTITY IN NEW MEXICO’S INDIAN BOARDING SCHOOLS* (2015); N.J. COLLETTA & EAST-WEST CULTURE LEARNING INSTITUTE, *AMERICAN SCHOOLS FOR THE NATIVES OF PONAPE: A STUDY OF EDUCATION AND CULTURE CHANGE IN MICRONESIA* (1980); Angela Jaime & Francisco Rios, *Negotiation and Resistance Amid the Overwhelming Presence of Whiteness: A Native American Faculty and Student Perspective*, 10 TABOO 37 (2017).

¹³¹ See e.g. S.J. HORACIO DE LA COSTA, *THE JESUITS IN THE PHILIPPINES, 1581-1768* (1961);

¹³² See e.g. *Id.*; *MISSIONS AND EMPIRE* (Norman Etherington ed., 2008).

¹³³ See e.g. Julie Ried, *Decolonizing Education and Research by Countering the Myths We Live By*, 57 CINEMA JOURNAL 132.

¹³⁴ Mary C. Diang, *Colonialism, Neoliberalism, Education and Culture in Cameroon* (2013) (unpublished Master Thesis, DePaul University) (on file with Via Sapientiae, DePaul University) at 8.

¹³⁵ It is also worth noting that while the colonizers set up schools in the colonies, they set up a parallel education system for their own children. Gary McCulloch, *Empires and Education: The British Empire*, in 22 INTERNATIONAL HANDBOOK OF COMPARATIVE EDUCATION, *supra* note 121, at 169, 170.

¹³⁶ J.A. MANGAN, *THE GAMES ETHIC AND IMPERIALISM: ASPECTS OF THE DIFFUSION OF AN IDEAL* (1998). Quote originates from the back of the book.

¹³⁷ Diang, *supra* note 134, at 8; *Id.*

As a consequence of the influence of the British Empire on education, several education systems around that world emphasize the cultural, political and economic superiority of the Global North.¹³⁸ Many of these education systems not only emphasize the superiority of the Global North but also neglect the presence of systems of education that cater more towards the local traditions, histories and economy.¹³⁹ Therefore, education then and its remnants now, reproduce systems of subordination that emphasize the superiority of the Global North, and train the Global South to be like the Global North without ever fully allowing them to ‘achieve’ this.

3. Education & Neo-Liberalism

The use of education for the purpose of the economy and the nation state was developed during the industrialization and colonial era. A discussion on education and neo-liberalism therefore needs to be preceded by one on colonialism and industrialization.¹⁴⁰ The leap from industrialization and colonialism to neo-liberalism comes naturally. Neo-liberalism, and neo-colonialism as a sub-form, are a continuation of both the correlation between education and industrialization as well as education and colonialism. As Reid argues, it is “[t]he dominant colonially inscribed forces that define our world today [which] are largely intertwined with the neoliberal economic organization of society.”¹⁴¹

Education is of vital importance in a neo-liberalist state because it lends itself as an institute to creating ‘docile bodies.’¹⁴² As Hobart argues, the idea that education will solve the problem of poverty and human rights abuses is erroneous because “behind the overt pedagogic aims of enlightening and broadening school children’s knowledge lurks a ‘hidden curriculum’ in which fear and inadequacy are inculcated. Various organizations obviously have an interest in perpetuating a large population of passive political subjects and pliant consumers, who have been rendered uncritical, or at least silently and ineffectually critical.”¹⁴³ His argument speaks to Foucault when he argues that education

¹³⁸ McCulloch, *supra* note 135, at 177

¹³⁹ See e.g. Diang, *supra* note 134.

¹⁴⁰ *Id.*, at 4.

¹⁴¹ Julie Ried, *Decolonizing Education and Research by Countering the Myths we Live By*, 57 CINEMA JOURNAL 132, 134 (2018).

¹⁴² The term docile bodies originates from Foucault’s discipline and punish, FOUCAULT, *supra* note 60, at 135-169.

¹⁴³ HOBART, *supra* note 60, at 20.

as an institution teaches people what is expected of them and what is needed from them to contribute to a certain society.¹⁴⁴ A famous drawing, used by Foucault, shows a crooked tree that is tied to a pole so that it will eventually grow into the perfect tree we like (see *Figure 1*).¹⁴⁵ Education can be similar to this.

Neo-liberalism can therefore use education to create “passive political subjects and pliant consumers”¹⁴⁶ because education trains people to be part of a system. It is therefore not surprising that several neo-liberal organizations actively work towards universal education.¹⁴⁷ One of the main examples is the World Bank. They are one of the largest funders of education projects that aim towards the achievement of EfA. The World Bank has not made it a secret, even more so they have made it their goal, to “build human

¹⁴⁴ FOUCAULT, *supra* note 60, at 138.

¹⁴⁵ The picture originates from Foucault’s *Discipline and Punish*. FOUCAULT, *supra* note 60, between 169-170.

¹⁴⁶ HOBART, *supra* note 60, at 20.

¹⁴⁷ The link between education and the economic side of neo-liberalism can also be seen in the fact that the ‘development’ of humanity, and with that the implementation of human rights, is often discussed in terms of economic development. The link between human rights and economic development has been argued abundantly. Some argue that this is just a coincidence, (Samuel Moyn, *A Powerless Companion: Human Rights in the Age of Neoliberalism*, 77 LAW AND CONTEMPORARY PROBLEMS 147, 147-149) others argue that there is a direct link. (for example: Pahuja, *supra* note 75) While a debate on the correlation between economic development and the development of human rights is outside the scope of this thesis, the often mentioned correlation is important to note. Especially because economic development and human rights are often mentioned simultaneously as well as education and economic development, (Squicciarini & Voigtländer, *Supra* note 127, at 1; Robert Cowen, *Editorial Introduction: Industrialisation, Knowledge Societies and Education*, INTERNATIONAL HANDBOOK OF COMPARATIVE EDUCATION, *supra* note 121, at 499, 499–501) particularly by policy makers. As if one cannot exist without the other. Human rights and economic development have more than once been mentioned as coinciding. Moyn noted that the development of human rights occurred simultaneously with the development of the world economy. (Moyn, *supra*, at 147) Both were ‘led’ by the same players, the US and Europe, and it is therefore also not surprising that the question of how to attain universal human rights, is often answered with a question that envisions circumstances mirroring that of the US and Europe. The US-based advocate group Freedom House for example argues that ‘at the most simplistic level, the best guarantor of human rights is a political system grounded in capitalism’. (*Promoting Human Rights through Economic Development*, FREEDOM HOUSE (March 5, 2013), <https://freedomhouse.org/blog/promoting-human-rights-through-economic-development>) Robert Dañino, a former Senior Vice President and General Counsel of the World Bank Group, noted that Human Rights are at the core of the mandate of the World Bank Group. In his time at the World Bank he therefore established a Work Group on Human Rights. (Roberto Dañino, *The Legal Aspects of the World Bank’s Work on Human Rights*, 41 THE INTERNATIONAL LAWYER 21, 21 (2007).) Lastly, on the HRBA portal, a portal discussing human rights based approaches to programming for UN practitioners, it was argued that economic growth is a means to development, not the goal. Equally, ‘economic growth (...) can also be an instrument for the realization of human rights.’ (*What is the relationship between human rights and economic growth?*, HRBA PORTAL, <https://hrbaportal.org/faq/what-is-the-relationship-between-human-rights-and-economic-growth>) Yet, while the above mentioned examples argue for the positive link between (economic) development and human rights development, others have questioned this. Natarajan for example argued that the problems that are supposedly addressed by economic development might also be caused by that same economic development. Development often actively creates underdevelopment and exacerbates it through its negative impact on the environment, increasing inequality and displacement. (Natarajan, *supra* note 40) Moyn too has argued that “[i]t is much more common to promote neoliberalism as an agent of advancement of human rights rather than to link them as malign accomplices.” (Moyn, *supra* note 147, at 148) Therefore, economic development as a means to development, which supposedly creates the perfect environment for the implementation of human rights, is disputable. The definition of development is not clear cut and what is considered development differs. Despite this, development is often referenced. The SDG’s for example mentions development in their name yet fail to clarify what development means. The GA resolution uses the word development 137 times, yet not ones does it clarify the meaning of development. G.A. 70/1, U.N. GAOR, 17th Sess., U.N. Doc. A/RES/70/1 (21 Oct. 2015).

capital.”¹⁴⁸ The World Bank, through “fighting poverty, supporting economic growth, and ensuring sustainable gains in the quality of people’s lives in developing countries”¹⁴⁹ is the chief example of how, through the use of human rights language, the neo-liberal institutions foster supposed economic growth and the development of human capital. The quote “education [...] builds the human capital that makes peoples and economies a success”¹⁵⁰ is the prime example of how neo-liberalism and education go hand in hand. The education that organizations such as the World Bank and others are spread and implement, forces people to serve as human capital in a neo-liberal world.

However, the neo-liberal society does not only need education to maintain itself. Education has also become an industry where many can make money. As George and Jain argue, the professionalization of schooling has meant more and better teachers, more advanced teaching material, school lunches, uniforms, notebooks, and the like. Much of which is provided by the corporate sector.¹⁵¹ Education has become interwoven in the neo-liberal society in “a covert but conscious effort by the North to retain and expand its control over the ‘fruits of Development’”.¹⁵²

D. THEORETICAL FRAMEWORK

What this chapter has done so far is complicate the unquestioned ‘goodness’ of the human right to education. This will serve as a foundation when looking at education in Nepal. Decolonial theory will serve as a theoretical framework to look at the history and development of the Nepalese education system. It will specifically use the concepts of development and superfluidity as the main focus point.

¹⁴⁸The World Bank, *Right Now, Somewhere...Building Human Capital Through Education*, THE WORLD BANK (Nov. 9, 2018) <http://www.worldbank.org/en/news/video/2018/11/09/right-now-somewhere-building-human-capital-through-education>

¹⁴⁹ *History*, THE WORLD BANK, <http://www.worldbank.org/en/about/history>

¹⁵⁰ The World Bank, *supra* note 148.

¹⁵¹ George and Jain, *supra* note 81.

¹⁵² *Id.*

1. A Decolonial Approach

Decolonial theory was developed in Latin America in early 1990s and has since spread across the globe and to all different kinds of disciplines.¹⁵³ Decolonial theory differentiates between colonialism and coloniality.¹⁵⁴ Colonialism is usually argued to have ended at the end of the 20th century with decolonization. Coloniality on the other hand has not ended.¹⁵⁵ It was succeeded by Western imperialism and concepts such as globalization, development and ‘equality’ which in fact perpetuate inequality. Decolonization therefore did not eliminate coloniality, even more so it made it less visible and allowed for it to be transformed into forms that are not recognized as colonial. Decolonial theory therefore is a continues effort to delink history and practice from its Eurocentrism.¹⁵⁶ It is an “[o]ngoing resistance and cultural continuance of self-determination, sovereignty, and healing from colonial impact.”¹⁵⁷ It “confronts all of western civilization”¹⁵⁸ through problematizing histories with origins on Europe, or histories that eventually all lead to Europe from where it was spread across the world. It recognizes that non-Western thinking has been eliminated and the fact that Western modes of thinking have been mainstreamed and portrayed as universal. Decolonial theory looks at traditions and histories “as equally legitimate origins.”¹⁵⁹

A decolonial approach, in this case, consists of two parts: the matter of modernity and the question of coloniality of power. Modernity signifies the transformation from traditional societies to formal ones. This is characterized by economic development, technological advancement, material prosperity and a shift from farming to cash-cropping and wage labor.¹⁶⁰ This ‘development’ from farming to wage labor and from a local economy to a world economy, is the only way to modernity. The word modernity therefore signifies two things. First of all, since there is only one modernity, that indicates a western present, it

¹⁵³ Danielle Aldawood, *Decolonizing Human Rights Education* (April 2018) (unpublished Ph.D. dissertation, Arizona State University) 47.

¹⁵⁴ *Id.*

¹⁵⁵ On the end of colonialism, continuation of coloniality and decolonization see Tuck & Yang, *supra* note 108, at 7.

¹⁵⁶ Walter D. Mignolo, preface to Walter D. Mignolo, *The Darker Side of Western Modernity: Global Futures, Decolonial Options*, at xi, xi-xxviii; Aldawood, *supra* note 153, at 54-56.

¹⁵⁷ Andrea Riley Mukavets, *Course Designs: Decolonial Theory and Methodology*, 46 *COMPOSITION STUDIES* 124, 126 (2018).

¹⁵⁸ Mignolo, *supra* note 156, at xviii.

¹⁵⁹ Mukavets, *supra* note 157, at 126.

¹⁶⁰ HOBART, *supra* note 60, at 5.

automatically indicates that everything that is not like modernity, both in the present and everything in the past, is ‘backwards.’ Secondly, modernity disregards the existence of plurality, since modernity is the one and only outcome of the long road of development.¹⁶¹

The second matter is the colonality of power. Colonality of power is a “system of social classification based on the idea of race, of ‘conquerors’ over ‘conquered,’ and its structural foundation tied to modernity and Euro-centered capitalism.”¹⁶² It is a legacy of colonialism that lives on in society and maintains a certain caste system where the Europeans are at the highest ranks. It is a “structure of power” that “continues to be organized on and around the colonial axis.”¹⁶³ This colonality of power however does not only divide society up into a caste-like division, it also favors Western knowledge. The production of knowledge originates from the knowledgeable, those in the Global North, and it needs to be expanded to ‘the ignorant,’ those in the Global South. The use of the right to education as a tool to expand compulsory education might be one of the best examples of this.

2. Decolonization of Education

The decolonization of education addresses the colonality of power in terms of systems of knowledge in a specific manner. In this the production of knowledge in a Eurocentric system is addressed and delinked from education. It can be taken more literally, for example, the colonial histories or geographies found in text books, the taking down of colonial ‘hero’s’ on campus,¹⁶⁴ or changing the language of instruction from the language of the colonizers to a local language.¹⁶⁵ However, the decolonization of education does not only mean questioning the physical remnants of a colonial history. It is also questioning what is considered education, why and how. The fact that we see similar education systems all around the world happening in classrooms with desks, where students listen silently to an instructor, answering questions, where they are tested on their knowledge through

¹⁶¹ Mohammed Sabrin, *Exploring the Intellectual Foundations of Egyptian National Education* (2013) (unpublished Ph.D. dissertation, University of Georgia) 37-38; HOBART, *supra* note 60, at 5.

¹⁶² Frédéric Lefrançois, *Re-staging Coloniality in the Americas*, in 2 COLONIALITÉ ESTHÉTIQUE ET ART CONTEMPORAIN 89, 95 (2018).

¹⁶³ Anibal Quijano & Michael Ennis, *Coloniality of Power, Eurocentrism, and Latin America*, 1 NEPANTLA: VIEWS FROM SOUTH 533, 568 (2000).

¹⁶⁴ See: *University of Witwatersrand Student Protests 2015 Timeline*, SOUTH AFRICAN HISTORY ONLINE (Aug. 21, 2018), <https://www.sahistory.org.za/article/university-witwatersrand-student-protests-2015-timeline>

¹⁶⁵ Nepal for example, after 1971 re-instated native language education.

exams, both orally and written, and are graded accordingly, a place where these grades matter for what you will do after school, or where most likely nothing of your schooling will matter, should make us question these origins.

Someone that questioned this type of education was Paulo Freire, a Brazilian educator and scholar. He argued that the teacher-student relationship is one that dehumanizes the student. Students listen to what the teacher tells them, they accept it and remember it without really understanding its meaning.¹⁶⁶ He calls this method of education the ‘banking method’ meaning that, “the students are depositories and the teacher is the depositor, [a system] in which the scope of action allowed to the students extends only as far as receiving, filing, and storing the deposits.”¹⁶⁷ Knowledge, in this way, is something the teacher has and the student can receive. The student in this system is ignorant and the teacher only knowledgeable because the student has accepted the teacher’s claimed knowledge and through that their own ignorance. These “claims to knowledge and attribution of ignorance are central themes to development,”¹⁶⁸ and through that the so-called ‘development’ through education is the reproduction of an oppressive system.¹⁶⁹ Students are bendable beings who learn to, or are supposed to, be submissive to their teachers. This pattern is then replicated in society.¹⁷⁰ Through accepting one’s absolute ignorance as ‘normal’ and through becoming passive, education creates, recreates and reinforces inequality, or ‘the oppressed’.

However, the problem with Freire is that he assumed that education, in its essence, is a universal good. Dedicating his books, and his life, to the oppressed Freire failed to see that “for the oppressed, the social majorities of the world, education ha[d] become one of the most humiliating and disabling components of their oppression: perhaps, even the worst.”¹⁷¹ Education, being schooling, is inherently harmful. Freire’s argument therefore can serve as a starting point but needs to be taken further. Freire tries to reform the

¹⁶⁶ PAULO FREIRE, *THE PEDAGOGY OF THE OPPRESSED*, 71 (1970).

¹⁶⁷ *Id.*, at 72.

¹⁶⁸ HOBART, *supra* note 60, at 4.

¹⁶⁹ Freire, *supra* note 166, at 72.

¹⁷⁰ *Id.* at 73.

¹⁷¹ Gustavo Esteva & Dana Stuchul, *From a Pedagogy for Liberation to Liberation from Pedagogy*, SHIKSHANTAR, <http://shikshantar.org/library/library-articles/pedagogy-liberation-liberation-pedagogy>.

education system, not abolish it. In this approach he overlooks the fact that education as schooling creates a division between the educated and the uneducated or undereducated.¹⁷² Fasih explained why this is problematic. Fasih, being a professor of math, explained how he wanted to mention his mother as one of his sources for his dissertation. His mother, a seamstress who was illiterate, was not considered to be an authoritative source by his committee. However, as Fasih explained, his mother understood math in a way he would never understand. His mother understood math in a way that was directly applicable to life. It allowed her to make dresses in a short time period that perfectly fit her clients. With this anecdote Fasih plainly explains the problem with the current education system. “We look at people without diplomas and we think they are ignorant” because knowledge is proven only on a piece of paper.¹⁷³ Where Freire pointed out the oppressive character of education, Fasih explains how the problem cannot be solved by just eliminating this oppressive character, it requires a complete break with education as we have known.

The decolonization of education requires not just a look at the actual colonial remnants of education, it requires delinking education from the Western approach to schooling. A part of this is to look at knowledge not just at what is learned in school but also how we view knowledge. Psychologists have long agreed on the fact that there are multiple forms of intelligence. Intelligence is not just measured by how well a person can reproduce what is taught. Other intelligences are musical, inter- and intrapersonal, emotional and creative intelligences.¹⁷⁴ However in school these intelligences often do not receive the same level of attention. They are either not accepted as a form of intelligence such as spiritual or emotional, or banished to outside school activities, such as musical intelligence. A decolonial approach to education therefore requires a deconstruction of the very basis of education as we know it. It requires not just the decolonization of education, but the decolonization of the mind. As Chona notes “decolonizing the mind is an unlearning process as well as a learning process.”¹⁷⁵ It is learning what we consume as information

¹⁷² *Id.*

¹⁷³ TEDxRamallah Munir Fasheh منير فاشه *Occupation of knowledge* الاحتلال المعرفي, *supra* note 113, at 6.17 min.

¹⁷⁴ George and Jain, *supra* note 81; HOWARD GARDNER, INTELLIGENCE REFRAMED: MULTIPLE INTELLIGENCES FOR THE 21ST CENTURY (1999).

¹⁷⁵ Banji Chona, Radio Interview, Facebook Post on March 13th (March 13, 2019, 12:30pm) <https://www.facebook.com/banji.chona.7>.

and what we expel as information.¹⁷⁶ This is an unsettling process, because “[d]ecolonization never takes place unnoticed”, it requires to give back *all* that was taken.¹⁷⁷

3. Decolonizing Education From its Development Complex

The decolonization of education can have multiple approaches, it can focus on the setting of education; does it require a class room, with chairs and tables that situate children in a specific place in the class? It can focus on the type of lessons that are taught; does it need to teach children in India about European history? Does it need to teach children in Europe about Columbus ‘discovering’ the Americas? It can also focus on the way of teaching; does it require a teacher that is ultimately knowledgeable and children who are ultimately unknowledgeable? For this thesis the focus is on education’s development complex. It touches upon each of the abovementioned questions, since all are interconnected, but will focus on the aspect of development specifically. Development as the ultimate way to acquire modernity, its end goal, only acknowledges one type of modernity and one type of development. It is therefore also unsurprising to see that all education projects are connected to the same concept of development. One that develops society into a capitalist society with a consumer culture.

The expansion of western-style mass education coincided with industrialization and was subsequently used to educate ‘the native.’ This same concept of development seems to be inextricably connected to economic prosperity and marketability in a world economy.¹⁷⁸ Hence, western-style education aims to training children so that they would be useful in a consumer culture. In his book *Discipline and Punish*, Foucault elaborates on education’s ability, and purpose, to train children, teach them their place in society and what is expected of them. In this way, through school, students learn to discipline themselves and deliver what is expected of them.¹⁷⁹ Today’s education system does not differ much from how Foucault described it. Today’s education system in its very essence still teaches children how to behave and puts an emphasize on which skills are marketable and will allow you to

¹⁷⁶ *Id.*

¹⁷⁷ Tuck & Yang, *supra* note 108, at 7.

¹⁷⁸ Note, *supra* note 147.

¹⁷⁹ FOUCAULT, *supra* note 60, at 146-148.

make a living for yourself. This type of education, as many authors have argued, builds upon, and creates, a monoculture.¹⁸⁰ The monoculture is grounded in a consumer society, that aims at creating workers and consumers. The monoculture “legitimizes an entirely Anglo-European knowledge base, while seeing multicultural education or global studies as an indulgence or an extra, rather than an improvement in accuracy.”¹⁸¹ The monoculture is directly linked to a capitalist system.¹⁸² This system both needs people that are extracted from their traditional way of living and taught *in* and *for* a monoculture. For capitalism to be useful, one needs to be separated from the product of their labor. As Marx argued “[t]he expropriation of the agricultural producer, of the peasant, from the soil, is the basis of the whole process.”¹⁸³ This process, as Marx noted, “appears, on the one hand, as their emancipation from serfdom and from the fetters of the guilds [...]. But, on the other hand, these new freedmen became sellers of themselves only after they had been robbed of all their own means of production.”¹⁸⁴ When looking at education the same dynamic is visible. It is portrayed on the one hand as an emancipation process, where once lifestyle is elevated. Yet, on the other hand, and this is often not mentioned, being extracted from their traditional ways of education and knowledge reproduction, education only trains people to become ‘sellers of themselves’. It trains people for a society that cannot absorb all of them, the system is build so that it cannot absorb all of them, it “produce[s] superfluous people” and “arose in connection with efforts to absorb superfluous capital.”¹⁸⁵ The current education system still has the ability, and openly aims at, extracting people from their traditional forms of sustainability, and bring into a world where wage-labor is the way forward, where teaching is connected to increasing the marketability of students. It is because of this that Bauman noted that “[t]he production of ‘human waste’, or more correctly wasted humans [...] is an inevitable outcome of modernization, and an inseparable accompaniment of modernity. It [human waste] is an inescapable side-effect of order-building [...] and of *economic progress* (that cannot proceed without degrading or

¹⁸⁰ See e.g. Schooling the World, *supra* note 116; F.S. Michaels, *Monoculture*, SHIKSHANTAR <http://shikshantar.org/library/library-books/monoculture>

¹⁸¹ James A. Banks, *Encyclopedia of Diversity in Education* 2304 (1st ed. 2012).

¹⁸² Schooling the World, *supra* note 116.

¹⁸³ Karl Marx, *Capital Vol I* 1023 (Electric Book Company 2000)

<https://ebookcentral.proquest.com/lib/aucegypt/detail.action?docID=3008518>.

¹⁸⁴ *Id.* at 1021.

¹⁸⁵ Susan Marks, *Law and the Production of Superfluity*, 2 TRANSNATIONAL LEGAL THEORY 1, 11 (2011).

devaluing the previously effective modes of ‘making a living’ and therefore cannot but deprive their practitioners of their livelihood).”¹⁸⁶ Education’s development complex, therefore, is focused on ‘developing’ those that are ‘underdeveloped’, teach those that have not had the chance to receive the gift of education, yet does this through dynamics that extract people from their unique ways of living and learning and brings them into a world where only one way of learning is accepted.

As we have seen the right to education is a western construct and envisions a western type of education. Equally, this chapter has shown that while this type of education is seldom questioned, it is not all positive. Universal mass education, having developed out of the industrialization, developed in the colonies as a way to teach the native, and used in a neo-liberalist society to create good workers and consumers can definitely serve as an oppressive system to through its understanding as being universal can spread only one type of education. Taking Nepal as a case study, this next chapter will discuss how this right to education can be used to continue to spread an education system that is colonial.

¹⁸⁶ Zygmunt Bauman Wasted lives: Modernity and its outcasts 4 (online version 2004), https://books.google.com.eg/books/about/Wasted_Lives.html?id=2nCUUfnA8FoC&printsec=frontcover&source=kp_read_button&redir_esc=y#v=onepage&q=degrading&f=false.

III. NEPAL: THE INDEPENDENT STATE WHOSE COLONIZATION CAME IN DIFFERENT TERMS

Nepal was never formally colonized; however its history and current are deeply entangled with coloniality. The development of Nepal, and specifically the development of its education system have long been of interest to other countries and corporations. In 2018 Nepal received roughly 1,733 million USD in aid from several organizations and countries,¹⁸⁷ a third of which was provided by the World Bank.¹⁸⁸ The second largest¹⁸⁹ sector receiving foreign aid was the educational sector. It receives 12.5% of all funds.¹⁹⁰ Many of those funds are provided as a loan and with strict requirements for policy changes. These funds therefore have considerably influenced Nepal's education system. Why Nepal, and in specific its education sector, became of such importance, can be traced back to the different influences of foreign countries in Nepal and contradicts the assumption that Nepal never got colonized. This chapter will trace the development of Nepal's western-style education system by means of Nepal's recent history in relation to the influences foreign countries exercised on it. It will argue that while Nepal never got colonized in such terms, the influences foreign countries exercised on it can definitely fall under colonial influences. This chapter is divided in two parts. The first part will discuss Nepal's recent history. The second part will trace the development of Nepal's current education system along the lines of this history.

¹⁸⁷ While this only brings them in the top 30 of Official Development Assistance (ODA) receivers, (*Net Official development assistance and official aid received (current US\$)*), THE WORLD BANK, https://data.worldbank.org/indicator/DY.ODA.ALLD.CD?year_high_desc=true Nepal is one of the few countries in the top 30 that does not currently deal with a crisis or is in a situation of concern. (The top 30 mentioned on the world bank website is almost equal to the countries mentioned in the Global Humanitarian Assistance report. With the exception of India, Serbia and Vietnam. Those three countries are mentioned in the top 30 from the World Bank and not in the Global Humanitarian Assistance report). Development Initiatives, Global Humanitarian Assistance Report 16-17 (2018), <http://devinit.org/wp-content/uploads/2018/06/GHA-Report-2018.pdf>.

¹⁸⁸ MINISTRY OF FINANCE, DEVELOPMENT COOPERATION REPORT, at 5, 7 (Nepal, 2018).

¹⁸⁹ The largest receiving sector of development assistance is the economic reform sector.

¹⁹⁰ Ministry of Finance, *supra* note 188, at xiii.

A. NEPAL'S RECENT HISTORY: AS TOLD THROUGH FOREIGN INFLUENCE

Nepal is a land locked country in East Asia with almost 30 million citizens and is slightly larger than the State of New York.¹⁹¹ The country is often divided in three parts: the mountainous region, which is in the north of Nepal, the hill region which is around the Kathmandu Valley, and the Tarai, which is in southern Nepal (see *Figure 2*). It is bordered by China and the autonomous region of Tibet in the North and India in the East, South and West. While Nepal as a country was never of much interest to other countries, its location between, and proximity to, China, Tibet and India have always been of interest to other countries who tried to gain influence on its policies. In more recent years, Nepal is often described by policymakers and international organizations as one of the 'least developed' countries in the world. Therefore, the history of Nepal through the influence of foreign countries, can be divided into two sections: Nepal during the rule of the British Empire and Nepal after the rule of the British Empire.

1. Nepal and the British Empire

The beginning of today's Nepal is often dated in 1768 when Gorkha ruler, Prithvi Narayan Shah, conquered and unified the different kingdoms existing in the Kathmandu Valley.¹⁹² This year also coincides with the first time British East India Company (EIC) came into contact with the Gorkha rulers. It was in September 1767 that the EIC dispatched its military to the southern border of the Kathmandu valley to stall the Gorkha conquest.¹⁹³ However, the actual history of Nepal goes as far back as 600 B.C.¹⁹⁴ when the Kirat tribe established political authority in the area.¹⁹⁵ Until 1559, when the Dravya Shah conquered several kingdoms in the Kathmandu Valley heralding the rise of the Gorkha conquest, several small kingdoms were ruling and fighting small wars with each other in and around the Kathmandu Valley and current Nepal. From 1559 onwards, the Gorkha dynasty

¹⁹¹ The World Factbook, *Nepal*, CENTRAL INTELLIGENCE AGENCY (April 3, 2019), <https://www.cia.gov/library/publications/the-world-factbook/geos/np.html>

¹⁹² Chris Crews, What About Postcolonial Politics in Nepal?, at 4 (unpublished article, available at: <http://www.wpsanet.org/papers/docs/crews2018.pdf>); Sebastian von Einsiedel, David M. Malone & Suman Pradhan, *Introduction*, in *NEPAL IN TRANSITION: FROM PEOPLE'S WAR TO FRAGILE PEACE* 1, 4 (Sebastian von Einsiedel, David M. Malone & Suman Pradhan eds., 2012).

¹⁹³ Ram Rahul, *Making modern Nepal*, 16 *INTERNATIONAL STUDIES* 1, 6 (1977); B.D. SANWAL, *NEPAL AND THE EAST INDIA COMPANY* 47 (1965); Einsiedel, Malone & Pradhan, *supra* note 192, at 4.

¹⁹⁴ Other sources place it as early as 1000 B.C., SANWAL, *supra* note 193, at 31.

¹⁹⁵ Rahul, *supra* note 193, at 2.

conquered land after land and at the height of their imperial expansion, they ruled over land almost twice as large as the current size of Nepal.¹⁹⁶

The Gurkha expansion coincided with the colonization and expansion of the British Empire. In 1767, T. Rumbold, the chief officers of the EIC in Patna, India reported that the Gorkha's seizure of the Kathmandu Valley had interrupted trade with the Kathmandu Valley. As a response, he was instructed to urge the Gorkha leader to give up the Kathmandu Valley or, if necessary, dispatch an army. The attempt was fruitless, due to the underestimation of the weather, the terrain and the Gorkha army. After this, the EIC lost interest for some time. While there was continuous contact between both powers, it did not lead to another confrontation until 1814.

The rivalry was mainly focused on the trade route to Tibet.¹⁹⁷ To the Gorkha rulers this was a great source of income which they could use for their expansion into the Himalayas. For the EIC, however, this route served as a direct connection between Tibet and their base, India.¹⁹⁸ In November 1814, the EIC declared war.¹⁹⁹ The war lasted a year and resulted in the treaty of Sagauli, signed 2 December 1815 and ratified on 4 March 1816. The treaty had far-reaching consequences for Nepal. It did acknowledge Nepal's independence, however, for a high price. The EIC ceased much of its land, reducing Nepal to its current borders (see **Figure 3**).²⁰⁰ Yet, the seizure of land was only one of the consequences. As part of the Treaty, Nepal was forced to allow permanent residence of the EIC in Kathmandu, open their borders to trade and allow the British Army to recruit Gorkha soldiers into their army.²⁰¹ Up until today, Gorkha soldiers serve in the British army. It was the combination of these factors that effectively rendered Nepal a "small hill principality

¹⁹⁶ Crews, *supra* note 192, at 4-5; SANWAL, *supra* note 193, at 43-51; Einsiedel, Malone & Pradhan, *supra* note 192, at 4.

¹⁹⁷ Crews, *supra* note 192, at 9; Richard English, *Himalayan State Formation and the Impact of the british Rule in the Nineteenth Century*, 5 MOUNTAIN RESEARCH AND DEVELOPMENT 61, 62 (1985); Rahul, *supra* note 193, at 6; It should also be noted that this was not the only reason, Rahu noted that "the quarrel centered on the Gorkha claim to certain parts of the Purnea, Saran, Gorakhpur, and Bareilly districts. There was also a dispute over the extradition of dacoits and runaway criminals." Rahul, *supra* note 193, at 9.

¹⁹⁸ English, *supra* note 197, at 62; Rahul, *supra* note 193, at 6.

¹⁹⁹ Rahul, *supra* note 193, at 9.

²⁰⁰ On December 8th, 1816, the British empire returned some small portions of land to Nepal, as a proof of gratitude because of the Gorkha's support during uproar in India; *Id.*

²⁰¹ Crews, *supra* note 192, at 12.

among others, with whom the British could negotiate from a[n] undisputed position of superior power.”²⁰²

While, or maybe because, Nepal never got colonized, the argument often is that Nepal was virtually isolated from the world. In reality however, Nepal was the center of considerable trade with the north, it was just isolated from the West.²⁰³ The area south of Nepal was controlled by the British Empire and their influence on Nepal was therefore large. The British commercial interests in the region integrated it, including Nepal, into the world economy.²⁰⁴ Many Nepali men migrated to British India or enlisted in the Gurkha segment of the British Army to make more money.²⁰⁵ With that the Nepali economy became entangled with the world economy.

The relations between Nepal and the EIC came to a high during the rule of the Ranas, who ruled from 1846-1950, and actively supported their rule.²⁰⁶ The Ranas came to power in 1846 when Jung Bahadur Rana seized to power in a coup.²⁰⁷ He established hereditary succession and the Ranas’ ruled Nepal with an iron fist, till their overthrow in 1951.²⁰⁸ The Ranas and the Raj maintained strong ties. The Ranas provided 200.000 Nepali soldiers to the British Army during World War I and again during one of the uprisings in India against the Raj.²⁰⁹ The Ranas also instated the Muluki Ain, a law that codified Hinduism’s caste system into law.²¹⁰ Bahadur was impressed by the British system of domination and studied their ways.²¹¹ He saw how the British had formalized Hindu customary practice of castes

²⁰² *Id.* at 10.

²⁰³ Equally, as Mark Liechty notes, the Kathmandu nobility imported many European goods. This led him to argue that “these elites made every effort to keep this foreign power foreign. As Nepal’s political, religious and cultural center, the Kathmandu valley was jealously protected against *Europeans* – although not against European *goods*. Mark Liechty, *Selective Exclusion: Foreigners, Foreign Goods, and Foreignness in Modern Nepali History*, 2 STUDIES IN NEPAL HISTORY AND SOCIETY 5, 10.

²⁰⁴ English, *supra* note 197, at 61-62

²⁰⁵ *Id.* at 62; Chandra Sharma Poudyal, *Neoliberalism, Privatization and Education in the Republic of Nepal*, in RE-IMAGINING THE CREATIVE UNIVERSITY FOR THE 21ST CENTURY 159, 160 (2013).

²⁰⁶ Rune Bolding Bennike, *Textbook difference: Spatial history and national education in Panchayat and present-day Nepal*, 52 THE INDIAN ECONOMIC AND SOCIAL HISTORY REVIEW 53, 54 (2015); Chandra Prakash Singh, *Rise and Growth of Anti-Rana Movement in Nepal*, 65 PROCEEDINGS OF THE INDIAN HISTORY CONGRESS 992, 992 (2004).

²⁰⁷ Gopi Nath Sharma, *The Impact of Education during the Rana Period in Nepal*, 10 Himalayan Research Bulletin 3, 3 (1990).

²⁰⁸ Singh, *supra* note 207, at 992.

²⁰⁹ English, *supra* note 197, at 73.

²¹⁰ Einsiedel, Malone & Pradhan, *supra* note 192, at 4.

²¹¹ Bennike, *supra* note 206, at 61.

into law and applied it much more strictly than it had been applied before.²¹² They used it to establish a hierarchy that is still in place today. In 1923 the British Empire and the Ranas signed the Treaty of Friendship which formalized some of the regulations from the Treaty of Sagauli. While it again acknowledged Nepal's independence, it did not show that the British acknowledged Nepal's full sovereignty.²¹³ The British served as a protector of the Ranas in Nepal and effectively allowed the Ranas to deal with Nepal on their own terms.²¹⁴ The British rule over India ended in 1947²¹⁵ and with that the protection of the Ranas in Nepal. A combination of domestic unrest, political instability and the return of Nepali migrants from India, led to the overthrow of the Rana rule in 1951.²¹⁶ The overthrow of Nepal is often described as the beginning of a slow path towards democracy and "a full-fledged, sovereign, independent modern state with well-defined relations with all neighbouring states and as a Member of the United Nations."²¹⁷ However, with the overthrow also began a period of unrest, civil war and absolute monarchy.²¹⁸

2. Nepal and the Now

After the Ranas were ousted, there was a brief period of constitutional monarchy under King Tribhuvan, but this was a decennium of unrest which came to an end in 1961 when Nepal once again became subject to a single leader. King Tribhuvan's son King Mahendra, believing that Nepali people were not educated enough and therefore not ready for democracy, overthrew the parliament, banned all political parties and made Nepal a party-less parliamentary monarchy.²¹⁹ This period, till the 'emergence' of democracy 1991, is known as the Panchayat Rule. This time is characterized by the forced creation of a Nepali uniform citizenship, the suppression of minorities, economic development and entanglement with the world economy. Nepal adopted a more open economic approach, launching its first Development Plan in 1956.²²⁰ Nepal became accessible to the rest of the

²¹² Indian caste system, pg. 33

²¹³ Rahul, *supra* note 193, at 12.

²¹⁴ *Id.* at 11

²¹⁵ While India gained its freedom from colonization in 1947, Nepal until today continues to supply the British army with soldiers that fight in their wars.

²¹⁶ Einsiedel, Malone & Pradhan, *supra* note 192, at 5; Rahul, *supra* note 193, at 11.

²¹⁷ Rahul, *supra* note 193, at 15.

²¹⁸ Einsiedel, Malone & Pradhan, *supra* note 192, at 6.

²¹⁹ Badri Prasad Bhattarai, The Effectiveness of Foreign Aid A Case Study of Nepal (Aug 2015) (unpublished Ph. D. dissertation, University of Western Sydney) (on file online) 23.

²²⁰ Bhattarai, *supra* note 219, at 27.

world, e.g. the West, to trade with and visit. The renewed accessibility of Nepal was not so much an opening up to the world, but an opening up to Western capitalism.

The US was the first country from whom Nepal received foreign aid. After the fall of the Ranas' regime, Nepal became of interest to both regional powers, India and China, as well as the two world powers, the Soviet Union (USSR) and the United States (US).²²¹ Since the 1950s, almost all infrastructure has been financed by foreign aid.²²² Even more so, until the 1960s Nepal was almost fully depending on foreign aid to finance their development projects.²²³ Aid commitments have grown continuously, but the aid received has changed from grants to loans, increasing Nepal's debt and with that their investment in the world economy.

The increased interest in Nepal did not stand on its own. Nepal 'opened up' to the world during the beginning of the Cold War and therefore almost immediately became one of the playfields for the power struggle between the US and the USSR. The remote areas of Nepal were seen as vulnerable places that required extra attention in order to prevent communist influence. As a consequence the Nepali state, with the help of the US, strengthened its bureaucratic and physical presence which was combined with a 'rural development program' that aimed at systematically changing the peasant communities and including them in the national and eventually international economy.²²⁴ What followed were several neoliberalist 'development' projects that systematically changed the way rural societies looked. Coinciding with the development projects, was the privatization of public places and economic programs set up by organizations such as the IMF. The first economic stabilization program was enacted in 1985, which turned into a Structural Adjustment Program (SAP) in 1987, thereby structurally changing the Nepali economy.²²⁵

²²¹ *Id.* at 70; Dinesh Paudel, *The Double Life of Development: Empowerment, USAID and the Maoist Uprising in Nepal*, 47 DEVELOPMENT AND CHANGE 1025, 1026 (2016).

²²² Bhattarai, *supra* note 219, at 66.

²²³ Liz Maudslay, *Inclusive education in Nepal: Assumptions and Reality*, 21 CHILDHOOD 418, 418 (2014); Bhattarai, *supra* note 219, at 66-67.

²²⁴ Paudel, *supra* note 221, at 1026.

²²⁵ *Id.* at 1027; Bhattarai, *supra* note 219, at 22.

The Panchayat era came to an end in 1990 when King Birendra announced a new constitution which again established a multi-party system.²²⁶ The installment of the multi-party system in 1991 created more freedom for the different ethnic and political groups in Nepal and initiated an outburst of economic reform programs which promoted a market-oriented economy. These economic developments were far-reaching and affected all segments of society.²²⁷ They were strongly dictated by the different aid donors' interests as well as those of the World Bank and aimed at reducing Nepal's debt with them. This was done through the raising of taxes, cutting of subsidies and reducing of state support.²²⁸ All the changes and the years of suppression under the monarchy culminated on February 12th, 1996 with an attack on the Holeri police post marking the beginning of the *Jana Yudha*, the people's revolution. The Maoist revolution and civil war lasted for a decade and only ended in 2006.²²⁹ Since the end of the civil war, the Maoist party has been mainstreamed into the political sphere and a new constitution was adopted in 2015.

Nepal is still highly dependent on foreign aid in respect to their development projects and official development assistance has continued to increase since the 1960s.²³⁰ In its latest report the Nepali government reported that foreign aid reached \$1733.1 million of which \$1,622.8 million, or 94%, was ODA and \$110.3 million or 7%, was from INGOs. This number has remained relatively consistent over the past eight years with a peak in the year 2017/2018 which was mainly due to the increased investment of the World Bank,²³¹ and a spike in the year 2014/2015. In 2015 Nepal was hit by several earthquakes that left the country extremely damaged. It killed more than 8,000 people and injured more than 14,000.²³² Despite the international attention and many aid funds that are poured into Nepal, Nepal remains one of the poorest countries in the world, money wise.

²²⁶ Bhattarai, *supra* note 219, at 23.

²²⁷ *Id.* at 22, 32; Paudel, *supra* note 221, at 1027.

²²⁸ Bhattarai, *supra* note 219, at 28-29.

²²⁹ Paudel, *supra* note 221, at 1025-1026.

²³⁰ Maudslay, *supra* note 223, at 418; *Net official development assistance and official aid received (constant 2015 US\$)*, THE WORLD BANK, <https://data.worldbank.org/indicator/DT.ODA.ALLD.KD?locations=NP>

²³¹ Ministry of Finance, *supra* note 188, at 5.

²³² World Food Program, *Nepal: Earthquake*, NEPAL SITUATION REPORT #3, May 4, 2015, https://reliefweb.int/sites/reliefweb.int/files/resources/Nepal%20Earthquake_Situation%20Report%203__4%20May%202015.pdf; World Food Program, *Nepal: Earthquake*, NEPAL SITUATION REPORT #16, July 2015, <https://reliefweb.int/sites/reliefweb.int/files/resources/WFP%20Nepal%20Earthquake%20Situation%20Report%20%2316%2C%20%2007%20July%202015.pdf>

B. NEPAL AND A COLONIALIST HISTORY OF EDUCATION

So far, this chapter has outlined a history of Nepal that highlights the different forms of foreign influence that have impacted Nepal. With this history in mind, this second section will look at the development of Nepal's current education system and highlight how this previously discussed history of Nepal has heavily influenced Nepal's current education system. As Pradhan has noted, Nepal's education system is a consequence of multiple realities.²³³ It is influenced both by the changing political climate which has used education as its facilitator as well as the international context of the universal access to education for all which has mostly been shaped by international donors.²³⁴ The Nepali education system is heavily influenced by several large donor agencies such as the World Bank, USAID, UNICEF and the Asian Development Bank.²³⁵ It is not to say that they completely influenced Nepal's education policy, however their presence has contributed significantly to the different approaches to education in the past half-decade. Some, if not most, of their main education policies have led to increased inequality instead of a decreased inequality.

1. The Nepali Education System in Numbers

The history of Nepal's universalized formal education is relatively new. It was only after the overthrow of the Rana rule in 1951 that a centralized formal education system was implemented. Since the institution of the centralized formal education system the number of enrolled students has skyrocketed. Whereas enrollment rates at the beginning of the 1950s were 3.5%, the enrollment rate as of 2017 is 91.3%.²³⁶ However only 70.1% of the children complete their basic education. Besides the achievement scores²³⁷ of the three core courses in grade 8, with 35% for math, 48% for Nepali and 41% for science are relatively low.²³⁸ Of the 7,391,524 registered students, Grade 1-12, divided over 35,601 schools,²³⁹

²³³ Uma Pradhan, *The National Education in Nepal: Between the 'Local' and the 'Global'*, in EDUCATION IN SOUTH ASIA AND THE INDIAN OCEAN ISLANDS 165, 179 (Hema Letchamanan & Debotri Dhar eds., 2017)

²³⁴ Pradhan, *supra* note 233, at 179.

²³⁵ Poudyal, *supra* note 205, at 163.

²³⁶ MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY, EDUCATIONAL BROCHURE 2017, at 6 (2017); THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 6.

²³⁷ Achievement scores indicate the percentage of enrolled students who passed the specific subject in grade 8. The achievement score for math for example indicates that only 35% of the enrolled children in grade 8 pass their math class.

²³⁸ MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY, *supra* note 236, at 35.

²³⁹ *Id.* at 13.

by far the largest group of students is enrolled in grade 1-5,²⁴⁰ more than half of all the enrolled students are currently enrolled in grade 1-5.²⁴¹ While these numbers only refer to the formalized national education system as implemented after 1951, it is important to note that education existed in Nepal way ahead of the implementation of the western style education of 1951.

2. Pre-Ranas Rule

Nepal has a rich history of different educational forms that were present many centuries before any Western scholar ever set foot in Nepal. However, while the literature acknowledges these different educational forms, little attention is paid to it. The beginning of education in Nepal is often marked by the establishment of the English inspired Durbar School in 1853.²⁴² As a consequence, only small pieces of information are available regarding education in Nepal before the establishment of the Durbar school.

The Licchavi period²⁴³ is known as the Nepali renaissance for arts, education and culture. The rulers did not see education as a prerequisite for ruling but more as an option.²⁴⁴ Many monasteries taught students as early as 771 A.D.²⁴⁵ The Gompas, Buddhist centers for learning, were present all over Nepal, but were slowly eradicated and now are mostly found in northern Nepal and The autonomous region of Tibet.²⁴⁶ Other examples are the Gurukul, a type of boarding school, mostly for Brahmins and the sons of the ruling elite. These Hinduist²⁴⁷ education systems were led by a guru.²⁴⁸ During the Malla period from 1243-1769, education was considered a preparation for life and the first attempts were made to

²⁴⁰ In the Nepali education system, the primary school runs from class 1-5, children usually start school when they are 6 years old.: Johanna Andersson & Johanna Lindkvist, Education in Nepal: A study of Nepalese Teachers' Views on their School Situation (May 30, 2005) (unpublished B.A. Thesis, Linköpings Universitet) 14.

²⁴¹ MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY, *supra* note 236, at 14.

²⁴² Ram Prasad Ghimire, *Education Reforms in Nepal: Rhetoric or Reality?* RESEARCHGATE (JAN. 2005), at 1, (article is not paginated, the page numbers correspond with the order of pages; available online: https://www.researchgate.net/publication/257142350_Education_Reforms_in_Nepal_Rhetoric_or_Reality)

²⁴³ There is no clear mentioning of when the Lichhavi period ended or started. The Malla period is often noted as having started in 1243 and have succeeded the Licchavis. However, the only information available on the Lichavis dates from the 7th century AD.

²⁴⁴ Sharma, *supra* note 207, at 3.

²⁴⁵ *Id.* at 3; THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 14.

²⁴⁶ THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 14-15.

²⁴⁷ These schools originate from Hinduist practices however the system was later on also found in the Buddhism and Sikhism.

²⁴⁸ THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 14; Sharma, *supra* note 207, at 3.

instituted secular education.²⁴⁹ Many of these forms of education are still present in Nepal, be it in small numbers and outside of the formal education system.²⁵⁰

3. The Ranas Rule

The Durbar School was established by the first Rana ruler, Jung Bahadur Rana, after he visited England in 1850 and ‘realized’ the importance and usefulness of a trained group of people that could negotiate with one of the great powers in the area, England.²⁵¹ By 1892 the school had grown into a fully functioning institute that prepared their students for effective interactions with the British Empire.²⁵² The western-style education was taught solely in English and included English subjects such as English literature and history. The intention of the Durbar school was not to create a Nepali identity, but to improve interactions with the British EIC.²⁵³ Not only was the school system copied from England, so was the establishment of a Ministry of Education (MoE), which marks the first step towards a systematic control of education.²⁵⁴

In the beginning the Durbar School was only meant for the ruling class;²⁵⁵ because of this, some non-ruling class inhabitants went to India to receive an education.²⁵⁶ However, as early as 1901, Dev Shamsheer Rana, prime minister at that time, declared primary education to be free and universally accessible to everyone and committed himself to the opening of a Western-style Nepali-medium primary schools for the masses. He immediately opened fifty so-called *Bhasa Pathshalla* or elementary language schools in the Kathmandu valley, and provided pundits²⁵⁷ for every village that could get 24 students together. He even made a language book, *Aksharanka Siksha*, available in Nepali.²⁵⁸ Worried that the possibility of education would cause the collapse of the Rana rule, his brothers ousted him after only 114

²⁴⁹ Sharma, *supra* note 207, at 3.

²⁵⁰ The new national Nepali curriculum has made an effort to mainstream these schools into the formal education system, and they therefore technically could be counted as part of the formal education system. However, as will be argued later on, this is not in their original form. And several articles have pointed out that these schools often are only by name still a traditional school.

²⁵¹ Poudyal, *supra* note 205, at 164; Pradhan, *supra* note 233, at 171; THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 72, 14-15.

²⁵² Pradhan, *supra* note 233, at 168.

²⁵³ *Id.* at 171-172.

²⁵⁴ *Id.* at 177.

²⁵⁵ Andersson & Lindkvist, *supra* note 240, at 12.

²⁵⁶ Poudyal, *supra* note 205, at 160.

²⁵⁷ Pundits are highly learned and respected teachers

²⁵⁸ Sharma, *supra* note 207, at 4.

days in office.²⁵⁹ Chandra Shumshere, the new leader stopped the distribution of the language books and stopped filling the empty teacher spots at the schools. In order to control the schools that remained open he established the *Bandobasta Adda*, the Controller's office, under the Department of Education in 1902.²⁶⁰ Education was therefore managed by the state as early as 1902.²⁶¹ Shumshere later in 1905, established a servant's school, the *Shrestaa Pathsala*, in order to man the different offices in the Department of Education. The purpose of this school was dual: preventing students from studying elsewhere and training the students to be loyal to the Rana rulers.²⁶² In 1935-36 a new school system, the *Wardha* system, was established by a group of young men with the purpose of educating the general public. Soon after the establishment of this school, more such schools were established. At the same time, the Ranas, being aware of their weakening grip on the country, discussed possible changes in the education system in order to make it more accessible.²⁶³ In May 1948, the right to education was addressed as a universal right²⁶⁴, and by the end of their rule in 1951 enrollment had increased to 9.000 students, divided over 321 primary schools.²⁶⁵

It was because of the lack of universally organized education that the era of the Rana rule is known as the 'dark era' however it was during the Rana period that Prime Minister Deb Shamsher declared free universal primary education for all. It was already under the Ranas' reign that opinions were expressed regarding the teaching of Nepali history and culture because "this blind copying of other cultures [first the Islamic civilization and now the English civilization] should not be understood as being 'civilized.'"²⁶⁶ Moreover, while the English version of education as seen in the Durbar school was not universally accessible, there were several other forms of education available. These non-western forms were offered to the population and met their needs and religious and/or philosophical

²⁵⁹ Robin Shields & Jeremy Rappley, Uneven terrain: educational policy and equity in Nepal, 28 ASIA PACIFIC JOURNAL OF EDUCATION 265, 268 (2008).

²⁶⁰ Sharma, *supra* note 207, at 4.

²⁶¹ Pradhan, *supra* note 233, at 178.

²⁶² Sharma, *supra* note 207, at 4.

²⁶³ *Id.* at 3, PG. 5; Ghimire, *supra* note 242, at 1.

²⁶⁴ Sharma, *supra* note 207, at 6.

²⁶⁵ Ghimire, *supra* note 242, at 1.

²⁶⁶ Pradhan, *supra* note 233, at 169.

convictions.²⁶⁷ Hence, to argue that the “[t]he establishment of the Durbar School in 1853 marks the beginning of formal schooling in Nepal,”²⁶⁸ is to assume that only a European form of education counts as formal schooling. Yet, even though reports and books discussing this period of education acknowledge this, they equally dismiss their presence as forms of education. In his book about Nepal, *History of Nepal*, that he wrote in 1877 Daniel Wright noted that:

The subject of schools and colleges in Nepal may be treated as briefly as that of snakes in Ireland. There are none. Sir Jung Bahadur and some of the wealthier class have tutors either Europeans or Bengali Babus, to teach their children English; but there is not public provision of education of any sort. Every man teaches his own children or employs the family priest or Pandit for the purpose. The lower classes are simply without education of any kind whatever.²⁶⁹

He acknowledges the existence of other forms of education, and at the same time dismisses them as education. The same can be found in Wood’s report on the Nepali education system from 1956, almost a century later. He noted the presence of both community schools, as well as several types of religious schools that have been present in Nepal for centuries, yet he presents the availability of education as abysmal.²⁷⁰

The history of the Nepali education system is drenched in the English school system, however through not telling this history, and ignoring the presence of other education systems, this history is slowly getting lost. Therefore, to start a history of education in Nepal from 1951 onwards, ignores the presence of education systems outside the English type Durbar school and argues that the history of education under the Rana’s was a ‘dark era’ is to ignore the influence of the British empire on the Nepali education system.

²⁶⁷ *Id.* at 168.

²⁶⁸ Ghimire, *supra* note 242, at 1

²⁶⁹ DANIEL WRIGHT, HISTORY OF NEPAL 31 (1877).

²⁷⁰ THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 37.

4. Panchayat Rule²⁷¹

The Panchayat rule is often known as a time when the country opened up to the world and education became more accessible to the broader public. With the arrival of the monarchy, education was viewed as an important tool to build a uniform society that would improve the economic standing of Nepal and help ‘develop’ the country, one that would be loyal to the crown.²⁷² The several education systems that existed, were nationalized and extended to the entire country.²⁷³ This coincided with, and was aided by, an increased interest of international agencies. Nepal’s open door policy posed an opportunity for many countries and aid agencies to ‘improve’ life in Nepal.

After the departure of the British empire from India, the US took over the position of ‘main developer’ in the area. In this period, all major educational development projects were prepared, and partly executed, through financial and technical assistance from USOM (United States Overseas Mission).²⁷⁴ In order to ‘prevent’ communism from gaining influence in Nepal, the US invested heavily into development projects. The publication and distribution of several textbooks were US funded, and several educational development projects were set up.²⁷⁵ There were two projects in specific that influenced the education sector in Nepal: the Rapti Integrated Development Project (RIDP)²⁷⁶ and the Nepal National Education Planning Commission (NNEPC).

The RIDP was mainly funded the USOM and focused on, among other things, establishing schools to eradicate illiteracy and creating infrastructure. RIDP specifically aimed at ‘developing’ a certain rural area in Nepal, the Rapti zone, which the US deemed most vulnerable for ‘indoctrination’ of communism. However, these schools were the center of Maoist ideas, and the policy of constantly circulating teachers created a great environment to mobilize the political opponents of the neo-liberal development projects that had struck

²⁷¹ Nepal’s implementation of the panchayat system on a national scale outlawed political parties and placed all decision-making power in the hands of five ministers appointed by the King. DIDN’T WIRTE MYSELF!

²⁷² Shields & Rappley, *supra* note 259, at 268.

²⁷³ Bennike, *supra* note 206, at 57.

²⁷⁴ USOM is the precursor of USAID; Poudyal, *supra* note 205, at 164.

²⁷⁵ Louis D. Hayes, *Educational Reform in Nepal: An Evaluation*, 21 ASIAN SURVEY 676, 677 (1981).

²⁷⁶ The purpose of this project was not solely to improve the education system; however, this was one of the targets of the project.

the country.²⁷⁷ The violent neo-liberal reforms that the Rapti zone was subjected to were eventually incentives to start an uprising. The project's aim therefore had resulted in the opposite outcome.

The NNEPC was by far the most influential project. Several propositions made by the NNEPC still function as the foundation for today's education. The NNEPC was established in 1952 with the help of USOM "to survey existing educational facilities, and to prepare a scheme for national universal education in Nepal."²⁷⁸ Different foreign advisors were invited to Nepal, in order to plan education.²⁷⁹ The most known was Dr. Hugh Wood, an educational specialist from Oregon who was at that point teaching in India.²⁸⁰ Under his supervision extensive research was conducted into the current state of Nepal's education system and with recommendations for the new Nepali education system. The NNEPC marked the beginning of solidifying a form of universalized mass education that would become the foundational national education system and play an important part in Nepal's state building project.²⁸¹

The report was quite clear about how education would contribute to this. First, it would eliminate all other existing forms of education. The NNEPC report states: "it may be assumed that many of these existing schools will gradually change to the new patterns to be established; thus we should know something of the present patterns to ease the probable transition."²⁸² Secondly, it would create one Nepali identity, through among other things, installing Nepali as the only language of instruction besides English. Thirdly, it would promote the democratic way of life which was "based on an enlightened citizenry; [since] they cannot survive in darkness."²⁸³ Education therefore is designed to make citizens with a national Nepali identity and 'enlighten' them so that they would 'understand' what is ultimately good: a democratic way of life. Fourthly, it would enhance economic

²⁷⁷ Paudel, *supra* note 221, at 1038.

²⁷⁸ THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 1.

²⁷⁹ Lava Deo Awashti, *Importation of Ideologies: From Macaulay Minutes to Wood Commission*, 1 JOURNAL OF EDUCATION AND RESEARCH 21, 22 (2008).

²⁸⁰ Poudyal, *supra* note 205, at 164. THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at appreciation.

²⁸¹ Pradhan, *supra* note 233, at 167.

²⁸² THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 37.

²⁸³ *Id.* at 71.

development and foster technological advancement. This included both the discovery and the use of technological advancements.²⁸⁴ As the report noted “there can be little improvement in our economic conditions without the help of technology and education. [W]e cannot make any improvements in our economy without education.”²⁸⁵ Fifthly, in order to ‘develop’ technologically and economically, and in order to become ‘enlightened’, Nepal needed to become part of the world. The only way to do this was through education.²⁸⁶ Lastly, education should be compulsory, and readily available to all so that “indifferent parents cannot deprive their children of the benefits of education.”²⁸⁷ Through this, education would serve to augment national development.

The new education system was not meant to create politically aware people. As one Maoist leader said: “[t]he government official believed that the school would teach these troublemaking Thabang peasants about how to follow the government rules. They thought that we were making trouble because we were illiterate.”²⁸⁸ The new education system was strictly directed towards the creation of one nation, one national identity and the ‘development’ both economically and intellectually of the Nepali people.

The NNEPC’s curriculum was institutionalized in 1956,²⁸⁹ but the centralization of education was slow. It was not until 1971 that with the issuing of Education Act 2028,²⁹⁰ education became centralized.²⁹¹ The New Education Plan (NEP), which was published in the same year, was the consequence of years of international organizations and ‘experts’ involvement,²⁹² and intended “to produce citizens who, with full faith in the country and

²⁸⁴ It was argued that “[s]cience and technology, Aladin's gift to the twentieth century, must go unheeded, yes, unwanted, among an ignorant populace. We are refusing the gifts that have sped advancement in other countries that could take ours out of darkness if we become educated.” Id.

²⁸⁵ Id. at 71.

²⁸⁶ Id. at 72.

²⁸⁷ Id. at 73.

²⁸⁸ Paudel, *supra* note 221, at 1036.

²⁸⁹ Pradhan, *supra* note 233, at 173.

²⁹⁰ This act nationalized and standardized all schools in Nepal; Poudyal, *supra* note 205, at 165.

²⁹¹ In 1961 the NEC recommended compulsory primary education. In 1962 a never published UNESCO report pushed for “special interventions for *backwards* regions” [emphasize added]. In 1971 the NEP led to a shift in policy, there was increased centralization and more inclusion of the rural areas. In 1992 the NEC recommended five year of primary education. In 2001 a report from a high-level working committee expanded on three main issues in the Nepali education, the low quality of education, the problem of implementation and the lack of effective regulations in regard to private schools. Ghimire, *supra* note 242, at 5; Andersson & Lindkvist, *supra* note 240, at 12.

²⁹² Hayes, *supra* note 275, at 677.

the Crown, will conduct themselves in accordance with the Panchayat system and to meet the manpower requirements of the development through the spread of scientific and technical education.”²⁹³ It focused even more on the creation a national identity, officially institutionalized Nepali as the official language of instruction,²⁹⁴ taught history that left out most of Nepal’s history and only focused on what created the current regime, and “tried to produce a people as one ethnicity.”²⁹⁵

Another important consequence of the NEP was that it instated a policy that made sure that the correct type of education would be distributed all around the country. During their second year of the masters, students were required to volunteer in a village, that was chosen through lottery, and help with setting up education and teaching the students in the villages. While this idea in and of itself is not bad, its setup had negative consequences. The project was officially set up because “higher education may not be equated with theoretical and bookish knowledge alone.” The volunteer position therefore “provide[d] students scope for service in national development while engaged in studies.”²⁹⁶ However, the project turned into a ‘development project’ in which students trained in a western-type education were sent to the villages that had not yet received ‘the gift of education,’ and set up a schools to teach those in the village.²⁹⁷ The fact that this was more about the ‘development’ of the villages than the people themselves can for example be found in the *Rising Nepal*, an English daily newspaper in Kathmandu. It interviewed several students about their experience and talked about how fulfilling the projects had been for the students. However, it does not mention the people that received this ‘help.’²⁹⁸

The argument that education under the monarchy allowed for more freedom is therefore questionable. Education under the monarchy did not differ much from education under the Rana rule. It is true that education was more accessible to the general public under the monarchy, however, the education that was forced upon the Nepali people did not in any

²⁹³ MINISTRY OF EDUCATION, THE NATIONAL EDUCATION SYSTEM PLAN for 1971-76 (1971), at 6.

²⁹⁴ *Id.* at 9. It kept English as the preferred level of instruction in the higher levels.

²⁹⁵ Pratyoush Onta, *Ambivalence Denied: The Making of Rastriya Itihas in Panchayat Era Textbooks*, 23 NEPALESE STUDIES 213, 231 (1996).

²⁹⁶ Hayes, *supra* note 275, at 682-684.

²⁹⁷ *Id.* at 682-824.

²⁹⁸ *Id.* at 685.

way address the uniqueness of the more than 100 different ethnicities and languages present in Nepal. Education was just as oppressive, only this time it was extended to the entire population of Nepal. The NEP was set up in such a way that it discouraged students who might use education for political purposes. Instead it encouraged the small portion that was allowed to continue studying to study technical subjects so that it would advance Nepal economically and technologically.²⁹⁹ The focus on creating monarchy-favorable students was very clear in the 1971 NEP report where the aim of lower secondary education, grade 4-6, was to build character “by cultivating loyalty to the king and the country.”³⁰⁰

Before continuing on to the multi-party time period, it is important to look into the NNEPC a bit deeper. While most members on the committee were Nepali, they were not from the general Nepali public. For example, Sardar Rudra Raj Panday, chairman of the commission, had been the principle of one of Nepal’s earliest universities, that was directly related to the old Rana regime, as well as being a headmaster of the Darbar School.³⁰¹ The members of the NNEPC were well meaning officials, however all acquired a British influenced education and therefore seemed to be children of a colonial culture which they were now working to instill into the Nepali education system.³⁰²

Besides, Wood’s influence, as an American educator, on the Nepali education system has been fundamental. As Awashti pointed out, the reduction of multilingualism was not indigenous to Nepal, which had always known many different native languages. The mono-language policy was an influence from the West, from the British policy in India to be specific.³⁰³ Nepal’s one language policy originates from Wood’s education plan. He believed that one language, Nepali, was required to create a national identity. It was a prerequisite for development. His unawareness of both Nepal and the importance of education in one’s native language is visible when he notes that: “[t]he Commission has considered the fact that some children may wish to learn to read and write other languages

²⁹⁹ *Id.*, at 677.

³⁰⁰ MINISTRY OF EDUCATION, *supra* note 293, at 24.

³⁰¹ *Tri-Chandra College: Celebrating 100 Years of Nepal’s Oldest Higher Educational Institution*, THE GUNDRUK POST (April, 10 2018), <http://www.gundrukpost.com/tri-chandra-college-celebrating-100-years-of-nepals-oldest-college/>

³⁰² Awashti, *supra* note 279, at 27.

³⁰³ *Id.*, at 23.

which contain a wealth of literature, such as Hindi which is the mother tongue for some, or English.”³⁰⁴ Both Hindi and English are large languages in the region, but definitely not a mother tongue language in Nepal. According to a 2011 population census, only 0.2% of Nepali speak Hindi as their mother tongue.³⁰⁵ The fact that out of 123 languages, Wood picks the two languages that are most related to British colonial power in the area shows how little he is aware of Nepal and how influenced he is by the colonial power.

Different authors have also pointed out the visible influence of the ‘Macaulay Minutes’ on Wood’s education program. The Macaulay Minutes were the foundation of India’s current education system, set up by Macaulay, and aimed at the creation of a group of people that were Indian from the outside, but British from the inside.³⁰⁶ As Awashti noted,³⁰⁷ both Wood’s and Macaulay’s education systems “followed the same course of assimilation, destruction, perpetuation, possession and restriction in order to establish a monolingual nation-state.”³⁰⁸

Wood did not only intend to make Nepali the uniform language of instruction, he meant for it to be the uniform language of Nepal. In his report he notes that “[c]hildren learn new words quickly, and will often introduce them into their homes, especially if parents co-operate and encourage them” thereby insinuating that if both parents and children participate ‘well’ enough in the education system, they will soon all speak Nepali. This was his ultimate goal, as he noted “[i]f the younger generation is taught to use Nepali as the basic language, then other languages will gradually disappear, and greater national strength and unity will result. [...] The study of a non-Nepali local tongue would mitigate against the effective development of Nepali.”³⁰⁹ The colonial legacy that lived on in Wood’s education program is the basis for today’s education system in Nepal. Both the 1956 and 1971 reports were responsible for the expansion of “Nepal’s small, elitist system

³⁰⁴ THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 92.

³⁰⁵ GOVERNMENT OF NEPAL, NATIONAL PLANNING COMMISSION SECRETARIAT, 1 NATIONAL POPULATION AND HOUSING CENSUS 2011, 164 (2012).

³⁰⁶ Jain, *supra* note 112.

³⁰⁷ In this article, Awashti examines the language policy that came to be with the 1956 NNEPC report. She specifically focuses on the commonalities between Wood’s approach to language and education, and the *Macaulay Minutes*.

³⁰⁸ Awashti, *supra* note 279, at 23-24, 27.

³⁰⁹ THE NEPAL NATIONAL EDUCATION PLANNING COMMISSION, *supra* note 1, at 93.

of education [...] without regard for its suitability to the country's needs."³¹⁰ The increased influence of foreign aid organizations intensified this even more, leading Awashti to conclude that '[i]ntellectually, Nepal became more dependent on the West than it was ever before.'³¹¹

5. Multi-Party System

With the establishment of a multi-party system in 1991, Nepal's political climate was once again changed. This led to questioning the effectiveness of the current education system, which aimed towards creating citizens loyal to the crown. It coincided with a relative economic growth,³¹² a policy favoring private sector engagement³¹³ and several international conferences on the right to education.³¹⁴ The education policies that followed these developments were influenced and supported by the World Bank,³¹⁵ other international organizations, corporations and foreign countries, and included privatization, decentralization and the implementation of nationwide education programs.

As part of their effort to achieve universal enrollment the World Bank started encouraging private school enrollment.³¹⁶ There had been an increase in private schools since the 1950s, but this skyrocketed after 1990.³¹⁷ Parents prefer(ed) the private schools because they teach in English and English is still considered the door to success.³¹⁸ Private schools furthermore are a social status symbol, and are therefore readily considered to be of better quality despite the

³¹⁰ Pradhan, *supra* note 233, at 175.

³¹¹ Awashti, *supra* note 279, at 22.

³¹² Bhattarai, *supra* note 219, at 18.

³¹³ Priyandarshani Joshi, *The growth, roles and needs of the private education system: Private stakeholder perspectives from Nepal*, 65 INTERNATIONAL JOURNAL OF EDUCATIONAL DEVELOPMENT 57, 58 (2010).

³¹⁴ Nepal's own constitution in 1990 guaranteed the fundamental right of every child to access primary education, in their own mother tongue, (Poudyal, *supra* note 205, at 166.) in the same year Nepal committed itself to the goal of EfA during the Jomtien World Conference on Education, (Andersson & Lindkvist, *supra* note 240, at 12) and ratified the CRC (14 September 1990) which includes the right to education for all children. A year later it also ratified the ICESCR (14 May 1991). In the year 2000 it again pledged to achieve EfA during the World Education Forum in Dakar and committed itself to the fulfillment of the Millennium Development Goals in 2000.

³¹⁵ Puhuja has noted that around the 1980s "the World Bank in particular, as well as the International Monetary Fund (IMF), began to take an interest in 'governance' and institutions – including law generally – and their role in the promotion of development." SUNDHYA PAHUJA, *DECOLONISING INTERNATIONAL LAW: DEVELOPMENT, ECONOMIC GROWTH AND THE POLITICS OF UNIVERSALITY* 127 (2011).

³¹⁶ Kapil Dev Regmi, *World Bank in Nepal's education: three decades of neoliberal reform*, GLOBALISATION SOCIETIES AND EDUCATION 1, 7 (2016); The World Bank urged the establishment of private education since the government in their mind had not been able to provide enough funds for public education. Free education, therefore, posed a threat to quality education. The bank has continuously argued for a non-free education.

³¹⁷ Joshi, *supra* note 313, at 58.

³¹⁸ Poudyal, *supra* note 205, at 166.

fact that both public and private schools have a wide range of quality.³¹⁹ However, instead of decreasing inequality through universal enrollment, this approach has only increased inequality.³²⁰ As Pradhan noted, “[s]chools, through their medium of instruction, are implicated in the reproduction and production of advantage in society. Schools that offer access to a high-status language are seen as offering better life chances for those who can learn that language.”³²¹

Coinciding with the World Bank’s approach to increase private school enrollment, several other projects were set up. The Basic Primary Education Program (BPEP I) which run from 1992-1997³²² and its successor BPEP II which run from 1997-2002³²³ both aimed at increasing enrollment and strengthening the government’s ownership over education. These two projects were followed by the Community School Support Project (CSSP) which run from 2003-2007 and in contrast to the BPEP “tested a model that was applicable only to committees in the entire country that agreed, after an advocacy process, to take over formal responsibility of managing their schools.”³²⁴ Where the BPEP aimed to increase formal school enrollment and “to strengthen institutional capacities at national, district and school levels to plan and deliver more efficient and better quality education services,”³²⁵ the CSSP focused on a less formal and more localized approach.³²⁶ However, this community school programs too purposes to facilitate the accessibility of formal education. All projects aimed to improve the curriculum and textbooks, decrease the illiteracy rate, and improve the learning environment so that education would “produce a literate and numerate population ready for further education, but also competent citizens who can deal with problems at home and at work.”³²⁷

³¹⁹ Even the best performing public schools in the country have a hard time attracting middle-class families. Joshi, *supra* note 313, at 58.

³²⁰ Shields & Rappley, *supra* note 259, at 269.

³²¹ Pradhan, *supra* note 233, at 178.

³²² The World Bank, Staff Appraisal Report Nepal Basic Primary Education Project, Report No. 10130-NEP (March 27, 1992), <http://documents.worldbank.org/curated/en/181171468122349922/pdf/multi-page.pdf>.

³²³ OED, ICR Review, Report Number: ICRR12083 (Nov. 5, 2005), <http://documents.worldbank.org/curated/en/336171475090821482/pdf/000020051-20140613043116.pdf>.

³²⁴ The World Bank, Project Performance Assessment Report Nepal Community School Support Project (CR. 3808), Report No. 55407 (June 28, 2010), at 3 <http://documents.worldbank.org/curated/en/358241468059936097/pdf/554070PPAR0p111Official0Use0Only161.pdf>.

³²⁵ Nepal – Basic Primary Education Project, Phase I of an APL Credit to Support the Basic and Primary Education Program (BPEP APL), Report No. PID6545, at 2, <http://documents.worldbank.org/curated/en/151801468775563162/pdf/multi0page.pdf>.

³²⁶ The World Bank, *supra* note 324, at 3.

³²⁷ Pradhan, *supra* note 233, at 170.

At the backdrop of these education programs was the Maoist revolution which was partly a consequence of the years of marginalization of different groups. When declaring war the Maoists provided a list of 40 demands, some of which were “the establishment of mother-tongue education, universal education and the closure of all for-profit schools.” Their demands marked a direct link between the exclusionary education practices which increased inequality and the revolt.³²⁸ Since the end of the Maoist revolution, more effort has been put into making education inclusive. However, the number of private schools has not decreased. English is still thought of, and promoted as, the door to success and the number of aid organizations that work towards EfA has only increased.³²⁹ Furthermore, despite the changing approach from centralized to decentralized education, the projects all continued to build on the components of a national education system. They therefore do not question the colonial foundations of this education system. Hence, the purpose of education is still one of universal enrollment, development of the country and closely connected to international projects such as the SDGs.

C. CONCLUSION

Nepal was never colonized but the Raj had a grave influence on Nepal, one of those being the creation of an English type education. The presence of the EIC in the area was also directly responsible for the incorporation of Nepal into the world economy. The link between education and economic development of Nepal therefore was present from the very beginning of Western-style education. Once the British left India and the Rana's were ousted, Nepal, under the monarchy, opened up to the world. However, they immediately became a plaything in the Cold War. Several educational development projects were set up aiming at developing Nepal economically and incorporating it into the world economy.

The 1956 Education Plan was one of the largest and most influential education development projects. It was supposed to design an education plan that met Nepal's specific requirements. Yet, this project was not so much a Nepali endeavor as more an

³²⁸ Shields & Rappley, *supra* note 259, at 269.

³²⁹ Key international implementing partners for projects regarding education are: PIU, ADB, Australia, DFID, EU, Finland, JICA, Norway, SDC, UNESCO, UNICEF, UNDP, USAID, WFD, World Bank, AIN. GOVERNMENT OF NEPAL, SCHOOL SECTOR DEVELOPMENT PLAN 2016/17-2022/23 (BS 2073/74 – 2079/80) (2016) at 178.

endeavor of Nepali men who were the children of a colonialist system and one American man, whose stamp on the education plan was highly colonial. Therefore effectively (re)introducing and anchoring colonial roots in the Nepali education system. While simultaneously eradicating other indigenous education systems.

The active privatization of Nepal and neoliberal development projects changed the landscape of Nepal forever. As the Cold War came to an end, a new type of development was mainstreamed, the rights based approach. In specific the right to education and the EfA goals. This right to education has prompted many international aid organizations to implement development projects in Nepal. As was shown, these development projects often failed to look at the local population and were aimed mainly at increasing the government's grip on education and to develop the country.

The history of Nepal told along the lines of the influence of foreign countries, therefore, is almost synonymous to the development of a Western-style education, and the eradication of indigenous forms of education or knowledge reproduction. Thus, while Nepal never officially got colonized, their education program is without a doubt the consequence of coloniality. This last chapter will look at Nepal's current education system, and development project and highlight how this poses a continuation of a colonial education system.

IV. DECOLONIZING THE RIGHT TO EDUCATION

The previous chapter outlined the history of the Western-style education system in Nepal and showed that while Nepal was home to several types of education, the Western-style education was mainstreamed. This type of education has strong colonial roots. Yet, despite this, EfA and SDG4 programs are actively working towards increasing the impact of this type of education all over Nepal. Through this, the Right to Education not only continues to spread an education system that has clear colonial roots, it also compounds inequality and perpetuates a neo-colonial education system based on a consumer culture. Consequently, the current education system is not a break from, but a continuation of, the colonial type of education. Cloaked in terms such as equality and development, as well as projects such as EfA, BPEP and SDG4, the right to education actively promotes a colonial type of education. It will specifically look at the two most recent projects that heavily influence the Nepali education system. First, Nepal's current national curriculum composed with aid from foreign countries and international organizations. Second, it will examine Nepal's latest major educational development project: School Sector Development Plan (SSDP)³³⁰. Combining sections of International Conventions on the right to education and its implementation across several education projects, this last section will trace how the use of the right to education has helped maintain and enforce an education system with its colonial roots and continues to create inequality.

A. COLONIZED EDUCATION

The education system of Nepal from 1956 onwards has not radically changed. While it first aimed at 'developing' citizens loyal to the crown, it later evolved into 'developing' citizens loyal to the nation to the current of 'developing' citizens who are loyal to and part of a world economy and a consumer culture.³³¹ All stages of the education system were, and are, aimed at developing Nepal into a modern, educated, and economically developed state.

³³⁰ The SSDP is funded by Finland, Australia, Norway, the EU, UNICEF, the Asian Development Bank, the World Bank, and the Japan International Cooperation and Association, and is a continuation of previous EfA projects. Its main purpose is to graduate Nepal from an 'underdeveloped country' to a middle-income country. *Government of Nepal and Education Development Partners formalize their SSDP Collaboration*, EUROPEAN COMMISSION (Aug. 25, 2017, 08.28am), https://eeas.europa.eu/headquarters/headquarters-homepage/31360/government-nepal-and-education-development-partners-formalise-their-ssdp-collaboration_lo

³³¹ Pradhan, *supra* note 233, at 171.

School has always been a medium through which the current vision of an idealized Nepal was pursued.³³² Therefore, while the agenda of education might have differed slightly throughout Nepal's history, the main purpose never changed: to train children so that they can be beneficial to the development of Nepal. The same has been argued for the different EfA projects implemented both by the Nepali government and INGOs. Like education in the colonies, the current educational development projects still aim towards developing its people. It only expands a Western education system and incorporates local education systems to serve its purpose. It perpetuates this system as the only way to succeed in life. Lastly, it does this by shaming and portraying as ignorant those that do not access, have not accessed or do not have access to this type of education.

1. Educate to Develop

Countries, (I)NGO's, corporations and international organization generally all portray mass schooling as the only means for a better life, a more sophisticated society and a more economically prosperous country.³³³ What is to be achieved through education is what is already achieved by the 'developed' countries, e.g. the West. This is reflected both in conventions, as well as in the MoE of Nepal's educational framework. For example, CRC Art. 28(3) posits that "States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to *contributing to the elimination of ignorance* and illiteracy throughout the world [...]. In this regard, particular account shall be taken of the needs of developing countries" [emphasize added].³³⁴ It ensures that the 'international community' or the West for that matter, is involved in the spread of education and the 'elimination of ignorance.' The Article also insinuates that it is mostly the developing countries that are ignorant and in need of help from the developed countries. Lastly, it argues that those that did not receive this type of education are ignorant.

In the SDGs, the same importance is given to the role of 'developed' countries. SDG 4b and 4c both talk about the training and teaching of teachers and students in the developing world, arguing that quality education only exists in 'developed' countries, thus making

³³² *Id.* at 173.

³³³ Jain, *supra* note 112.

³³⁴ CRC, *supra* note 23, at Article 28.

education something that developed, e.g. Western countries, have and developing countries still need to achieve. This approach is in accordance with Pahuja's observation that development is something that is exported from the north to the south.³³⁵ In its newest national curriculum, the MoE of Nepal also argues that "[a]ll round development of the nation depends on [a] well managed school education system."³³⁶ This requires a special emphasize on "globalization, modernization, decentralization, and localization."³³⁷ While it mentions localization, it becomes clear from the remainder of the document that this localization is mainly for the purpose of strengthening the grip on local schools. The document therefore links the development of Nepal and its education system to international cooperation. This new curriculum has been developed to, among other things, "materialize the government's international commitments on obtaining the objectives of the programmes like EfA and Millennium Development Goals."³³⁸ The different EfA project, therefore, are directly responsible for the spread of a colonial system of education. While all previous examples are at least ten years old, this perspective on education has yet to change. The School Sector Development Plan (SSDP) for 2016-2023, argues that the SSDP would "be fruitful for graduating Nepal from the Least Developed Country to middle-income country by 2030."³³⁹ It then refers to the SDGs and the right to education in general as its main incentives. Education and economic development are once again connected.

SSDP, being the latest educational development plan, represents a continuation from the previous programs. Not one of these programs has questioned itself as the source of the problem; all have simply approached it by giving 'power' to different institutions, in order to institutionalize and mainstream education in Nepal. The different education development projects, and with that the education system in Nepal, still relies on support from abroad, is rooted in the fact that the Western-type of education is the end goal and aims at 'developing the ignorant.' Education until today is still organized in "such a way

³³⁵ Pahuja, *supra* note 315, at 220.

³³⁶ MINISTRY OF EDUCATION AND SPORTS, NATIONAL CURRICULUM FRAMEWORK FOR SCHOOL EDUCATION IN NEPAL, 1 (Nepal, 2007).

³³⁷ *Id.*

³³⁸ *Id.* at 7.

³³⁹ MINISTRY OF EDUCATION, SCHOOL SECTOR DEVELOPMENT PLAN 2016-2023, (Nepal 2016) Message from the State Minister, Ministry of Education Dhaniram Poudel.

that students become competent to cope with the challenges of the 21st century”³⁴⁰ and with that as the start from the point that Nepali children are not yet ‘developed’ or ‘competent’ enough to fully participate in the 21st century.

2. Educate the Western Way

As argued above, both the CRC and the SDG4 attribute great importance to Western countries’ influence on spreading education in the ‘developing’ world; promoting a western-style education. The Nepali MoE, which has always referred to the right to education and SDG4 or its predecessors as one of their main motives, has also always adopted the standpoint that education, while focusing on Nepal, should mirror a Western-style education.³⁴¹ While the new education plan emphasizes the importance of incorporating more local forms of education, which have been along much longer, such as madrassas or gumbas, it also promotes to incorporate these local forms of education into the formal education system.³⁴² This means that these schools are given standardized curricula, and have to abide by national standards.³⁴³ Consequently, the uniqueness of these other forms of education is taken away and replaced by a western-style education. Jain therefore notes that the “cultural imagination has been colonized so much [that one] cannot see the diverse and abundant learning possibilities inherent across local communities.”³⁴⁴

As is visible in the general history of education in Nepal, alternative forms of education are often written out of history. As was shown before, most all histories of education in Nepal start with the establishment of the Durbar school in 1853. This was done consciously, because, as Wood noted, the purpose was to eradicate all these different types of education. However, despite the effort, these different types of education still exist, and they have now returned to the forefront of education policy. The education development projects, starting around the 1990s, have ‘rediscovered’ the importance of more local types

³⁴⁰ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 6.

³⁴¹ GOVERNMENT OF NEPAL, *supra* note 330, at VI. This does not mean that they want to copy the education system exactly. They have more than once emphasized the fact that Nepal needs to follow its own path and focus on Nepal specific goals.

³⁴² MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 24-25.

³⁴³ Both Gumbas and Madrasa’s have their own national curriculum mentioned on the curriculum website of the Nepali MoE. *Gonpa, Madarasa, Gurukul, Mussum and Baudhik Apangataa*, CRC LIBRARY, http://nkcs.org.np/cdc/library/opac_css/index.php?lvl=cmspage&pageid=6&id_rubrique=95.

³⁴⁴ Jain, *supra* note 112.

of education. Nevertheless, the increased interest in these more local schools is only for the purpose of mainstreaming them into the formal education system. These schools therefore do not function in their traditional forms, or with their traditional purposes. Consequently losing their original purposes. The current educational programs therefore are even further marginalizing other types of education.

The right to education does not only directly ensure a western-style education, it also indirectly imposes a western-style education. The commitment to achieving EfA means that a considerable amount of government funding needs to go towards achieving this goal; and that much of this money will go to private institutions or other INGOs. Since countries like Nepal are often not able to achieve the type of education that EfA initiatives are aiming at, they are often pressured to open up their domestic education system to foreign funds and organizations,³⁴⁵ and take out more loans to finance these projects.³⁴⁶ In turn, this opens up the domestic education system to more influences from abroad, while allowing foreign countries, national and international corporations, international organizations and development banks to profit from the Nepali education system through selling educational supplies, curricula, setting up for-profit schools, etc. Those projects promote a world economy-based western-style education. Those international aid policies serve to “put a straitjacket on the educational policies of countries in the South, forcing them to focus on primary education and only on lifelong learning in terms of skills for economic, human capital purposes.”³⁴⁷

Furthermore, the new Nepali curriculum framework specifically notes the importance of these international organizations for the educational policy, as well as the curriculum of Nepal. The globalization of education has been responsible for the standardization and systematization of the curricula.³⁴⁸ The current Nepali curriculum still includes topics that show influence from international organization.³⁴⁹ The development, and implementation

³⁴⁵ The report on the new Nepali education system also makes notice of the pressure “to systemize the local curriculum.” MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 23.

³⁴⁶ George and Jain, *supra* note 81.

³⁴⁷ Josje van der Linden, *Non-formal education and new partnerships in a (post-)conflict situation: ‘Three cooking stones supporting one saucepan*, 42 INTERNATIONAL JOURNAL OF EDUCATIONAL DEVELOPMENT 54, 55 (2015).

³⁴⁸ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 25.

³⁴⁹ One example is the different sections dedicated to ‘rights education’. Completely isolated from the other topics discussed in the curriculum, the different sections on rights education are very generic and focus on how these rights are

of the current Nepali curriculum therefore still reflects serious influence from foreign countries, which promote their form of education, as well as their values.

3. Educate to Create a Monoculture

The current global perspective on education that is globally mainstreamed attempts to mold just one type of student. In doing so, it pushes for the establishment of a monoculture that eliminates all other cultural differences, all other languages, and all other educational opportunities. It does this not through eliminating them all together, but through enforcing superiority of only one type of education, culture, and language. For those who subscribe to the monoculture, the door of success will open. Essentially the same curriculum is taught all around the world,³⁵⁰ and while there are slight differences between curricula, all teach subjects such as math, science and history in an abstract way, often without practically implementing the knowledge.³⁵¹ Schools train children across the world for a finite number of jobs, considerably less than the number of school graduates. Children only learn subjects that will make them part of a consumer culture.³⁵² The monoculture, therefore, is about economics and the promotion of a consumer culture.³⁵³

This is apparent in the Nepali education system since its first report in 1956. The 2007 Curriculum Report notes that it “has tried to encompass the various aspects currently in practice globally. Specifically, ICT, life skills, world of work, human rights, and inclusiveness.”³⁵⁴ It explicitly links the Nepali education system to the (international)

not yet present in the current Nepali society. See e.g. CURRICULUM DEVELOPMENT CENTRE, MORAL EDUCATION CLASS 7, at 30-34 (2017); CURRICULUM DEVELOPMENT CENTRE, MY SOCIAL STUDIES AND CREATIVE ARTS GRADE 5, at 34 (2018). In the grade seven book for example, it is stated that “if we study properly which is our duty, we can claim for our right to education.” CURRICULUM DEVELOPMENT CENTRE, MORAL EDUCATION CLASS 7, *supra* note, at 31. While the rest of the curriculum talks about Nepali culture and history, this section does not make any mention of Nepali culture or history and lectures for hard work and achieving a ‘peaceful’ society. The separate sections on ‘rights education’ discuss concepts that are discussed throughout the rest of the curriculum, without the obvious mentioning of it. The point is therefore not that these value teachings are not present in Nepali society, or within the curriculum itself, but that they are separately discussed again. The sections on ‘rights education’, are always in the form of someone telling and stating the rights, whereas the same topics are also discussed throughout the rest of the curriculum in relation to Nepali culture. The rights as such are not directly discussed twice in the same curriculum. However, traditions and subjects that are important in Nepali society, such as family bonds, respecting elders, protecting and preserving nature, etc. are discussed. These topics are in direct relation to Nepali culture and do not need to be explicitly mentioned. The sections on rights on the other hand explicitly mention rights, which are discussed in a way that is disconnected from Nepali society. Even though they are absolutely part of Nepali society.

³⁵⁰ Schooling the World, *supra* note 116, at 6.15 min.

³⁵¹ Jain, *supra* note 112.

³⁵² Schooling the World, *supra* note 116, at 12.59 min.

³⁵³ Michaels, *supra* note 180.

³⁵⁴ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at Preface.

employability of children. The monoculture of education privileges the development of skills that serve the international market at the expense of other forms of knowledge, as evidenced by the goals published by the Nepali MoE.

Another aspect of this monoculture is creating a group of people that discipline themselves. Through education, children learn what is expected of them, how they should act, and where they fit into society.³⁵⁵ This has also been extensively injected in the Nepali curriculum. Every school year includes a section on morals. In grade one, children learn how a boy dresses versus how a girl dresses.³⁵⁶ A separate section is also dedicated to economic activity.³⁵⁷ In grade two, children are taught about good habits,³⁵⁸ and in grade three, students learn that traditional forms of work do not pay enough to educate their children.³⁵⁹ In grade six, a separate subject is dedicated to moral education. It discusses topics such as good people, good character and a proper working attitude.³⁶⁰ This is not unique to the Nepali education system. Teachings of how to act and the right approach and attitude are included in education systems all over the world. However, this “fraudulent system of learning” has as its purpose “to convert beautiful diverse human beings into robot-like ‘human resources’ and into stupid global consumers.”³⁶¹

A third aspect of this monoculture is that it perpetuates inequality rather than eliminating it. Nepal expanded its education system extensively since the 1950s. However the enrollment rate is still unevenly distributed, with the highest enrollment rates among residents of urban areas and belonging to the highest castes, and the lowest enrollment rates among those living in rural areas and belonging to the lowest or no caste.³⁶² Even the Nepali Report on Development notes this discrepancy, when it says: “despite important educational reforms and successful poverty alleviation policies of the last two decades, there appears to be little statistical association between ‘human capital’ and national

³⁵⁵ Foucault talks about this extensively in his book *Discipline and Punish*. FOUCAULT, *supra* note 59, at 135-169.

³⁵⁶ CURRICULUM DEVELOPMENT CENTRE, MY SOCIAL STUDIES AND CREATIVE ARTS GRADE 1 (2019), at 3.

³⁵⁷ *Id.* at 54-61.

³⁵⁸ CURRICULUM DEVELOPMENT CENTRE, MY SOCIAL STUDIES AND CREATIVE ARTS GRADE 2 (2018), at 6.

³⁵⁹ CURRICULUM DEVELOPMENT CENTRE, MY SOCIAL STUDIES AND CREATIVE ARTS GRADE 3 (2018), at 46.

³⁶⁰ CURRICULUM DEVELOPMENT CENTRE, MORAL EDUCATION GRADE 6 (2018), at 1-12.

³⁶¹ Manish Jain, *The Emperor Has No Clothes: Hacking the Education System Fellowship*, SHIKSHANTAR, <http://www.shikshantar.org/initiatives/walkouts-network/emperor-has-no-clothes-hacking-education-system-fellowship>

³⁶² Universal primary education in Nepal. Pg. 360

income levels in Nepal.”³⁶³ Nepal for example has a relatively low unemployment rate of 3%, as well as a high poverty rate of 25.2%.³⁶⁴ The link between increased enrollment and increase in income therefore is difficult to establish.

The western-style education trains children for jobs that are scarce, and while this is not the aim of education, the way the system functions eventually renders a large portion of school graduate superfluous. Children that cannot fit into the labor market, nor know how to survive on the land that they once lived on, become ‘superfluous’ and forced to take jobs that pay less and are of lesser quality than their education would allow them to take. The 2007 Report reflects this understanding: “the high school graduates of existing school system are neither accepted in the job markets nor are they interested to carry on their family business.”³⁶⁵ Education then does not reduce inequality but increases it. Hence, Shields and Rappleye argued that “current inequalities in educational opportunities and outcomes are largely attributable to persistent inequities and biases in the educational policy framework.”³⁶⁶ The education system itself is perpetuating inequality, specifically because compulsory education is forcibly, through compulsory education, taking children away from their own sustainable ways of living and education, and training them for a western consumer culture.³⁶⁷

4. Educate and Shame Those that Don’t

One of the main consequences of a human rights based approach to education is that those that do not access this specific type of education are shamed. This happens directly and indirectly. Directly, this occurs through using labels such as ‘uneducated’, ‘first-generation learners’ and ‘backwards.’³⁶⁸ Indirectly, the international EfA programs install a type of shame into people’s mind and disdains those that are ‘uneducated’.³⁶⁹ Through considering only those that have received a formal type of education and a recognized certificate as

³⁶³ Institution economic growth and foreign aid in Nepal, pg. 85

³⁶⁴ The World Factbook, *supra* note 191.

³⁶⁵ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 27.

³⁶⁶ Shields & Rappleye, *supra* note 259, at 265.

³⁶⁷ Schooling the World, *supra* note 116.

³⁶⁸ Jain, *supra* note 112.

³⁶⁹ As part of their mandate UNICEF mentions that it focuses to “[l]aunch behaviour change campaigns targeting parents to increase demand for formal education for working children”. Assuming that not enrolling their children in formal education is a behavior issue. *Education*, UNICEF (2017), <https://www.unicef.org/nepal/education>.

knowledgeable, the practical knowledge of the not formally educated is relegated to a lesser status.³⁷⁰ Those that have not had formal education are therefore shamed for being uneducated, and those that do receive education are told from the very beginning that they are ‘better’ than those that have not. This approach automatically insinuates that those that have not had a formal education have never learned. For example, the illiteracy rate is still one of the main targets of development projects. Aiming solely towards the reduction of the illiteracy rate, most projects fail to look at the self-sustainability of those that are illiterate. While literacy is without a doubt an important skill, it does not directly relate to a “sustainable human development.”³⁷¹ Projects often link literacy to human development, using terms such as ‘empower’ and ‘improving standard of living’ to signify the importance of literacy.³⁷² However, as Fasih explained, literacy is only one of the many skills one can have, and does not say anything about someone’s ability to perform various jobs.³⁷³

This image has also been reinforced through education itself. Earlier Nepali textbooks for example “highlighted the ‘backwardness’ of ethnic, rural and non-Hindu groups and placed them in an inferior position.”³⁷⁴ In recent years the use of such terms has been addressed. The grade seven yearbook for example teaches children how not to use words such as blind, deaf or mentally retarded, but instead use visually, physically or intellectually impaired.³⁷⁵ However, the national curriculum framework and the official translation of the Nepali Constitution still refers to the ‘backward class’ or ‘mentally retarded children’ in relation to those that have not received sufficient education, arguing that “[f]or the development of children it is necessary to avoid the state of being deprived of education.”³⁷⁶

In recent years the MoE has made an effort to create a more inclusive curriculum that caters towards different ethnicities, cultures, languages, and walks of life. However, especially at

³⁷⁰ TEDxRamallah Munir Fasheh منير فاشه *Occupation of knowledge* الاحتلال المعرفي, *supra* note 113.

³⁷¹ UNESCO Office in Kathmandu, *Using GIS maps to fight illiteracy in Nepal*, UNESCO, http://www.unesco.org/new/en/kathmandu/about-this-office/single-view/news/using_gis_maps_to_fight_illiteracy_in_nepal/

³⁷² GOVERNMENT OF NEPAL, *supra* note 330, at 47; Education, *supra* note 369; *Id.*

³⁷³ TEDxRamallah Munir Fasheh منير فاشه *Occupation of knowledge* الاحتلال المعرفي, *supra* note 113.

³⁷⁴ Pradhan, *supra* note 233, at 173.

³⁷⁵ CURRICULUM DEVELOPMENT CENTRE, MORAL EDUCATION CLASS 7 (2017), 71.

³⁷⁶ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 20; NEPAL CONST. of 2015, official English translation. The Nepali constitution does not directly refer to backward people as those that did not receive education. They do however use the word backwards 15 times, to refer to those that are economically, socially or educationally less well off than others.

the hands of large EfA projects which are supported by many countries, large corporations, and NGOs,³⁷⁷ an education system that is pushing towards preparing children for a western consumer culture still takes centerstage.

B. DECOLONIZING EDUCATION

The current education system in Nepal does not pose a break with its colonial past; on the contrary it continues to perpetuate the same colonial practices. This basis of the education system in Nepal is never questioned. Every project designed to ‘improve’ the education system, only perpetuates the previous system. Failing to question the very foundation of this education system also prevents discussions on larger issues surrounding western education, for example, the rising suicide rates that occur in places where the western education system, and with it incorporation into the world economy, is implemented.³⁷⁸ It does not allow for questions on the growing inequality as a consequence of the education system or the fact that there is no direct link between poverty reduction and increased enrollment rates. It covers all this up. Contrarily, it claims that western education can actually prevent or improve these societal and economic malaises. As this thesis has shown so far, education is inherently connected to colonialism, creating ‘docile bodies’ and preparing children for a life as part of the world economy. The problems with education therefore might be flaws inherent to its very foundation.

1. The Coloniality of Power in Terms of Systems of Knowledge

States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world [...]. In this regard, particular account shall be taken of the needs of developing countries. (CRC Art. 28(3))

[c]ontribute to the development of self-sustainable, competitive, innovative and value-oriented citizens for the socioeconomic transformation of the nation.³⁷⁹ (SSDP vision)

³⁷⁷ Schooling the World, *supra* note 116.

³⁷⁸ See e.g. Schooling the World, *supra* note 116; Prawash Gautam, *Youngsters battle severe emotional and psychological stressors*, THE RECORD (Dec. 4, 2018).

³⁷⁹ MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY, *supra* note 236, at 3.

While societies were fairly self-sustainable before Western intervention, the concept of education still directly relates education programs to the ‘development’ of Nepali people and the creation of a more self-sustainable society. The current Nepali education system, as funded and supported by foreign aid, “foregrounds the urbanized and Westernized self as a vision of development and the idea of education as a process of ‘modernizing’ the self.”³⁸⁰ The focus of education development projects is on the socioeconomic transformation of Nepal and purposes to further include Nepal into the world economy, as part of a mainstream consumer society. The SSDP, for example, hopes to develop Nepal’s “human resources, [...] basic life skills and knowledge required to enjoy a productive life.”³⁸¹ This presupposes that those that have not yet received ‘the gift of education’ are people without basic life skills, leading an unenjoyable, unproductive life.

Decolonizing education therefore starts with acknowledging the presence and importance of educational forms alternative to the Western-style education. It does not only require the acknowledgement of their existence, but also their equal standing with Western-style education. This means that the purpose of education and the ongoing education initiatives in Nepal need to be revisited. Why assume that western style-education will teach self-sustainability and basic life skills better than other forms of education? Why suppose the superiority of western-style education and western knowledge?

2. Colonial Language(s)

English signifies class. The better the English, the smarter the person.³⁸²
(Op-ed by Ghimire)

While 123 languages are spoken as mother tongues in Nepal, the education system still perpetuates Nepali and English as their main languages of instruction. The international aid organizations in particular propagate English as an important subject. The SSDP focuses on math, science and English to increase the quality of schools.³⁸³ Several

³⁸⁰ Pradhan, *supra* note 233, at 166.

³⁸¹ GOVERNMENT OF NEPAL, *supra* note 330, at vii.

³⁸² Saurav Ghimire, *Speaking Good English does not make you intelligent*, RECORD NEPAL (Jan. 2, 2019), <https://www.recordnepal.com/perspective/speaking-good-english-does-not-make-you-intelligent/>.

³⁸³ WORLD BANK, NEPAL SCHOOL SECTOR DEVELOPMENT PROGRAM (SSDP) IDENTIFICATION AND PREPARATION MISSION: AUGUST 16-31, 2016, http://pubdocs.worldbank.org/en/459151475471482863/pdf/Nepal0SSDP0Ide0emoire0revised0Oct03_1.pdf

international organizations and NGOs fund projects that teach English, and the World Bank is increasingly supporting private school enrollment, where English is almost always the medium of instruction. In many cases, private schools force children to only speak English. The new curriculum also still pushes English as one of the main languages of instruction. It proposes that “[t]he medium of school level education can be in Nepali or English language or both of them. However, in the first stage of elementary education [which includes the grades 1-3], the medium of education will generally be in mother tongue.”³⁸⁴ Therefore, while there is an increase in the usage of mother tongue languages in school, it still remains to be connected to the lower, ‘less educated’ levels, and therefore is still considered less than Nepali or English.

As a consequence of the push for English, those that do not speak proper English are looked down upon. In an op-ed Ghimire notes that “[i]t makes me sad to see how our young generations see our parents and grandparents as illiterate just because they don’t understand English.”³⁸⁵ This social divide that has been created through the lack of access to English education by one group, and the solely English education by the other group has been described as ‘linguistic apartheid’ and is prevalent all over Asia as well as Africa.³⁸⁶ Ghimire explains that “[i]n the colonial education system, students were physically punished for speaking their native languages while at school. [...] Our approach of Anglifying our schools is colonist although we brag about the fact that we were never colonized.”³⁸⁷

The use of English as the language of instruction in most private schools, as well as in many secondary and tertiary schools, is undeniably a remnant of the influence of the British Empire. However, even more so, it is a sign of how English is considered the door to success.³⁸⁸ The higher the level of English, the higher the level of international competitiveness. Changing the language of instruction back to Nepali or mother tongue

³⁸⁴ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 34.

³⁸⁵ Ghimire, *supra* note 382.

³⁸⁶ Banks, *supra* note 181, at 1322.

³⁸⁷ Ghimire, *supra* note 382.

³⁸⁸ Liechty, *supra* note 203, at 213; Ghimire, *supra* note 382; Banks, *supra* note 181, at 1322.

languages is not enough.³⁸⁹ If English is still the measurement of ‘success’ and taught in the private schools, which are both considered to be a barometer of achievement and supported by the World Bank, and if Nepali is still the predominate language of teaching and instruction besides English, who is advocating that learning in your native language is also an option? Especially when it is a language that parents were never taught in or allowed to be taught in.³⁹⁰

Instead of funding and setting up, English-medium schools, promotion of local language education should be increased. This does not mean that English should not be taught anymore. Countries like the Netherlands and Norway have always taught multiple languages yet have also prioritized their own language. Education is never fully in English. Yet, both countries are known for their fluency in English. In order to decolonize education, we need to have a conversation about the place of English in education, as well as the consequences of education projects that promote English as the most useful language.

3. Education ≠ Schooling

“The States Parties to the present Covenant recognize the right of everyone to education. [...] [W]ith a view to achieving the full realization of this right: [t]he development of a system of schools at all levels shall be actively pursued [...]” (ICESCR Art. 1; 2(e))

“Strengthen the monitoring of compliance with the minimum quality standards and learning outcomes in traditional schools including gumbas (Buddhis monasteries), gurukuls (Vedic schools) and madrasas (Muslim educational institutions).” (SSDP objective to enhance quality in basic education)³⁹¹

One of the biggest problems with the right to education is that it is used to push for schooling instead of education. If the supposed right to education actually provides a right to an education, it would have allowed for other forms knowledge transmission to exist;

³⁸⁹ Since Nepali is only one of the 123 language in Nepal, and the language of rulers of Nepal, it has been argued that Nepali itself is also a language of the colonizer. It was and is not the native language of many people in Nepal but forced upon the by those that ruled over them. Nepali therefore is by some argued to be the language of the oppressor. See Ghimire, *supra* note 382.

³⁹⁰ David N. Gellner, *An Interview with Padma Ratna Tuladhar*, 1 HIMALAYAN RESEARCH BULLETIN 37, (1996). In this article, Tuladhar, a well-known Nepali activist, talks about the time when speaking a language other than Nepali was not allowed.

³⁹¹ GOVERNMENT OF NEPAL, *supra* note 330, at 37.

yet it does not. It strictly confines education to something decided upon by the state. It permits limited deviation only within the confines of state standards.³⁹² Two contemporary practices underscore the privileging of formal schooling over other educational opportunities. First, alternative forms of education, defined forms that are not in line with the western-style of education, are increasingly mainstreamed into the formal education system. The SSDP, as well as all its predecessors, intended to strengthen the government's ownership over these types of education, and education in general rather than facilitate educational variety.³⁹³

The second approach is through decentralization projects that claim to incorporate local curricula, practices and local occupations.³⁹⁴ However, as the World Bank notes, these projects ultimately aim to mainstream all children into the formal education system.³⁹⁵ They are antithetical to the existence of other forms of education.³⁹⁶ This is partly in contrast to Nepal's efforts to localize education, based on local needs. Their Education Framework notes that "pressure is being put forward to systematize the local curriculum based on knowledge, skills, technology, etc. at local level."³⁹⁷ The right to education and the EfA projects based on this right, therefore, are implemented in such a way that education equals schooling. In turn, this actually eliminates other options of education either through denouncing it as not counting as education or mainstreaming it into a more formal education system.

Decolonizing education therefore requires decoupling education from the concept of schooling. It should also decentralize education, not so that greater influence can be put on the schools, but so that there is more freedom to choose education. To decolonize education means to allow different forms of education and knowledge acquirement to exist side-by-side without forcibly enrolling children in one type of education. To decolonize education means to allow other forms of education and knowledge to be of equal worth.

³⁹² Both the CRC and ICESCR note that parents are free to choose the education of the children, when approved by the state.

³⁹³ MINISTRY OF EDUCATION, *supra* note 339, at vii-viii.

³⁹⁴ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 45.

³⁹⁵ WORLD BANK, *supra* note 383, at 1.

³⁹⁶ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 19.

³⁹⁷ *Id.* at 23.

4. Sameness is not Equality

As a final point, it is important to differentiate between sameness and equality. Equal access to education does not mean that everyone should access the same education. Enrolling all children in the same type of education does not establish or create equality. Enrolling all children in the same type of education ensures that some will perform well, yet the majority will not. The right to education suffers from the same issue as human rights in general, sameness does not mean equality. It treats children as a monolith, and education as a one-size-fits-all. Yet, as Gardner has argued, there are at least seven intelligences,³⁹⁸ and while education does address most of them, priority is given to those that serve a world economy and consumer culture such as math, science, and English. Through this, different types of intelligences are hierarchized.

The SSDP prioritizes math, science and English as essential to development, and the Nepali National Curriculum requires four compulsory subjects: Nepali, Math, English and Social Studies for primary education.³⁹⁹ While Social Studies includes elements of science, environment, health, physical education and creative arts, they are all relegated to one subject, in contrast to Nepali, Math and English. The current education system therefore leaves little room for actual inclusive education. Besides, as Shields and Rappleye argued, the current inequalities in education are a consequence of the “persistent inequities and biases in the educational policy framework.”⁴⁰⁰ The history of the Western-style education in Nepal is one of continuous exclusionary practices “that have exacerbated and solidified relationships of power and privilege throughout Nepali history.”⁴⁰¹ These relationships of power are not addressed in any educational reform. To equally enroll all children in schools that still function on exclusionary practices is to have people run the same race, one is starting almost at the finish line, the other still has to walk towards the starting line.

The current approach to equal access to education, in fact, does not achieve equality. If anything, it creates more inequality. The World Bank’s approach in promoting private school enrollment to increase access to education has increased inequality. The enrollment

³⁹⁸ Gardner, *supra* note 174.

³⁹⁹ MINISTRY OF EDUCATION AND SPORTS, *supra* note 336, at 44-45; Science will be a separate subject in grade 6-8, while mother tongue will be only an elective.

⁴⁰⁰ Shields & Rappleye, *supra* note 259, at 265.

⁴⁰¹ *Id.* at 267.

of all children into school where they are taught in Nepali, which for many is not their native language, is not equality. Forcing children to compulsory education in subjects that they might not necessarily want or need in their life is not equality. The universal right to education enforces a stamp of sameness on all children. It effectively dismisses the uniqueness of every human being.

We accept that people are different, have different interests and different ways of life, then why do we not accept that different forms of education exist. Assuming that access to a curriculum that is about the same all over the world is equality fails to acknowledge that people are unique, come from all different walks of life and hold different interests and qualities. Equally enrolling all children in a nearly uniform education system all over the world, is achieves a goal contrary to equality. Sameness is not equality, rather uniqueness and differences are equality. Not teaching the same type of classes, math, science and English, are equality, but allowing children to learn what they deem useful is equality.

C. CONCLUSION

Nepal's current education system functions in ways that do not differ much from the 'previous' colonial systems. As a consequence of several education projects, the type of education that has been put forward is one that still aims at the development of Nepal's people. The education projects have argued that education is important for the economic development of Nepal. However, as was shown in this chapter, the projects also still aim to 'develop' the Nepali people. The solution for this development is often pushed in the form of western-style education. This despite the aim of the Nepali MoE to localize education more so that it would better fit local practices. This western-style education system is mainly focused on training children to be part of the mainstream society, the larger world economy, a consumer society. This education system is perpetuating a monoculture, hierarchizing subjects, qualifications and skills from most marketable to least marketable. As a consequence of this approach, those that did not receive this type of education are looked down upon or considered uneducated. Through this, the current education system, imposed by foreign influences, is still perpetuating a colonial education system.

In order to decolonize education, it is important to reevaluate the coloniality of power in terms of knowledge. We should reexamine the emphasis on the importance of English and instead emphasize mother tongue languages. Secondly, we should revisit the purpose of education and allow other forms of education to be of equal importance. The basis to decolonize education is to acknowledge that sameness does not equal equality, and quite contrarily maintains inequality. Only once we accept that not every child needs to be taught in the same education system, we can start to decolonize education. Decolonizing education means to allow other alternatives of education and knowledge production to exist, and not to only find alternatives for the current education system.

V. CONCLUSION

This thesis has examined the right to education. It has argued that this right has been used to expand on an education system that has clear colonial roots. Through its wording, subsequent EfA projects and international organizations, a specific type of western-style education has been put forward that trains children to be part of a western consumer culture. In doing so, all other forms of education are disregarded, and when not eradicated, are mainstreamed into the formal education system. The specific wording of the right to education and SDG4 have resulted in the fact that education is equated to schooling. The right to education therefore is interpreted at the right to a state regulated compulsory schooling. In expanding this type of education around the world, the right to education is yet another term that covers up colonial intentions. The current education system therefore is not a break from its colonial past, but a continuation of an already colonial education system.

This thesis looked specifically at Nepal. Having never been formally colonized, Nepal experienced a soft-colonization that incorporated it into the world economy. The influence of the British Empire has been significant and still present today. Nepal still provides soldiers for the British army that fight in their wars, English is still considered the door to success and most importantly, they brought an education system that is still prevalent in Nepal. After the departure of the EIC from India, the US took over as ‘developer of the region’. With violent neo-liberal ‘development’ projects, the USOM and other organizations forever changed the landscape of Nepal. In this time Wood created an education report that advised on how to create an education system that would allow Nepali people to develop, carry on a democratic society and be marketable for the rest of the world. His ‘recommendations’ have been the foundation of Nepal’s current education system, and responsible for the policy of installing one language of instruction all over Nepal. These neo-liberal ‘development’ projects, however, could not prevent, or better said were one of the main reasons, that communist ideas spread among the Nepali people. The Maoist insurgency in 1996 that followed decennia of oppression and marginalization ended in 2006. The Maoist party has since been mainstreamed into politics. However, much of their

requests were disregarded. A new era in Nepal's 'development' projects, that had already started before the start of the Maoist insurgece, aimed towards achieving universal enrollment without carefully taking local events into consideration. The end of the Cold War coincided with the fall of the one party monarchy, establishment of a multi-party system and the several EfA conferences. These events enticed foreign countries, international organizations, and in particular the World Bank to start and develop development projects specifically aiming towards the development of Nepal through education. Ever since, Nepal has been subject to a series of very intrusive and radical development projects that have aimed towards the establishment of a western-style education system. The projects have changed significantly in their approach to achieve universal enrollment, however all aimed towards strengthening the grip of the national government on education. This in contrast to claims from the Maoist party as well as the Nepali MoE which both noted the importance of localization of education.

Approaching the right to education from a decolonial perspective it becomes clear that the right to education in Nepal is used to expand an education system that is colonial, both in its form and intentions. The western-type education that is put forward, which equates modernity, has effectively eradicated or mainstreamed older and traditional forms of education. Those that have not received this Western-style education, are (semi-)illiterate, or do not speak flawless English are shamed and considered 'uneducated'. The presentation of Western-style education as modern has effectively outlawed all other types of education. The first step to decolonize education therefore is not to look at alternatives to modernity, as the many development projects have aimed at, but to look for alternatives to 'modernity'. Looking for alternatives to modernity starts with questioning the coloniality of power in terms of systems of knowledge. Long before the advent of western-style mass education, many societies had elaborate and well established education systems, or ways of knowledge distribution. While none of these systems or approaches were without flaws, they put forward a way to ensure sustainability and a system of knowledge distribution specifically for the situation they were taught in. Yet, a current understanding of education disregards these forms of education as not sufficient, 'unacademic' or 'backwards'. This despite the fact that the current system of education, as this thesis has shown, is not creating

self-sustainability and human development. Rather it is creating dependable human beings, that, through the compartmentalization of subjects, have lost the ability to see a connection between different skills.

As was argued in this thesis, the ultimate goal of education was and is to develop Nepal economically. Education is inextricably connected to economic development and the marketability of students. This is done through, in accordance with Foucault, teach children their place in society. School books teach what a boy dresses and how a girl dresses, they teach what behavior is wanted and what is a good work ethic. Children are taught how to usefully spend their money that they just earned. The education system teaches children both to be good workers and good consumers. The Nepali education system, as shaped by many foreign organizations, eventually aims at creating one Nepali identity, one monoculture. This monoculture is what is needed and aides a western consumer culture. It needs to extract people from their traditional forms of education and knowledge distribution in order to be separated from their traditional and sustainable ways of life. The several EfA projects are actively and increasingly working towards achieving this goal. The promotion of education as a right allows to cover up the flipside of education. It allows education to be portrayed as an emancipation process. This is visible in the several projects who discuss the access to education as ‘empowering’, ‘improving quality of life’, ‘improving standards of living’, etc. However, the right to education also allows to not cover up the other side, that is extracting people from their own way of life, their own way of knowledge acquisition and own understanding of which type of knowledge is valuable. Eventually, the aim of education is to teach people how to be the best seller of themselves.

To end this thesis, the goal was not to argue for the eradication of western-style education, nor to argue that people in Nepal should not access western-style education. It did not aim to say that people should continue the way they live because this is how they were born. However, it does aim to show how education can be violent and harmful. It aims to shed a light on how education can still be used to advance European ideas. Education should be like a rainbow. Not the way we learn about a rainbow in school, where there is a finite number of colors in the rainbow, described in compartmentalized forms that while showing

a connection are mentioned separately. Education should be like an actual rainbow where between red and orange are many more colors, colors that we might not have a name for, colors so diverse that we cannot have a name for it, yet colors that allow red to turn in to orange and vice versa. Education should both be taught as interconnected as the colors of the rainbow are as well as be as diverse as the colors of the rainbow.

Figure 1: Image from Foucault's discipline and punish



10 N. Andry. *L'orthopédie ou l'art de prévenir et de corriger dans les enfants les difformités du corps* [Orthopaedics or the art of preventing and correcting deformities of the body in children]. 1749.

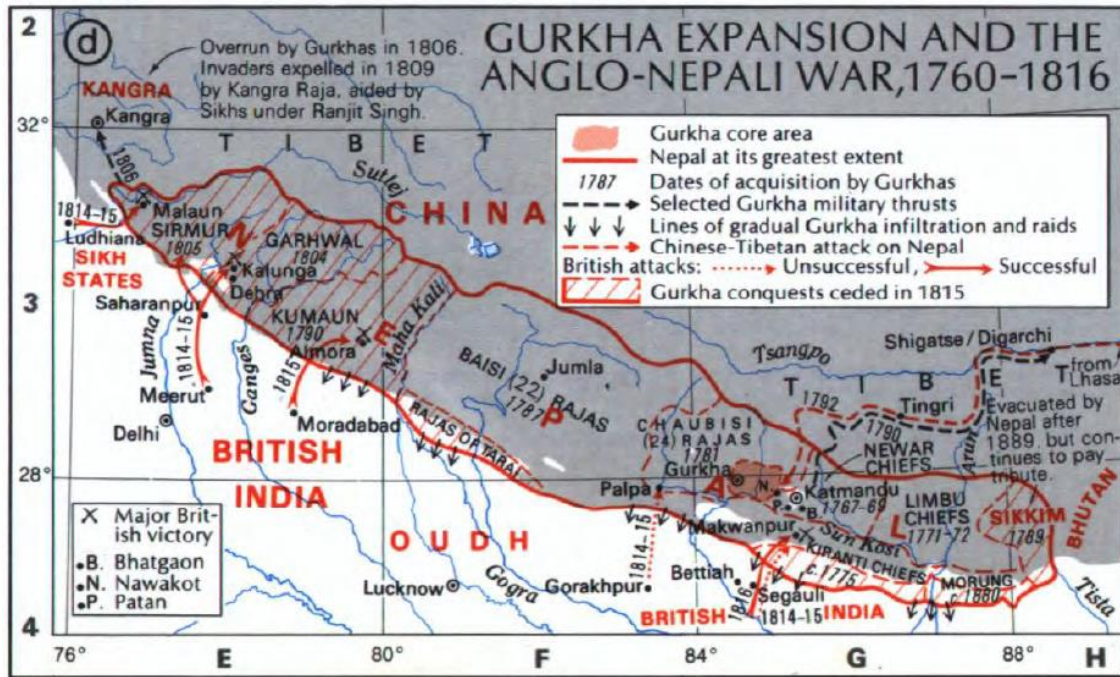
This is a scanned copy of the image Foucault used in his book *Discipline and Punish* to signify how institutions shape humans. (Source: FOUCAULT, *supra* note 60, between 169-170)

Figure 2: Map of Nepal



This map of Nepal indicates the three sections of Nepal, the Mountain Area, the Hill Area and the Terai. The Kathmandu Valley is circled. (Retrieved from: *Nepal: Ecological Zone Map (as of 2000)*, RELIEFWEB (Jan. 1, 2000), <https://reliefweb.int/map/nepal/nepal-ecological-zone-map-2000>)

Figure 3: Map of Nepal before and after the Anglo-Nepali War



This map indicates the territory of Nepal under the Gurkha leaders before and after the Anglo-Nepali war. Everything within in red line signifies Nepali territory before the war. Everything covered by slashes indicates territory that was ceded by the British Empire after the war. (Retrieved from: Crews, *supra* note 192, at 5)

