

Education for Human Rights:
How a Refocusing of the Right to Education Can Magnify its Impact

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ABSTRACT

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The majority of current human rights discussions regarding the right to education have focused on equal access to education for students around the globe, regardless of gender, socio-economic status, race, or ethnicity. However, little to no attention has been paid recently to the curriculum within the right to education. It is with this disparity in mind that this thesis analyzes the aspects of the right to education that are most closely related to curriculum and highlights the human rights abuses that stem from their neglect. Beginning with a case study of the United States, the results of the neglect of the adaptability standard and the human rights purpose of education are analyzed in the form of educational challenges and subsequent human rights abuses. A holistic understanding of the right to education is then elaborated upon in an effort to showcase how a focused curriculum with an increased emphasis on the human rights purposes and aims of education can provide preventative prospects for safeguarding other human rights through education.

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1. Introduction

International revolutionary icon Nelson Mandela once said, “Education is the most powerful weapon which you can use to change the world.”¹ This sentiment on the gravity of education is echoed vehemently within the human rights right to education. However, when analyzing the right to education, including its effect on the larger aims of the international human rights community, it soon becomes clear that an incorrect interpretation or an incorrect implementation of the right can quickly dilute its power and even perpetuate human rights abuses instead of promoting human rights values.

Given the fact that the current political climate includes ongoing conflicts in the Middle East and Africa which have left millions of children without access to education, the continuation of sex-based discrimination in educational institutions in patriarchal societies around the globe, and global poverty levels that have made adequate universal education a near impossibility for some governments, it seems logical that most human rights campaigns would be focused on accessibility and adequacy standards of education. Although these efforts are undoubtedly necessary given the reality of many children around the world today, this project aims to look at other aspects of the right to education that are being violated without notice.

It is with this recognition in mind that this project will highlight the ways in which the right to education is not being fully understood and thus fully adhered to in the international human rights community. The purpose of this project is to shed light on specific standards within the right to education that have been neglected by the majority of the human rights community in

¹ Schworm, Peter, “Nelson Mandela’s 1990 Visit Left Lasting Impression,” Boston Globe Online, December 7, 2013.
<https://www.bostonglobe.com/metro/2013/12/07/mandela-visit-boston-high-school-left-lasting-imp/2xZ1QqkVMTbHKXiFEJynTO/story.html>

order to highlight the human rights abuses that have stemmed from this neglect. It is the aim of this unveiling to urge for a reframing of the right to education in favor of a more holistic approach that incorporates even the most nebulous aspects of the right into practice in order to allow education to advance the overall purposes of human rights as a whole.

Beginning with the origins of the right to education in international law, this project will detail the aspects necessary to fulfill the right to education, including which aspects are vague in law and subsequently overlooked in practice by the international community. The aim of this analysis is to establish the foundation of the right to education and to highlight the discrepancies between legal rhetoric and common understanding of the right.

Next, in order to evaluate the right in current practice, the United States' educational system will be analyzed because of its congruence with the common human rights understanding of the right to education, including an analogous neglect of the adaptability standard and the human rights purpose of education. The aim of this section is not to form an argument about the United States or its educational system, but rather to use a well-funded, highly systematized, and well-functioning educational system as an example of a partial fulfillment of the right to education and what that entails.

The subsequent section, drawing from the analysis of the United States' educational system, details challenges in the system in order to draw parallels between those challenges and the under-utilized aspects of the right to education. This use of the U.S.'s educational challenges will highlight overarching problems relating to the incomplete interpretation of the right to education, calling for a more holistic understanding of the right in order to remedy these issues.

Finally, the last section takes the revelations established and puts them into a practical context by analyzing what changes need to be made in mentality in order to facilitate the holistic

understanding of the right to education. The aim of this final section is to highlight the multitude of ways in which the holistic right to education can be integrated into the existing human rights framework and existing educational systems around the world, thus removing this project from the purely theoretical realm.

The fundamental aim of this project is to shed light on an overlooked issue in the right to education in order to strengthen the right itself and to prevent future human rights abuses that stem from this oversight.

2. Building a Basis: The Scope of the Right to Education

Establishing the right to education as a human right creates more than an international campaign advocating for the benefits of education. Rather, it elevates education as one of the foundational aspects of life that needs to be protected in order to fulfill a minimum level of human dignity. In this context, calling education a right has crucial international legal consequences. This is where the right to education begins, in the hard law treaties that document the importance of education and the general guidelines articulating how to protect it; as well as the soft law documents that provide a more detailed blueprint for making the right a tangible part of every country's national law. Furthermore, when looking at the advocacy side of human rights, it becomes clear that human rights networks also have a strong influence on the right to education by drawing the international human rights community's attention to specific aspects of the right and the importance of the right as a whole. In this way, in order to fully understand the intentions behind the right to education, the boundaries of this right, and the common international understanding of the right's meaning, it is important to analyze the right to education's hard law foundations, its soft law focus on implementation, and the campaigns related to advocacy for the right in practice, as highlighted by the main human rights networks in the present day.

2.1 Hard Law Foundations

The right to education is enshrined in three separate international human rights documents. The first of these, the Universal Declaration of Human Rights (UDHR), is not binding international law, but the rhetoric used regarding the right to education in this document cements the right's centrality as a foundational human right and gives insight into the reasoning and purpose of the right. In contrast to the UDHR, the other two documents detailing the right to

education, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC), are both part of the justiciable international human rights legal system. In this way, these two documents provide tangible standards that encompass the legal obligations of state parties with respect to providing accessible, adequate education for children. Additionally, although often overlooked in international disputes about the right to education, both of the treaties have sections that provide information about the curriculum itself that is necessary to meet the standards of the right to education. These sections are crucial for clarifying the intent of the right to education and the purpose of education itself in the human rights arena.

The UDHR's references to education begin in the document's preamble. After asserting that the declaration is "a common standard of achievement for all peoples and all nations," the preamble continues by noting that a continued respect for these rights and understandings shall be continued through "teaching and education" by each individual, nation, and society that upholds the values laid forth in the document.² This provides the understanding that since the inception of human rights itself, education has had the purpose of being a tool through which the values and understandings of human rights as a whole can be preserved and passed down to future generations on an international scale.

Proceeding to the right to education itself in the UDHR, Article 26 provides the basis for the common understanding of the right to education. Section 1 of Article 26 discusses the accessibility of education, noting particularly that "education shall be free" and "elementary

² United Nations General Assembly, "Universal Declaration of Human Rights," December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>

education shall be compulsory.”³ These broad general standards outlined in Section 1, which also include basic standards for technical, professional, and higher education, are drawn from subsequently in the ICESCR and the CRC as a foundation for constructing state obligations to provide adequate resources to protect the right to education. Furthermore, Section 2 of Article 26 discusses the purpose of education and can be used to assess what type of curriculum is necessary for the fulfillment of these aims.

“Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”⁴

Understanding the right to education in human rights from this perspective includes acknowledging the individual and international purposes of education. From the international perspective, the right to education is more than an individual human right aimed at preserving human dignity. Rather, it becomes a tool that is intended to maintain the peace, respect, tolerance, and understandings that outline the very foundations of the UDHR and human rights as a whole. This puts the right to education in the unique position of having a role in the continuation of human rights itself, thus making the curriculum in education a central part of the right to education as it is outlined.

The ICESCR’s Article 13 details the hard law standards regarding the right to education. Section 1 emphasizes, almost verbatim, the purpose of education as being the same as the purpose outlined in the UDHR. Section 2 of the right to education in the ICESCR details the standards of accessibility to education that state parties are responsible for ensuring. The details

³ Ibid.

⁴ Ibid.

include the fact that “primary education shall be compulsory and available free to all,” “secondary education...shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.”⁵ The section has similar standards for higher education and requires the state to encourage education for all those who have previously not had access to primary education. In regards to the standards of the schools themselves, Part E notes, “the development of a system of schools at all levels shall be actively pursued...and the material conditions of teaching staff shall be continuously improved.”⁶ These standards, set forth by the covenant’s status as international law in 1976, provide binding obligations for state parties that very distinctly outline what constitutes compliance with respect to fulfilling the right to education. Furthermore, in the context of the present day, Article 2, Section 2 of the ICESCR notes that the rights enumerated in the covenant shall be “exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁷ This provides the additional binding legal requirement that obligates states to provide not only adequate access to a certain standard of education, but to ensure that standard is available to all nationals, regardless of minority status. A large portion of the current human rights efforts surrounding the right to education (which will be addressed thoroughly in section 2.3) is dedicated to this non-discrimination aspect to the right to education.

⁵ United Nations General Assembly, “International Covenant on Economic, Social and Cultural Rights,” December 16, 1966. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

⁶ Ibid.

⁷ Ibid.

The CRC has the most detailed hard law standards regarding the right to education and since the convention has been ratified by every nation in the world with the exception of the United States (which is only a signatory to the convention),⁸ the CRC's definition of the right to education is the closest hard law standard in education that is universally justiciable. Articles 28 and 29 of the CRC outline the availability standards and the purpose of education, respectfully, drawing upon and expanding on rhetoric from the UDHR and the ICESCR. Article 28 reiterates the requirements for primary, secondary, higher, and vocational education with an emphasis on "equal opportunity" as well as availability and accessibility. Additionally, Section 3 articulates the vision for the "elimination of ignorance and illiteracy throughout the world" as well as "facilitating access to scientific and technical knowledge and modern teaching methods."⁹ These standards reflect an expansion of the earlier criteria and are more specific in terms of indicating which curriculum should be available within an educational system.

Furthermore, when analyzing the fact that the CRC was entered into force in 1990, much later than the ICESCR and the UDHR and fairly recently in terms of present day standards, it becomes clear that the addition of "scientific and technical knowledge" specifically can be seen as a precursor to the emphasis on science, technology, engineering and mathematics (STEM) education that is prevalent in the international schooling systems of the present day. The addition of this rhetoric itself in the CRC can be seen as a shift in viewpoint as to the scope of the right to education, since curriculum standards are now being addressed and mandated. Additionally, and

⁸ Mehta, Sarah. "There's Only One Country That Hasn't Ratified the Convention on Children's Rights: US." American Civil Liberties Union. November 20, 2015. <https://www.aclu.org/blog/speak-freely/theres-only-one-country-hasnt-ratified-convention-childrens-rights-us>.

⁹ United Nations General Assembly, Resolution 44/25, "Convention on the Rights of the Child," November 20, 1989. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

perhaps more telling is the fact that the emphasis on this type of education is included at the end of Article 28, which addresses availability and accessibility issues, leading to the conclusion that a lack of access to “scientific and technical knowledge” will be a violation of the right to education. Since Article 28 is clear in its standards and is more easily justiciable than the vague purposes outlined in Article 29, the right to scientific and technical knowledge is a curriculum standard that no other educational curriculum has to the same blatant degree.

To put the weight of this framing into perspective, it is critical to look at Article 29 of the CRC, which outlines the purpose of the right to education. Section 1 reaffirms the purposes noted in the UDHR and the ICESCR regarding tolerance, peace, and respect for fundamental freedoms. Furthermore, part A includes the “development of the child’s personality, talents and mental and physical abilities to their fullest potential” as part of the purpose of the right to education.¹⁰ Part C discusses the “development of respect for the child’s parents, his or her own cultural identity, language and values” for the child’s own country and “civilizations different from his or her own.”¹¹ In this way, the expansion of the understanding of the purpose of education and the right to education in parts A and C of Section 1 encompass the value of education to the individual and to the promotion of continued understanding, tolerance, and subsequent peace between cultures and nations.

However, although these purposes are part of a binding international legal document, the way they are written in Article 29 are not as standards which states must adhere to when creating their curriculum, they are simply stated to be agreed upon principles that states have

¹⁰ Ibid.

¹¹ Ibid.

acknowledged education “shall be directed to.”¹² This rhetoric frames these aims as addressing the spirit of the right to education as well as its intent and purposes, instead of creating clear, justiciable standards for educational curriculum. Although the adherence to these purposes could and arguably should have a crucial impact on the curriculum of education, there is at best a vague outline for guiding curriculum in Article 29. This ambiguity (of being part of international law and yet not creating a clear, binding standard in the rhetoric provided) has the result of allowing the purpose of education to be often overlooked in the international human rights community as it is hard to define what would deem to be in compliance to adhering to the purpose of education.

Looking back and contrasting the purposes of education in Article 29 with Article 28’s right to scientific and technical education, it can be seen that the right to scientific and technical education is added to the unambiguous, justiciable rhetoric that makes up Article 28. Thus, the right to education can and in this instance, does dictate specific mandates for curriculum. However, although Article 29 can be argued to be attempting to achieve the same purpose by outlining the goals of the right to education, the curriculum that would allow these goals to be realized is not justiciable, mandated, and unambiguous in the way the right to scientific and technical education is. This creates the conclusion that although the right to education can mandate curriculum, it has not done so for the purpose of achieving the outlined aims of the right to education. (The ramifications of this ambiguity will be analyzed in section 2.3, and throughout sections 4 and 5.)

2.2 Soft Law and Implementation of the Right to Education

¹² Ibid.

Corresponding with existing international law, the guidelines for understanding and implementing the right to education are detailed extensively in General Comment 13 for the ICESCR. The comment was issued in 1999, after the CRC went into effect, and it outlines the exact standards necessary to comply with both the ICESCR and the CRC's definition of the right to education. The General Comment has specific sections regarding the right to primary, secondary, higher, and vocational education as well as the definition of an adequate school system as mentioned in the ICESCR's right to education. However, the most salient part of the comment, and the standard that is used today to measure the compliance of a state with regard to the right to education is section 6 of the comment, which develops the system of "four As." These four As—availability, accessibility, acceptability, and adaptability—are defined by the comment as "interrelated and essential features" of education, which unlike many other parts of the right to education, are not context specific and need to be universally adhered to by every state party.¹³

The availability standard refers to the requirement for "educational institutions and programmes...to be available in sufficient quantity within the jurisdiction of the State party."¹⁴ This includes all resources that are required for the functioning of educational institutions including "buildings or other protection from the elements, sanitation facilities for both sexes...teaching materials, and so on."¹⁵ The availability standard does acknowledge that some facilities "such as a library, computer facilities and information technology" will be required by

¹³ Committee on Economic, Social and Cultural Rights, "General Comment No. 13," Twenty-First Session, November 15-December 3, 1999. http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf

¹⁴ Ibid., 2.

¹⁵ Ibid., 3.

some educational institutions but understandably not available to all.¹⁶ With this understanding, the availability standard addresses the resources necessary to develop fully functioning educational systems. It puts the impetus on state parties to provide these facilities throughout the nation, with the “sufficient quantity” phrase addressing the requirement for educational facilities to be in adequate supply for the state’s population.

The accessibility standard is commonly discussed in relation to non-compliance with the right to education because it includes the non-discrimination aspect of the right. The accessibility standard has three subsections, the first of which directly addresses non-discrimination, citing that “education must be accessible to all, especially the most vulnerable groups, in law and fact.”¹⁷ This is the requirement that is most commonly referenced when discussing gender discrimination and ethnic discrimination in education in certain states. The second subsection of this standard relates to “physical accessibility” and corresponds with the availability standard’s requirement for a “sufficient quantity” of educational institutions by noting that these institutions must be “within safe physical reach...at some reasonably convenient geographic location or via modern technology.”¹⁸ This standard has become increasingly discussed in the international human rights arena with regards to the availability of education in nations that are involved in armed conflicts. Finally, the third subsection of the accessibility standard addresses the issue of “economic accessibility” noting that primary education should be “free to all” and there should be subsequent efforts to “introduce free secondary and higher education.”¹⁹

¹⁶ Ibid., 3.

¹⁷ Ibid., 3.

¹⁸ Ibid., 3.

¹⁹ Ibid., 3.

The acceptability standard notes that the “form and substance of education, including curricula and teaching methods, have to be acceptable.”²⁰ The section goes on to note that acceptable has the requirement of being “of good quality” but fails to specify what “good quality” entails and whether this “quality” varies state by state based on economic resources. The acceptability standard also neglects to provide a minimum standard for what would be considered an “acceptable” standard or “good quality” in regards to curricula or the form and substance of education. It seems that the acceptability standard is the one that begins the discussion about the right to education’s relationship with the curriculum taught in education, but fails to do much more than establish that a relationship exists.

Moving further into the discussion of educational curriculum, the adaptability standard requires that “education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.”²¹ This provides some general insight into what the curriculum should provide to the students who learn it, but this highly vague and ambiguous understanding of the adaptability standard leaves much to interpretation and seems to be society and context specific since the “needs of students within their diverse social and cultural settings” changes from state to state and even often region to region within that state. This provides insight into the human rights understanding of education as a fluid tool that needs to adjust to the cultural setting it is being used within, even though the standards do not currently address how this is to be done. (It is this standard of adaptability that will be crucial for analyzing the scope of the right to education in practice in the case study of the United States and in a larger international setting.)

²⁰ Ibid., 3.

²¹ Ibid., 3.

2.3 The Right to Education in Human Rights Praxis

With the understanding that the scope of human rights is by no means limited to hard and soft law, it becomes critical to analyze the way human rights organizations highlight the violations of a right in order to advocate for international compliance with that right. Therefore, with regards to the right to education, in order to fully appreciate the status of the right in the present day international human rights framework, it is necessary to analyze the main human rights organizations' campaigns regarding the right. When looking at two of the most influential human rights organizations today – Human Rights Watch and Amnesty International – it becomes clear that their campaigns about the right to education are centered around compliance with the availability, accessibility, and acceptability standards required.

On the Human Rights Watch website, a special section under Children's Rights is dedicated to addressing inadequacies in education worldwide and the right to education itself. The topics addressed are summarized in an introductory paragraph on the main page that states,

“More than 100 million children are out of school worldwide. Discrimination of marginalized groups by teachers and other students, long distances to school, formal and informal school fees, and the absence of inclusive education are among the main causes. Millions stop going to school to work long hours, often under hazardous conditions. Others experience violence or abuse from teachers or fellow students, or find their schools targets of armed attack. Families do not send girls to school, force them out of school to marry or girls are denied an education when they become pregnant. Many are kept from getting a secondary education because they cannot afford school fees. Even when in school, millions of children receive poor quality education that leaves them lacking essential skills and knowledge.”²²

Moreover, when looking through the reports available online provided by Human Rights Watch regarding education that date back to 1993, it becomes clear that two main themes (mentioned in

²² “Education,” Human Rights Watch Official Website, accessed March 23, 2017.
<https://www.hrw.org/topic/childrens-rights/education>

the paragraph above) have emerged from the reports—discrimination in education and the repercussions of armed conflict on access to education.

Both of these topics have particularly saliency in the present with regards to the armed conflicts in the Middle East and a perpetual lack of access to education for girls in patriarchal societies across the globe. The Protect Schools campaign in particular has become a major focus of Human Rights Watch with the goal of urging states to sign the Safe Schools Declaration, a document aimed at reaffirming the right to a safe education within a nation during times of armed conflict.²³ The campaign's homepage (as of this writing) is celebrating France's signing of the document, noting additionally that, "Many of the countries most affected by the problem of attacks on schools and military use of schools have joined the declaration, including Afghanistan, the Central African Republic, the Democratic Republic of Congo, Somalia, South Sudan, and Sudan."²⁴ Drawing additional attention to the topic of education in times of conflict, a brief video titled "750,000 Syrian Children Out of School" addresses the barriers refugee children face in countries neighboring Syria because of economic hardships associated with refugee status that make work a rarity and thus school-related costs nearly impossible to cover. The video notes education as a "casualty of war for Syrian children."²⁵ Furthermore, three exhaustive reports covering the "Barriers to Education for Syrian Refugee Children" in Jordan,

²³ "France: Endorse Safe Schools Declaration," Human Rights Watch, February 21, 2017. <https://www.hrw.org/news/2016/11/17/france-endorse-safe-schools-declaration>

²⁴ "Protect Schools Campaign," Human Rights Watch Protect Schools Campaign Website, accessed March 23, 2017. <https://www.hrw.org/protectschools>

²⁵ "750,000 Syrian Children Out of School," Human Rights Watch Education video, September 20, 2016. <https://www.hrw.org/topic/childrens-rights/education>

Lebanon, and Turkey detail the claims covered in the video and argue that the human rights violations in these cases highlight a unique situation due to the present day geopolitical climate.²⁶

In the 2016 report titled “The Education Deficit,” Human Rights Watch enumerates the impact of armed conflicts on education worldwide, noting that “some 29 million children are not in school due to conflict and displacement, including a “lost generation” of Syrian children, 2.1 million of whom do not go to school in Syria, and nearly 1 million who live in neighboring countries as refugees.”²⁷

The extensive Education Deficit report provides statistics about the second theme in Human Rights Watch’s campaigns regarding education—discrimination, largely gender-based, in education which keeps vulnerable populations from being able to exercise the right to education. The report notes that “Some 31 million girls worldwide do not attend primary school. Some 34 million girls are absent from secondary school. An estimated 24 million girls may never enter school.”²⁸ In the body of the report, it is stated that “the lack of concrete gender-specific policies and approaches to transportation, the lack of separate toilets or sanitation facilities, or the lack of adequate child and gender protection safeguards in the schools contribute to higher drop-out rates among girls.”²⁹ An additional section related to this topic details the practices in some nations of virginity tests and discrimination against pregnant girls, which also contributes to the gender-based discrimination observed in school systems around the world.³⁰

²⁶ “Education for Syrian Refugee Children,” Human Rights Watch Campaign, accessed March 25, 2017. <https://www.hrw.org/tag/education-syrian-refugee-children>

²⁷ “The Education Deficit,” Human Rights Watch, March 06, 2017.

<https://www.hrw.org/report/2016/06/10/education-deficit/failures-protect-and-fulfill-right-education-through-global>

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

Echoing the focus of Human Rights Watch, Amnesty International's USA website has a section dedicated to the right to education with the most recent featured campaigns addressing the issues of education in armed conflict and gender-based discrimination in education.³¹ One of these campaigns, "16 Days of Activism Against Gender-Based Violence," was held in 2015 and encompassed a merging of the two themes with the purpose stated as "to promote women's rights to peace and freedom from violence and the right to education."³² The campaign's theme, "Make Education Safe for All," drew analogous advocacy standpoints for victims of armed conflict and female victims of gender-based violence, arguing that the result of both is often a lack of fulfillment of the right to education. Another campaign featured by Amnesty is a call to action regarding the Sierra Leonean Minister of Education, Science and Technology, who advocates for a "policy that excludes pregnant girls from attending schools and taking exams."³³

Assessing the focus of these campaigns regarding education and the campaigns of Human Rights Watch, it becomes clear that the two major human rights advocacy organizations in the present day are highlighting violations of the accessibility, availability, and acceptability standards of the right to education. While the problem of accessibility is arguably the most pressing barrier to fulfilling the right to education for many nations today, taking into account the current ongoing conflicts in the Middle East and Africa as well as the continuation of patriarchal

³¹ "The Right to Education," Amnesty International, USA, Accessed March 25, 2017.
<http://www.amnestyusa.org/our-work/issues/children-s-rights/the-right-to-education>

³² "16 Days of Activism Against Gender-Based Violence," Amnesty International, USA., November 25, 2015.
<http://www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/16-days>

³³ "Shared and Blamed: Pregnant Girls' Rights at Risk in Sierra Leone," Amnesty International, USA Campaign, accessed March 25, 2017.
<https://act.amnestyusa.org/ea-action/action?ea.campaign.id=44302&ea.client.id=1839&ea.tracking.id=&ea.campaign.mode=DEMO&v=c%3AshowBuild&ea-account.campaign.id=44302&ea.retain.account.session.error=true&ea.clear.campaign.session.id=true>

practices in countries across the world, the lack of attention paid to the adaptability standard and the overall human rights purpose of education by these organizations allows for other violations of the right to education to be committed without notice or acknowledgment by the wider international, advocacy community.

This effect (of not bringing discussion of violations of the adaptability standards and the human rights purpose of education into the larger international human rights advocacy community) can be seen partially as a result of not having clear standards for the organizations to report violations about. In this way, it becomes simpler and more salient to discuss major violations of the non-discrimination standard in regards to education because that standard is clearly articulated in international law and violations are clear for advocacy networks to highlight and campaign around. However, because, as previously established in Sections 2.1 and 2.2, the adaptability standard and the purpose of the right to education are not as clear in the international legal framework, it becomes hard for advocacy networks to report on violations of these components of the right to education. Regretfully, this results in a type of self-fulfilling prophecy in which the standards are not clearly defined and thus are not utilized in advocacy communities so the attention paid to them is minimal if any. This results in their neglect so the standards themselves are never re-visited and strengthened. The larger outcome is a neglect of these aspects—the adaptability standard and the purpose of education—of the right to education, which leaves the current understanding of the right to education without two crucial components of what helps to define and realize the right. The effects of this incomplete understanding of the right to education in a current, nation-state setting are analyzed in the next two sections.

3. From Theory to Practice: The U.S. as a Case Study

Choosing the United States as a case study to gain insights about the human rights right to education may seem like an erroneous choice, given the fact that the U.S. has not ratified the ICESCR and is the only country in the world to have not ratified the CRC.³⁴ However, with the previous section's understanding that human rights goes beyond the scope of mere international hard law, the United States can be seen as a country that has worked systematically to eliminate availability, accessibility, and acceptability standard violations through federal law, with a special emphasis on equal opportunities in education regardless of race, gender, class, or other minority statuses. In this way, it can be shown that although the United States has no international binding legal obligation to fulfill the standards of the right to education, the nation's infrastructure capabilities and national dedication to the value of education have the result of the United States meeting much of the criteria required to comply with the international legal understanding of the right to education.

Consequently, drawing focus to the areas in which the U.S.'s educational policy does not correspond with the right to education, those areas are primarily related to the adaptability standard and a difference in mentality about the purpose of education. As seen previously, these are the two components of the right to education which are most often neglected by the international community, due in part to their vague standing in international law. This is the precise reason for choosing the United States as a case study for the right to education—because its policies broadly represent compliance with the current rhetoric and common understanding of the right to education, although not the full scope of the right itself. Therefore, the shortcomings

³⁴ Mehta, Sarah. "There's Only One Country That Hasn't Ratified the Convention on Children's Rights: US." American Civil Liberties Union. November 20, 2015. <https://www.aclu.org/blog/speak-freely/theres-only-one-country-hasnt-ratified-convention-childrens-rights-us>.

of the U.S.'s educational system can be analyzed in the light of understanding the importance of the areas that the U.S. and the wider international human rights community have both come to neglect. Overall, the analysis of the United States' educational system can be seen as an analysis of a nation that complies with the common understanding of the right to education, and thus any educational shortcomings must reveal insights into the effects of neglecting the adaptability standard and the human rights purpose of education—components that both the U.S. and the international community have come to overlook.

To fully understand this analysis of the U.S.'s educational system and the implementation of the common rhetoric of the right to education, first an analysis of the U.S.'s laws regarding education and how the nation meets soft law standards for the right to education will be explored. Then, a brief history documenting past presidential administrations will be presented to showcase the U.S.'s stance on the purpose of education. Finally, these findings will be used to segue into the next section that extrapolates upon the larger flaws that appear within the U.S.'s educational system and what those flaws reveal about the right to education as a whole.

3.1 The U.S. and the Right to Education: Meeting Soft Law Standards

When looking at the soft law standards that determine compliance with the right to education, it can be seen that the United States has consistently created and implemented federal laws that fulfill the availability, accessibility, and acceptability standards of the right.

In terms of availability, the United States has about 98,000 public schools covering K-12 education as of the 2012-2013 school year.³⁵ A major focus for ensuring the availability of public schools at both the primary and secondary levels in the U.S. is the issue of transportation.

³⁵ "Fast Facts: Educational Institutions," National Center for education Statistics," accessed March 28, 2017. <https://nces.ed.gov/fastfacts/display.asp?id=84>

Considering that these schools are spread across America's roughly 3.797 million square miles, the U.S. has put an emphasis on making schools accessible geographically. According to a National Household Travel Survey by the U.S. Department of Administration, the average student lives between 3.6 and 6 miles away from the nearest public school.³⁶ These distances make busing a primary mode of transportation to and from school for over 25 million students (about 54.6% of students enrolled in public school)³⁷. By including the key component of transportation into educational efforts, the U.S. showcases its dedication and desire to truly adhere to making public schools accessible and available to all students regardless of geographic location. Although it is not possible to argue that every student in the United States has access to public schools in compliance with the right to education, the data above argues that the United States has made consistent efforts to fund availability of free public primary and secondary schools.

Turning now to accessibility, the accessibility standard has three sub-components of physical accessibility, economic accessibility, and general accessibility referring to non-discrimination. The physical accessibility component has been addressed above in correspondence with the availability standard. Thus, turning to economic accessibility, the U.S. Census Bureau estimated that an average of \$11,000 was spent per pupil for public elementary and secondary school systems in 2014.³⁸ Some of this money has been used in efforts to reduce the additional schooling costs paid by student's families to ensure that education is truly free.

³⁶ U.S. Department of Transportation, Federal Highway Administration, "Travel to School: The Distance Factor," National Household Travel Survey Brief, January 2008. <http://nhts.ornl.gov/briefs/Travel%20To%20School.pdf>

³⁷ Ibid.

³⁸ Educational Finance Branch, "Public Education Finances: 2014," Economic Reimbursable Surveys Division Reports, June 2016. <https://census.gov/content/dam/Census/library/publications/2016/econ/g14-aspef.pdf>

When looking at the issue of textbooks, according to the Education Commission of the States, 42 states, Washington D.C., and 3 U.S. territories “have provisions for providing free textbooks to students...and many states waive fees for students unable to afford [textbooks].”³⁹ Furthermore, recognizing that certain physical needs such as hunger have to be met in order to fully utilize access to education, the National School Lunch Program provides students in public schools with cheaper, health-conscious options for breakfast and lunch. According to the U.S. Food and Nutrition Service, schools are required to operate their meal services as non-profit programs, thus greatly reducing the costs of full-priced lunches. Additionally, “children from families with incomes at or below 130 percent of the poverty level are eligible for free meals...[and] those with incomes between 130 percent and 185 percent of the poverty level are eligible for reduced-price meals, for which students can be charged no more than 40 cents.”⁴⁰ Looking at the impact of this program on the larger process of providing free education, it can be seen that the federal government of the United States both understands and has taken adequate measures to implement programs that will reduce education related costs and allow students from even the lowest income brackets to have equal educational opportunities. Additionally, the United States has gone beyond looking at education in a bubble, and has made efforts to help children satisfy other basic needs such as hunger in order to allow them to fully absorb and enjoy their educational opportunities. Furthermore, noting that the National School Lunch Program is run by the Food and Nutrition Service from the United States Department of Agriculture, it can be seen that the U.S. has created an entire federal system in which education is recognized and advocated

³⁹ Scudella, Vincent and the Education Commission of the States, “State Textbook Adoption,” September 2013. <http://www.ecs.org/clearinghouse/01/09/23/10923.pdf>

⁴⁰ Food and Nutrition Service, U.S. Department of Agriculture, “National School Lunch Program,” Fast Facts, National School Lunch Program, September 2013. <https://www.fns.usda.gov/sites/default/files/NSLPFactSheet.pdf>

for in multiple domains. In this way, although there is a department in the federal government (the Department of Education) that addresses most of the issues in relation to education, the right to education and the fulfillment of that right permeates other domains as well, emphasizing the nation's commitment to education and the entrenching of that value in different facets of the federal government.

Despite these reassuring programs, it is crucial to note that the U.S. has not yet made public education completely cost free. The U.S. News & World Report's article titled "5 Hidden Costs of Public High School" details the expenses of school supplies, extracurricular activities, college prep, and private transportation. The article notes that laptops are a largely unavoidable expense at the high school level in the current day and that college prep tests like Advanced Placement tests cost \$87 each with many students taking 2-3 tests a year.⁴¹ In this way, it can be seen that although the U.S. has made a large effort to draw from federal, state, and local government funding to cover much of the expenses associated with public schools, an economic burden still falls upon the families of students who would like to participate in other school related activities and advance their educational prospects.

When assessing the general accessibility standard of non-discrimination in the context of the U.S., it can be seen that there are specific pieces of legislation and programs designed for combatting the three types of discrimination most common in the U.S. educational system—gender discrimination, discrimination against students with disabilities, and race-based discrimination. In terms of gender discrimination Title IX of the Education Amendments of 1972 "prohibits discrimination on sex in education programs and activities that receive federal

⁴¹ Hopkins, Katy, "5 Hidden Costs of Public High School," U.S. News and World Report, May 8, 2012. <https://www.usnews.com/education/high-schools/articles/2012/05/08/5-hidden-costs-of-public-high-school>

financial assistance.”⁴² This extends the scope of the provision to cover not only primary and secondary schools, but any institutions of higher education or vocational centers that receive federal funding. It is estimated that about 16,500 school districts and 7,000 postsecondary institutions across the U.S. are under the obligations set forth by Title IX.⁴³ Title II of the 1990 Americans with Disabilities Act addresses the responsibilities of the government in terms of prohibiting discrimination based on disabilities by public entities, which encompasses the realm of public schools. The types of discrimination noted for those with disabilities include “inequitable access to educational programs and facilities, denial of a free appropriate public education for elementary and secondary students, and refusal to implement or inappropriate implementation of academic adjustments in higher education.”⁴⁴

Finally, looking at race-based discrimination in education, at first glance it is easy to assess the achievement gap between races (a major focus of the Bush and Obama administrations which will be analyzed in the next section) and draw the conclusion that there is a clear violation of the non-discrimination component of the accessibility standard for the right to education in terms of race. However, the accessibility standard only requires that students regardless of race have access to education, not that achievement in education must show race neutrality. With this in mind, looking at Title VI of the Civil Rights Act of 1964, it is clear that the prohibition of discrimination “based on race, color, or national origin in programs or activities receiving federal financial assistance” is similar to the scope of the requirements in Title IX, and thus meets the

⁴² U.S. Department of Education, “Laws & Guidance: Civil Right, Sex Discrimination: Overview of the Law,” October 15, 2015. <https://www2.ed.gov/policy/rights/guid/ocr/sexoverview.html>

⁴³ Ibid.

⁴⁴ U.S. Department of Education, “Law & Guidance: Civil Rights, Disability Discrimination: Overview of the Laws,” October 15, 2015. <https://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html>

non-discrimination standard.⁴⁵ Although the race-based achievement gap is indeed a major issue in the American education system, based on the rhetoric and implementation of Title VI, it can be seen that a violation of the accessibility standard of the right to education is not the culprit for this violation of the right to education for students of different races, but rather that this result is due to a lack of fulfillment of another standard of the right to education.

Lastly, when looking at the acceptability standard within the right to education, it was previously established that the acceptability standard is quite vague in what constitutes “acceptable” standards and “good conditions” in education. The standard does, however, have specific mentions of teaching staff and curriculum as crucial components of acceptability. Therefore, when analyzing the U.S., it should be noted that although each state has its own requirements regarding acquiring teaching certifications, every state does require all public school teachers to be certified and most certification programs have a minimum of an undergraduate degree required to participate in the program.⁴⁶ Although the U.S.’s educational curriculum will be analyzed fully in a subsequent section, it is worth noting in this context that, the United States currently has standardized national assessments for all public school students to encourage adherence with the agreed upon national and state standards, thus providing a benchmark for understanding how well the curriculum is being absorbed by students in public schools.⁴⁷ This data showcases that the U.S. does have a set of standards for teachers and curriculum in its education system that creates a level of minimum acceptability in public

⁴⁵ U.S. Department of Education, “Law & Guidance: Civil Rights, Race and National Origin Discrimination: Overview of the Law,” October 15, 2015. <https://www2.ed.gov/policy/rights/guid/ocr/raceoverview.html>

⁴⁶ “Teacher Certification Degrees,” Teacher Certification Degrees Official Website, accessed March 29, 2017. <http://www.teachercertificationdegrees.com/>

⁴⁷ “No Child Left Behind Act,” Public Law 107-110, 107th Congress. January 8, 2002. <https://www2.ed.gov/policy/elsec/leg/esea02/107-110.pdf>

schools, thus complying with the basic outline of the acceptability standard of the right to education.

3.2 The Human Capital Based Purpose of Education

The connection between economic productivity and investment in education as a method of increasing human capital was first established by Nobel Prize winning economist Gary S. Becker in his 1962 paper *Investment in Human Capital: A Theoretical Analysis*. In terms of education, the paper argued that investment in educational human capital is beneficial primarily when such investment can be proven to have positive effects on future “earnings, employment, and other economic variables.”⁴⁸ Thus, the human capital theory sees the purpose of education as a means for obtaining greater financial ends either individually or in terms of a nation state. Becker notes that the exact benefit of education can be calculated individually and on a national scale by analyzing “the difference between actual earnings and direct school costs.”⁴⁹ In terms of curriculum, the human capital approach argues that the only curriculum worth teaching is whichever curriculum will allow for employment in financially lucrative sectors, noting that “a sharp distinction between schools and firms is not always necessary”⁵⁰ in terms of teaching principles and purposes. This leaves states that follow the human capital approach to education to emphasize subjects that allow for the creation of marketable skills that will aid in future employment.

⁴⁸ Becker, Gary S. “Investment in Human Capital: A Theoretical Analysis.” *Journal of Political Economy*, vol. 70, no. 5, 1962, pg. 9-49 (10)

⁴⁹ *Ibid.*, 26.

⁵⁰ *Ibid.*, 15.

A common misconception about the human capital theory is that it is solely individualistic, often pitting citizens against one another in competition. Although the human capital approach does have the aim of allowing individuals to advance their own future incomes through investment in education and competition is a key component of capitalism in which the human capital theory is a part of, the theory also notes that on a national scale, investment in education by a nation state ensures future productivity and innovation which can help a nation grow in GDP and economic prosperity.⁵¹ This often overlooked aspect of the human capital theory showcases its applicability to advance an entire nation-state in unity toward a more economically prosperous future. (This is crucial when thinking about the possibility of compatibility between the right to education and the human capital theory, a topic which will be fully explored in Section 5.)

When looking at the educational policies of the last two Presidential administrations and the recent Common Core Educational Initiative, it becomes clear the United States has adopted a human capital based approach to education. The Bush Administration's enactment of "No Child Left Behind" (NCLB) created a new policy of mandating testing "students in reading and math in grades 3 through 8 and once in high school" in order to assess compliance with a nationally standardized curriculum.⁵² The shift towards testing in four key areas of reading, math, and to a lesser extent social studies and science as well as the newly required testing policies focused on measuring student output has been argued by many critiques of NCLB, including Warner School

⁵¹ Ibid., 13.

⁵² "No Child Left Behind Act," Public Law 107-110, 107th Congress. January 8, 2002. <https://www2.ed.gov/policy/elsec/leg/esea02/107-110.pdf>

of Education Professor David Hursh, to be the beginning of enacting “neoliberal policies”⁵³ that argue that such reforms are necessary within an increasingly globalized economy.”⁵⁴ In this way, it can be seen that NCLB has as its primary focus, increasing the U.S.’s global competitiveness by focusing on the efficiency of the educational system. This aligns precisely with the human capital approach to education, which argues that the purpose of education should be for overall national efficiency, and thus, global competitiveness in the current capitalist world. Furthermore, NCLB’s mandating of testing in only 4 areas—reading and math every year, and social studies and science once every few years—creates a hierarchy of curriculum that emphasizes teaching specific, basic curriculum that can be seen as the basis for future employment.

Turning to the policies of the Obama Administration, on the previous President’s education website, the administration argues that “Because economic progress and education achievement are inextricably linked, education every American student to graduate from high school prepared for college and for a career is a national imperative.”⁵⁵ Moreover, Obama’s ‘Computer Science For All’ campaign can be seen as an initiative which is aimed at this very goal. In his 2016 State of the Union Address, Obama argued, “In the coming years, we should build on that progress, by...offering every student the hands-on computer science and math classes that make them job-ready on day one.”⁵⁶ This continued emphasis on future job readiness

⁵³ **Note:** In Hursh’s article neoliberal education policies and the human capital theory of education are largely synonymous and thus will be used interchangeably throughout this work.

⁵⁴ Hursh, David, “Assessing No Child Left Behind and the Rise of Neoliberal Education Policies,” Sage Journals, September 1, 2007. <http://journals.sagepub.com/doi/full/10.3102/0002831207306764>

⁵⁵ The White House, President Barack Obama, “Education: Knowledge and Skills for the Jobs of the Future,” K-12 Education, last updated 2016. <https://obamawhitehouse.archives.gov/issues/education/k-12>

⁵⁶ The White House, President Barack Obama, “Remarks of President Barak Obama—State of the Union Address As Delivered,” January 13, 2016. <https://obamawhitehouse.archives.gov/the-press-office/2016/01/12/remarks-president-barack-obama-%E2%80%93-prepared-delivery-state-union-address>

and the intertwining of educational aims with economic ones showcases key characteristics of the human capital approach to education.

Furthermore, the Common Core Standards Education Initiative also has a human capital based approach to education when it comes to curriculum. The initiative itself has the goal of creating a national set of standards to which all states must adhere in terms of curriculum in order to fill the achievement gaps between states. Within this national curriculum, special emphasis is put on “college-and-career readiness” standards that begin in Kindergarten and continue through until grade 12.⁵⁷ Starting an emphasis on career readiness from a child’s first entry into public school around age 6 argues that education has one aim—future employment. In this way, it can be seen that the emphasis on intertwining economic success and education is not a value system put upon education by one political party or by one initiative, but rather that this facet of the human capital approach to education has characterized the American educational system since the 2000s, spanning two Presidential administrations from two opposing political parties and the Common Core Initiative which is politically neutral. In this way, the human capital approach to education can be seen as a focus of the current and, according to the feasibility of the success of the Common Core Initiative, future American educational system.

Although it should be made explicit that the human capital approach to education is in no way incompatible with the human rights purpose of education as it is outlined in international law, the United States does not acknowledge the human rights purpose of education in rhetoric or in practice. Thus, in the next section when the shortcomings of the American educational system are analyzed, it can be seen that some of these shortcomings could be a result of the neglect of

⁵⁷ “Common Core State Standards Initiative,” Common Core State Standards Initiative Official Website, accessed March 20, 2017. <http://www.corestandards.org/>

the human rights purpose of education and the inability of the human capital approach to education to accomplish all of the goals set forth in international human rights law.

4.Uncovering Gaps in the Right to Education: America’s Educational Woes

When analyzing gaps in the right to education, it is fundamental to note that these gaps are not due to incomplete international law, but rather an incomplete implementation or understanding of the available law—seen through a lack of development or attention paid to specific sections of the laws establishing the right to education. This, as has been noted previously, is especially true in terms of the adaptability standard of the right to education and the human rights purpose of the right to education. This section, which will detail several of the main issues in America’s educational system and their connections to the neglected aspects of the right to education, is intended to showcase the effects of overlooking specific parts of the right to education. As previous Special Rapporteur on the Right to Education Katarina Tomasevski wrote in her report on the U.S.’s educational system after a visit in 2001, “Human rights problems are rarely confined to a single region or country. The universality of problems underpins the universality of human rights standards. The pattern of problems and their optimal solutions resonate world-wide.”⁵⁸ It is with this belief in mind that this section will highlight the U.S.’s educational difficulties in order to draw broader conclusions about the difficulties that arise when implementing the right to education, while neglecting the adaptability standard and the human rights purpose of education. The overall goal of the section will be to highlight the importance of these two standards by examining the challenges that arise in their absence. The first subsection will highlight the U.S.’s specific and ongoing challenges in order to draw the connection between those challenges and a neglect of the two facets of the right to education

⁵⁸ Tomasevski, Katarina, “Mission to the United States of America, 24 September – 10 October 2001,” Special Rapporteur on the right to education, Economic, Social and Cultural Rights, January 17, 2002. <http://repository.un.org/handle/11176/238326>, 22

mentioned above. The second subsection then goes beyond the right to education in isolation and showcases how gaps in the right to education has impacts on the fulfillment of other human rights in the U.S. and potentially on a global level.

4.1 Adaptability and Purpose: Challenges in Context

Three of the most pervasive and ongoing challenges in the U.S.'s educational system are the rising popularity of school selection, reconciling parental choice with government oversight in educational curriculum and school standards, and balancing federal and state obligations in school funding and establishing curriculum standards. Each of these issues is intricately tied to a neglect by the U.S.'s educational system of the adaptability standard of the right to education and an overlooking of the human rights purpose of education in favor of a strict human capital interpretation of the purpose of education.

Recently, the U.S.'s educational system has come to include not only public schools and private schools, but also charter schools and magnet schools, allowing for a growing number of choices in compulsory education. Public schools, which are completely government funded mostly through local taxes and federal grants, are subject to both state and federal oversight in terms of curriculum and, in compliance with the accessibility standard of the right to education, they are required to admit students in their specified geographically-based zones in order to provide free public education for all children in the country.⁵⁹ Conversely, private schools are funded through tuition paid annually by parents or by grants given by special donors, corporations, and other organizations. Additionally, according to the Special Rapporteur's report on the U.S.'s educational system, "private schools are exempt from most legal requirements and

⁵⁹ U.S. Department of Education, "School Choices for Parents," January 14, 2009.
<https://www2.ed.gov/parents/schools/choice/definitions.html>

the trend seems to be to broaden such exemptions.”⁶⁰ In terms of curriculum and teaching beliefs, most private schools are exempt from federal laws that prevent the intertwining of education and religion, with about 80% of private schools being religiously affiliated, allowing religion to become part of curriculum.⁶¹ Charter schools are “independently managed, publicly funded schools operating under a charter...allowing for significant autonomy and flexibility” in school standards and curriculum.”⁶² Charter schools are not completely subject to government regulations (although they must adhere to non-discrimination laws), which usually leads to specialization in the focus and curriculum of each school. Finally, magnet schools are free public schools which are usually highly competitive and selective, requiring a series of tests before public school students can be admitted to the school.⁶³

The wide variety in choices of schooling, according to research from the Special Rapporteur’s report, has grown out of a “wish to subject public schools to competition, seeing them as having monopolized education.”⁶⁴ In this way, it becomes clear that the human capital approach’s view of seeing education as an investment or consumption good has transformed the way the U.S.’s educational system provides this right to its citizens. In other words, by defining education as a good which is subject to the standards of the free market, the human capital

⁶⁰ Tomasevski, Katarina, “From the Outside Looking In: Changing New York City’s Education Through the Human Rights Approach,” Special Rapporteur on the Right to Education of the United Nations Commission on Human Rights to the NGO follow-up meeting, April 15, 2002. <https://www.nesri.org/resources/from-the-outside-looking-in-changing-new-york-citys-education-through-the-human-rights-approach.>, 17

⁶¹ Council for American Private Education, “Facts and Studies: Private School Statistics at a Glance,” accessed March 30, 2017. <http://www.capenet.org/facts.html>

⁶² U.S. Department of Education, “School Choices for Parents,” January 14, 2009. <https://www2.ed.gov/parents/schools/choice/definitions.html>

⁶³ Ibid.

⁶⁴ Tomasevski, “From the Outside,” 17.

approach to education reduces the value of education from a right to a commodity. The advancing of this mentality in the U.S. can be seen further in the pro-school choice voucher system that has been advocated for by the newly appointed Secretary of Education, Betsy DeVos. The voucher system entitles students to a subsidy which helps parents choose a school without cost becoming a large impediment.⁶⁵ The consequence of this system, according to the Special Rapporteur's report, is that "rather than having to ensure that all public schools comply with all requirements," the voucher system emphasizes "competitiveness [which] replicates free-market principles."⁶⁶ In this way, because the voucher system allows parents to effectively buy the education of their choice for their children, this encourages a system of competitiveness in schooling that does not result in equal education for all students, but rather a concentration of resources to a few schools. Furthermore, the concentration of public school resources to high performing magnet and charter schools has the same unequal results in terms of education. The report notes that "this rationale is conceptually opposed to education as a human right,"⁶⁷ because its goal is to create unequal public education, ensuring that not all students have the same educational opportunities and experiences. Therefore, the neglecting of the human rights purpose of education in favor of the human capital approach to education has caused education in America to be treated continuously as a commodity, which undermines its value as a fundamental human right. This emphasizes the importance of acknowledging the purpose of the right to education, in order to avoid reducing the human rights value of education itself.

⁶⁵ Turner, Cory, "School Vouchers 101: What They Are, How They Work—And Do They Work?," NPR, All Things Considered, December 7, 2016. <http://www.npr.org/sections/ed/2016/12/07/504451460/school-choice-101-what-it-is-how-it-works-and-does-it-work>

⁶⁶ Tomasevski, "From the Outside," 17.

⁶⁷ *Ibid.*, 17.

Moving to the issue of parental choice in education, the Special Rapporteur's report notes that "the rationale behind parental choice is to prevent state's monopoly over education and to protect educational pluralism."⁶⁸ And that "The powers of school boards are routinely challenged by parents, who invoke their right to control the education of their children."⁶⁹ The rights of parents to control curriculum is noted in the report as part of the "civil and political" rights portion of the right to education.⁷⁰ Although, in the context of freedom of religion and freedom of expression, the right to education has some correlations with parental civil and political rights, the right to education also has a societal social, economic, and cultural component that raises the standard of curriculum beyond any one authority figure—even a child's parent. In terms of the purpose of education outlined in international human rights law, the right to education encompasses the right to an education that promotes the human rights purpose of education, not the right to any education that a parent deems fit. In terms of a child's inability to choose their own education, the report notes "to compensate [for] children's lack of knowledge, experience, time, and (often) financial resources" advocates including parents, teachers, and organizations are necessary for ensuring proper education for a child.⁷¹ However, it can easily be reasoned that parents can be subject to the same lack of knowledge, inexperience, lack of time, or lack of financial resources that can lead to inadequate decisions about curriculum.

In this way, parental choice cannot and should not override the human rights aims of education that should guide school curriculum. Allowing parents overarching veto power in this

⁶⁸ Ibid., 8.

⁶⁹ Tomasevski, "Mission to the United States of America," 19.

⁷⁰ Ibid., 22.

⁷¹ Tomasevski, "From the Outside," 10.

domain is a severe “impediment to recognition of the rights of the child,”⁷² since there is no guarantee that parents will advocate for curriculum with the aims of promoting tolerance, peace, and non-discrimination (the aims of the right to education).

This key tension is emphasized in the UN report when noted that “U.S. courts have held...that children have the right to attend schools that promote desirability of racial segregation while also affirming that public schools should teach values “essential to a democratic society” such as tolerance of divergent views and attention to sensibilities of other people. Reconciling the two is difficult in theory, let alone in practice.”⁷³ When looking at the law of the right to education to reconcile this paradox, it is clear to see that the right to education entitles children to the type of education outlined in international law for these specific human rights aims, not to any curriculum that parents, the government, or a school board deems adequate. This flaw in the U.S.’s educational system stems directly from a neglect of the purpose of the human rights right to education and creates a fundamental misunderstanding of what the term education itself entails. In the context of the right to education, the type of education that is protected by the right is any type of education that meets the standards of the right *and* promotes the aims of the right to education. By utilizing this understanding of education in the context of the right to education, it is simple to see that there is a singular curriculum, one that promotes human rights aims, that needs to be protected above parental and political choice in order to truly adhere to the standards of the right to education. This interpretation of the right to education highlights the fact that education in human rights has overarching societal aims that are a key component of the right to

⁷² Tomasevski, “Mission to the United States of America,” 23.

⁷³ Tomasevski, “From the Outside,” 22.

education itself. Furthermore, these aims must be respected and acknowledged when juxtaposed against an individual's (either a parent's or a child's) civil and political rights.

Finally, another large challenge in the U.S.'s educational system is the tension between federal and state oversight of funding of schools and decisions on adequacy standards, which creates a wide variety of schooling practices that does not reconcile to equal access to education for all students. In terms of federal oversight, specific grants are given to school districts and some federal legislation such as non-discrimination standards are applicable to all public schools in the nation.⁷⁴ However, beginning with policies such as No Child Left Behind, the American educational system from a federal level entered into a competitive system, necessitating that school districts and regions compete for success in the form of federal grants. The Special Rapporteur's report notes that "Improved educational performance was to be hastened by testing, rewarding success and penalizing failure."⁷⁵ As noted above, this competitiveness is converse to the human rights approach to education because its results necessitate winners and losers and does not facilitate equality in schooling. Additionally, this competitiveness pits states against each other in order to earn government funding, which creates greater funding disparities between states in education.

Turning now to state obligations, local taxes finance most public schools, creating an "abyss between excellent and inadequate schools" depending on income levels of the areas in which public schools are located.⁷⁶ Thus, although the federal government requires all public schools to comply with non-discrimination laws, different standards of adequacy in schools still

⁷⁴ Tomasevksi, "Mission to the United States of America," 7.

⁷⁵ *Ibid.*, 8.

⁷⁶ *Ibid.*, 14.

prevail through a disparity in localized funding. Therefore, this result can be analyzed as a shortcoming of federal oversight. Furthermore, curriculum is mostly state-regulated, which causes a great disparity among regions based mostly on political affiliation. (As noted above, this politicization of curriculum is an effect of a misinterpretation of the type of education that is protected by the right to education.) The effect of this tie between political preference and curriculum being taught can be viewed as a failure of federal oversight to mandate a curriculum that supersedes partisan politics.

In this way, it seems that the federal government creates competition between states instead of creating an inclusive, equality-minded standard in terms of curriculum and funding, and the state governments allow for local funding and political partisanship to undermine federal objectives. The tension described here can be attributed to a unique highlighting of the importance of the adaptability standard in the context of the United States. The adaptability standard requires that the children be the focus of education with curriculum constantly adapting to the changing needs of the student body. In the context of the United States, that student body varies region by region, state by state, and even city by city. This is what makes the United States pivotal in examining the adaptability standard because it highlights the level of flexibility that is necessary in the educational system in order to meet this standard.

To elaborate, in the 2001 visit by the Special Rapporteur on the right to education to the United States, the Rapporteur visited three different states—Mississippi, New York, and Kansas—in order to evaluate the adequacy of public schools in three vastly different contexts in the same country. The report summarized that the issues faced in each state was context specific, with Mississippi's largest issue being poverty, New York's largest issue being diversity in student body, and Kansas's largest issue being political partisanship effecting school

curriculum.⁷⁷ The wide variety in needs showcases that although federal oversight is needed to ensure that certain standards such as non-discrimination in access to education and a standard of curriculum is adhered to, each region can face different obstacles to meeting this standard. This is where the adaptability standard calls upon states to find ways to reconcile societal differences across the nation-state in order to have the result of equality in education. In terms of equality in funding, the report notes that “the very system of financing education impedes defining “equal” to mean additional funding for children who need to overcome disadvantages or disabilities so as to enjoy the equal right to education.”⁷⁸ This “affirmative action” type logic can be applied outside of the financial context to note that the adaptability standard calls for tailoring curriculum and standards to meet the needs of each student in the context in which they are taught. In the case of diversity in New York, this would mean increasing programs that adapt to this diversity whether in terms of language, race, or disability. These programs would be aimed at eliminating the racial achievement gap noted earlier because curriculum would be tailored to a diversified student body instead of attempting to teach a diverse student body a type of curriculum created for a non-diverse populace. In the case of political partisanship in effecting curriculum in Kansas, this would mean emphasizing the overarching human rights purposes of the right to education that should overtake political agendas. This interpretation of the adaptability standard rejects the notion that a universal model for education can be applied to every school in a nation. Instead, it calls for universal standards and then an interpretation of how to meet those standards based on evaluating the society that the education is taking place within and the students which it is educating. In this way, the tension between federal and state regulations on education and

⁷⁷ Ibid., 17-21.

⁷⁸ Ibid., 16.

funding of education can be reconciled by close interpretation of the adaptability standard of the right to education.

4.2 A Gap in the Right to Education, A Gap in Human Rights

In addition to providing soft law context to the right to education, General Comment 13 highlighted the unique quality of education as “a fundamental human right and essential for the exercise of all other human rights.”⁷⁹ When framing education as a tool utilized for the realization of other human rights, it becomes clear to see how the shortcomings in implementation of the full right to education can lead inadvertently to other human rights abuses. In this way, when analyzing some of the most pervasive human rights abuses in states, it becomes crucial to look at these abuses with the right to education in mind as a cause and thus possible remedy for the full realizations of these rights. In the context of the United States, this framework can be implemented when discussing one of the most pervasive issues in the nation in terms of human rights abuses: racism in the criminal justice system.

In the country’s most recent Universal Periodic Review (UPR) Report (conducted in 2011), the U.S. noted its “concerns regarding racial and ethnic profiling by local law enforcement officials and reaffirmed its commitment and recent actions to combat profiling through significantly strengthened protections and training against such discrimination.”⁸⁰ This statement was made before the high-profile deaths of dozens of unarmed African-American teenagers and adults including Trayvon Martin, Eric Garner, Philando Castile, and Alton Sterling

⁷⁹ Committee on Economic, Social and Cultural Rights, “General Comment No. 13,” Twenty-First Session, November 15-December 3, 1999. http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf

⁸⁰ Human Rights Council, “Report of the Working Group on the Universal Periodic Review, United States of America,” Sixteenth Session, Agenda Item 6, Universal Periodic Review, January 4, 2011. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/USSession9.aspx>

at the hands of local law enforcement.⁸¹ It was also made before the publication of the best-selling book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, which details the systematic racism inherent in the criminal justice system and various law enforcement bodies.⁸² The pervasiveness of this issue in America is highlighted both by the comments made in the UPR report and the recent media attention paid to it. In the comments and recommendations section of the UPR report, over 10 countries specifically mention racism in law enforcement as a massive human rights issue not remedied by the state and several of those countries suggest training or education strategies to combat the problem.⁸³ When putting this issue within the framework of the right to education's importance discussed above, it becomes clear that not only can education through training help to combat the problem, but it reveals that part of the problem stems from a gap in the American educational system. In particular, this result can be seen as a failure to achieve the human rights educational aims of promoting tolerance among races within the society that is being educated.

Furthermore, this issue in particular seems to be a prime example of a need for a full understanding and adherence to the adaptability standard. The adaptability standard requires education to adapt to the students of the society in which it teaches. As it can be seen above, a crucial context of that society is the social problems that it faces. This necessitates that education facilitate curriculum around combatting these existing problems instead of ignoring them as in

⁸¹ Funke, Daniel and Susman, Tina, "From Ferguson to Baton Rouge: Deaths of Black Men and Women at the Hands of Police," Los Angeles Times Online, July 12, 2016. <http://www.latimes.com/nation/la-na-police-deaths-20160707-snap-htmstory.html>

⁸² Alexander, Michelle. *The new Jim Crow: mass incarceration in the age of colorblindness* (New York: New Press, Jackson, Tenn: Distributed by Perseus Distribution, 2010).

⁸³ Human Rights Council, "Report of the Working Group," 18-20.

the U.S.'s system, which only has subjects such as math and language arts as mandatory in all public schools. The adaptability standard, according to previous Special Rapporteur on the right to education Katarina Tomasevksi, "calls for safeguards for all human rights within education as well as enhancing human rights through education."⁸⁴ In this way, the right to education's adaptability standard is not being fulfilled in the United States when the curriculum does not adapt to combat pervasive social issues in the form of human rights abuses that stem from perverse societal education. Drawing this discussion back to the rights of parents to decide on educational curriculum, it was asserted that parents do not have the right to demand curriculum that does not have the aims of the human rights right to education. Along the same lines, the right to education has inherently within it, the duty to teach human rights values regardless of a student's parents, political context, or regional context. In the case of the United States, this means implementing curriculum in compulsory education that has the ability and the aim of combatting human rights abuses such as racial discrimination. It is not enough to see education in the form of law enforcement training as an effective solution to the issue because every member of society needs to be educated with a non-discriminatory curriculum—whether that member of society grows up to become a doctor, a lawyer, a police officer, or a President. In this way, education should be utilized in a preemptive manner in order to combat pervasive societal discrimination that is inherent in almost every state. It is this understanding of the adaptability standard that fulfills the goals of the human rights right to education, because, when implemented correctly, it uses education to not only combat human rights abuses, but to seek to prevent them.

⁸⁴ Tomasevski, "From the Outside," 9.

5. Looking Toward the Future: Refocusing the Right to Education

Thus far, the aim of this paper has been to highlight the human rights community's neglect of the adaptability standard and the human rights purpose of education within the right to education. The impact of this neglect was analyzed through a case study of the United States with the goal of highlighting challenges in educational systems and nation states as a whole that stem directly from the disregard of these two components of the right to education. Now, in this last section, it is crucial to analyze what a reframing of the right to education would mean—one that would focus directly on the two forgotten aspects and analyze ways in which these two standards can reintegrate into the larger existing framework of the right to education and existing educational systems. This section will acknowledge that although integration of these standards will inevitably require a rethinking of the right to education itself, the neglected standards are in no way incompatible with the existing system of the right to education nor are they incompatible with existing educational systems around the world, including the U.S.'s system. The aims of this section are to dispel any myths about fundamental inabilities to adhere to the complete right to education in practical application and to articulate what changes in mentality are necessary in order to take the theoretical call to action into a practical nation-state setting. This section should not be interpreted as creating a new framework for the right to education, but rather as a detailing of what reforms need to be made in order to fully utilize the existing framework, with a holistic understanding of the importance of every component of the right to education.

5.1 Rethinking Obstacles to Fulfillment of the Right to Education

One of the most important steps towards fulfilling the full right to education is to dispel the myth that educational curriculum can be and should be neutral. The Special Rapporteur's report on the U.S.'s educational system emphasizes this point by noting, "The values which

education espouses might be openly endorsed or cloaked behind an apparent neutrality of the curriculum but they are part and parcel of any schooling.”⁸⁵ This is inherently true of any type of education. The Special Rapporteur’s report brings this truth to light in the context of the United States when noting that the common tendency of “rarely describing abuses committed by one’s own government against populations of other countries or the people in one’s own country, although history abounds with such examples” is practiced continuously in the nation’s History curriculum. The report cites the internment of U.S. citizens with Japanese ancestry during WWII as a key historical moment in the U.S.’s history that is often left out of History curriculum, in favor of more virtuous historical facts such as the abolition of slavery.⁸⁶ It is this type of curriculum, that is “cloaked behind an apparent neutrality of the curriculum” in which some of a nation’s historical facts are included and others are not, that creates the myth that any curriculum can be truly neutral. The current curriculum in the United States, which has de-emphasized specific human rights abuses committed against the Japanese, the African-American population, indigenous peoples, and scores of other minority populations is an inherently politicized curriculum. Furthermore, this curriculum violates the right to education for the students who are part of these minority populations on account of not allowing for development of a student’s respect for their own cultural identity, as noted in the CRC.⁸⁷ In this way, this type of negation of responsibility by a government through a specific History curriculum, can be seen as not only an example of the values inherent in all educational curriculum, but also as a violation of the right to

⁸⁵ Ibid., 19.

⁸⁶ Tomasevski, “Mission to the United States of America,” 5.

⁸⁷ United Nations General Assembly, Resolution 44/25, “Convention on the Rights of the Child,” November 20, 1989. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

education which can lead to subsequent human rights abuses. This is the point emphasized in the UN report when the analogous argument about xenophobic policies against the Japanese was juxtaposed against xenophobic policies against Arab-Americans after the September 11th attacks. The UN Report ends with a quote by Maya Angelou that states, “history cannot be unlived but, if faced with courage, need not be lived again.”⁸⁸ It is with this sentiment in mind that the myth of the possibility of a neutral curriculum needs to be dispelled, in order to eradicate the human rights abuses that it can perpetuate. The human rights right to education does not claim to be neutral in curriculum, but has specific aims that it notes all curriculum should be aimed towards. It is with this understanding that a shift in mentality is necessary away from the potential for a neutral curriculum towards the construction of the right curriculum, one that fulfills human rights aims and highlights human rights abuses in order to prevent their permeation into the future.

The previous analysis of the human capital approach to education in the context of the U.S.’s educational system was offered in order to showcase the differences in mentality regarding the purpose of education between the U.S. system and the human rights right to education. However, it is crucial to note that the human capital approach to education, its beliefs about the purpose of education, and its emphasis on economic outcomes and measurable standards of achievement are not in any way unique to the U.S. Many scholars in the current age have discussed the rising popularity of the human capital approach within a broader context of neoliberal education. The book *Global Neoliberalism and Education and its Consequences*, published in 2009, highlights the rise of neoliberal education, noting particularly that neoliberal education and the human capital approach have permeated many educational systems around the globe, making the human capital approach to education the most common global mentality

⁸⁸ Tomasevski, “Mission to the United States of America,” 24.

regarding education.⁸⁹ Because of this importance of neoliberal education and the human capital approach in an international context, it is pivotal to analyze the ways the human capital approach and the human rights right to education can work in tandem to accomplish the goals of the right to education. This is to say that the human capital approach to education and the human rights right to education are not incompatible, but rather necessitate collaboration and the integration of these two mentalities in order to accomplish the goals set forth in both frameworks.

In terms of the ways in which the human capital approach to education can aid the full realization of the right to education, it is key to assess the way the human capital approach safeguards specific socio-economic rights through its emphasis on economic prosperity and a minimum standard of educational understanding. As noted previously, the human capital approach emphasizes a curriculum that encourages skill creation for later employment and higher earnings. This is directly compatible with the human rights right to education because it necessitates the very skills such as reading, writing, and mathematics that can lead to the realizations of other human rights such as the right to work and the right to freedom of expression. Without the transmission of some skills such as literacy and basic arithmetic, it would be impossible for citizens to exercise the rights they are entitled to within the human rights system. In this way, the curriculum emphasized in the human capital approach to education is not incompatible with the curriculum that fulfills the aims of the right to education. Furthermore, the achievement-based testing systems that are common in human capital based educational systems help to foster accountability for governments that are the duty bearers for providing compulsory education.

⁸⁹ Hill, David and Kumar, Ravi, *Global Neoliberalism and Education and its Consequences*, (Routledge Publishing, New York, NY, 2009).

Turning now to the ways the right to education can aid the human capital approach, the equal access and non-discrimination aspects of the right to education necessitate that all students be given the same educational opportunities. This requirement increases economic efficiency within a nation because it educates the future labor force fully, making sure that no laborers are underutilized or are not reaching their full potential. Additionally, the adaptability standard within the right to education requires that educational curriculum continue to improve as society changes, which also contributes to the productivity of a society by introducing more effective teaching techniques and disregarding curriculum that is obsolete in a contemporary age. In this way, the right to education can help the human capital approach achieve its mission of maximizing human capital for economic efficiency. Despite the ability for these two frameworks to aid each other in their overall missions, there are a few adjustments in mentality that need to be established in order to facilitate their integration into a singular cohesive system.

First, in terms of assessing success and quality education, the human capital approach provides the beneficial component of creating systems of accountability through educational assessments, often using testing as a tool for measurement.⁹⁰ However, the right to education's aims for education require a different measurement. As the Special Rapporteur notes in her UN report, the human rights approach requires evaluating the impact of education "going beyond learning outcomes to assess the impact of education on the exercise of all human rights."⁹¹ This does not mean that testing is not an accurate method for measuring learning, but it does acknowledge that some aims of education cannot be assessed through testing alone. For example,

⁹⁰ Becker, Gary S. "Investment in Human Capital: A Theoretical Analysis." *Journal of Political Economy*, vol. 70, no. 5, 1962, pg. 9-49 (10)

⁹¹ Tomasevski, "From the Outside," 12.

in the context of the United States, when looking at education as the potential answer for combatting social issues such as racism in law enforcement. An effective educational curriculum for combatting this issue and the learning of that curriculum would not be measurable by a test of the materials taught, but would be reflected in a drop in the number of extrajudicial killings of minorities by law enforcement officers. In this way, the impact of education can be assessed through statistics as long as the goals of these educational aims are comprehensively understood and analyzed utilizing the right statistics.

Additionally, the human capital approach to education needs to acknowledge the importance of non-vocational curriculum to both its purpose and the purpose of the human rights right to education. The current (as of this writing) Special Rapporteur on the right to education noted in a report on assessing the quality of education, “education is invaluable for creating a better world by promoting the values of a culture of peace, mutual understanding and international solidarity, and its achievements in this regard denotes its quality.”⁹² With regards to the human capital approach to education, international solidarity and mutual understanding can be seen as aims that help to fulfill the human capital approach’s goal of economic prosperity in light of the contemporary global economy. In other words, without international solidarity and mutual understanding between nations, trade and global economic enterprises would not be possible. In this way, the human capital approach should have a vested interest in maintaining these aims even if not for the same reasons the human rights approach outlines. Similarly, other aims of the right to education such as “promoting a better understanding and appreciation of the

⁹² Singh, Kishore, “Normative Action for Quality Education,” Report of the Special Rapporteur on the right to education, Human Rights Council Twentieth Session, May 2, 2012.

richness of cultural diversity,”⁹³ can be seen as crucial for the ultimate goals outlined. In this way, the global economy necessitates the preservation of the aims of the human rights approach to education because it is these values of respect for culture and transnational solidarity that create a basis for international communication, including international trade and the global economy. Therefore, both the human capital approach to education and the human rights right to education have similar aims at the center of their frameworks and can be integrated in order to achieve those aims. This realization is crucial because it does not require every nation’s educational system to reestablish itself in the framework of the right to education, but (as the U.S. examples notes) it rather reveals that many existing educational systems can comply with the holistic right to education as long as common goals are realized and acted upon.

⁹³ Singh, Kishore, “Assessment of the Educational Attainment of Students and the Implementation of the Right to Education,” Report of the Special Rapporteur on the right to education, Human Rights Council Twenty-Sixth Session, May 2, 2014.

6. Conclusion

Previous Special Rapporteur on the right to education Katarina Tomasevski noted, “Keeping a problem invisible facilitates inaction and impedes the key human rights strategy, which is to expose abuses as the first step towards opposing them.”⁹⁴ It is with this belief in mind that this project has worked toward revealing the international neglect of the adaptability standard and the human rights purpose of the right to education in order to highlight the common human rights abuses that stem from such a neglect.

The analysis of the U.S.’s educational system has helped to reveal what gaps are universal in education systems that perpetuate this neglect and leads to larger conclusions about the centrality of these aspects of the right to education within the larger framework of human rights.

The incomplete implementation of the right to education in terms of an oversight of the adaptability standard in particular has led to an inequality in achievement that cannot be attributable to a lack of universal accessibility. This highlights the fact that accessibility campaigns without analogous attention paid to the adaptability standard cannot create equality in education and achievement. Furthermore, the overlooking of the human rights purpose of education has led to the conclusion that education, in any terms of the word, is a protected right subject often to political and personal beliefs and opinions. However, a close interpretation of the right to education itself highlights the fact that the right to education entitles children to the right to a specific education—one with human rights aims. This type of education, that advances the human rights social mission of tolerance and peace between nations, highlights the right to education as an economic, social, and cultural right that is enjoyed on a societal level as opposed

⁹⁴ Tomasevski, “From the Outside,” 5.

to an individual level. This leads to the conclusion that a violation of the right to education has crucial societal, and not merely individual impacts, which can be seen through the examples of societal problems that arise with the incomplete understanding of the right to education.

An implicit argument throughout this project has been that the right to education is most effective when it is taken holistically, and that selective implementation of the right inherently necessitates human rights abuses. The right to education in its holistic understanding calls for a pre-emptive approach to combatting human rights abuses. And it is only with this holistic understanding of the right to education that education can be effectively utilized to further the aims of human rights as a whole.

Bibliography

“16 Days of Activism Against Gender-Based Violence,” Amnesty International, USA., November 25, 2015. <http://www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/16-days>

“750,000 Syrian Children Out of School,” Human Rights Watch Education video, September 20, 2016. <https://www.hrw.org/topic/childrens-rights/education>

“Common Core State Standards Initiative,” Common Core State Standards Initiative Official Website, accessed March 20, 2017. <http://www.corestandards.org/>

“Education for Syrian Refugee Children,” Human Rights Watch Campaign, accessed March 25, 2017. <https://www.hrw.org/tag/education-syrian-refugee-children>

“Education,” Human Rights Watch Official Website, accessed March 23, 2017. <https://www.hrw.org/topic/childrens-rights/education>

“Fast Facts: Educational Institutions,” National Center for education Statistics,” accessed March 28, 2017. <https://nces.ed.gov/fastfacts/display.asp?id=84>

“France: Endorse Safe Schools Declaration.” Human Rights Watch. February 21, 2017. <https://www.hrw.org/news/2016/11/17/france-endorse-safe-schools-declaration>.

“No Child Left Behind Act,” Public Law 107-110, 107th Congress. January 8, 2002. <https://www2.ed.gov/policy/elsec/leg/esea02/107-110.pdf>

“Protect Schools Campaign,” Human Rights Watch Protect Schools Campaign Website, accessed March 23, 2017. <https://www.hrw.org/protectschools>

“Shared and Blamed: Pregnant Girls’ Rights at Risk in Sierra Leone,” Amnesty International, USA Campaign, accessed March 25, 2017.

“Teacher Certification Degrees,” Teacher Certification Degrees Official Website, accessed March 29, 2017. <http://www.teachercertificationdegrees.com/>

“The Education Deficit,” Human Rights Watch, March 06, 2017. <https://www.hrw.org/report/2016/06/10/education-deficit/failures-protect-and-fulfill-right-education-through-global>

“The Right to Education,” Amnesty International, USA., accessed March 25, 2017. <http://www.amnestyusa.org/our-work/issues/children-s-rights/the-right-to-education>

Alexander, Michelle. *The new Jim Crow: mass incarceration in the age of colorblindness* (New York: New Press, Jackson, Tenn: Distributed by Perseus Distribution, 2010).

Becker, Gary S. "Investment in Human Capital: A Theoretical Analysis." *Journal of Political Economy*, vol. 70, no. 5, 1962, pg. 9-49 (10)

Committee on Economic, Social and Cultural Rights, "General Comment No. 13," Twenty-First Session, November 15-December 3, 1999. http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf

Council for American Private Education, "Facts and Studies: Private School Statistics at a Glance," accessed March 30, 2017. <http://www.capenet.org/facts.html>

Educational Finance Branch, "Public Education Finances: 2014," Economic Reimbursable Surveys Division Reports, June 2016. <https://census.gov/content/dam/Census/library/publications/2016/econ/g14-aspef.pdf>

Food and Nutrition Service, U.S. Department of Agriculture, "National School Lunch Program," Fast Facts, National School Lunch Program, September 2013. <https://www.fns.usda.gov/sites/default/files/NSLPFactSheet.pdf>

Funke, Daniel and Susman, Tina, "From Ferguson to Baton Rouge: Deaths of Black Men and Women at the Hands of Police," Los Angeles Times Online, July 12, 2016. <http://www.latimes.com/nation/la-na-police-deaths-20160707-snap-htmlstory.html>

Hill, David and Kumar, Ravi, *Global Neoliberalism and Education and its Consequences*, (Routledge Publishing, New York, NY, 2009).

Hopkins, Katy, "5 Hidden Costs of Public High School," U.S. News and World Report, May 8, 2012. <https://www.usnews.com/education/high-schools/articles/2012/05/08/5-hidden-costs-of-public-high-school>
<https://act.amnestyusa.org/eaaction/action?ea.campaign.id=44302&ea.client.id=1839&ea.trackin&ea.campaign.mode=DEMO&v=c%3AshowBuild&eaaccount.campaign.id=44302&ea.retain.account.session.error=true&ea.clear.campaign.session.id=true>
<https://www.nesri.org/resources/from-the-outside-looking-in-changing-new-york-citys-education-through-the-human-rights-approach>

Human Rights Council, "Report of the Working Group on the Universal Periodic Review, United States of America," Sixteenth Session, Agenda Item 6, Universal Periodic Review, January 4, 2011. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/USSession9.aspx>

Hursh, David, "Assessing No Child Left Behind and the Rise of Neoliberal Education Policies," Sage Journals, September 1, 2007. <http://journals.sagepub.com/doi/full/10.3102/0002831207306764>

Mehta, Sarah. "There's Only One Country That Hasn't Ratified the Convention on Children's Rights: US." American Civil Liberties Union. November 20, 2015.

<https://www.aclu.org/blog/speak-freely/theres-only-one-country-hasnt-ratified-convention-childrens-rights-us>.

Schworm, Peter, “Nelson Mandela’s 1990 Visit Left Lasting Impression,” Boston Globe Online, December 7, 2013. <https://www.bostonglobe.com/metro/2013/12/07/mandela-visit-boston-high-school-left-lasting-impession/2xZ1QqkVMTbHKXiFEJynTO/story.html>

Scudella, Vincent and the Education Commission of the States, “State Textbook Adoption,” September 2013. <http://www.ecs.org/clearinghouse/01/09/23/10923.pdf>

Singh, Kishore, “Normative Action for Quality Education,” Report of the Special Rapporteur on the right to education, Human Rights Council Twentieth Session, May 2, 2012.

Singh, Kishore, “Assessment of the Educational Attainment of Students and the Implementation of the Right to Education,” Report of the Special Rapporteur on the right to education, Human Rights Council Twenty-Sixth Session, May 2, 2014.

The White House, President Barack Obama, “Education: Knowledge and Skills for the Jobs of the Future,” K-12 Education, last updated 2016. <https://obamawhitehouse.archives.gov/issues/education/k-12>

The White House, President Barrack Obama, “Remarks of President Barak Obama—State of the Union Address As Delivered,” January 13, 2016. <https://obamawhitehouse.archives.gov/the-press-office/2016/01/12/remarks-president-barack-obama-%E2%80%93-prepared-delivery-state-union-address>

Tomasevski, Katarina, “From the Outside Looking In: Changing New York City’s Education Through the Human Rights Approach,” Special Rapporteur on the Right to Education of the United Nations Commission on Human Rights to the NGO follow-up meeting, April 15, 2002.

Tomasevski, Katarina, “Mission to the United States of America, 24 September – 10 October 2001,” Special Rapporteur on the right to education, Economic, Social and Cultural Rights, January 17, 2002. <http://repository.un.org/handle/11176/238326>

Turner, Cory, “School Vouchers 101: What They Are, How They Work—And Do They Work?,” NPR, All Things Considered, December 7, 2016. <http://www.npr.org/sections/ed/2016/12/07/504451460/school-choice-101-what-it-is-how-it-works-and-does-it-work>

U.S. Department of Education, “Law & Guidance: Civil Rights, Disability Discrimination: Overview of the Laws,” October 15, 2015. <https://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html>

U.S. Department of Education, “Law & Guidance: Civil Rights, Race and National Origin Discrimination: Overview of the Law,” October 15, 2015. <https://www2.ed.gov/policy/rights/guid/ocr/raceoverview.html>

U.S. Department of Education, "Laws & Guidance: Civil Right, Sex Discrimination: Overview of the Law," October 15, 2015. <https://www2.ed.gov/policy/rights/guid/ocr/sexoverview.html>

U.S. Department of Education, "School Choices for Parents," January 14, 2009. <https://www2.ed.gov/parents/schools/choice/definitions.html>

U.S. Department of Transportation, Federal Highway Administration, "Travel to School: The Distance Factor," National Household Travel Survey Brief, January 2008. <http://nhts.ornl.gov/briefs/Travel%20To%20School.pdf>

United Nations General Assembly, "International Covenant on Economic, Social and Cultural Rights," December 16, 1966. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

United Nations General Assembly, "Universal Declaration of Human Rights," December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>

United Nations General Assembly, Resolution 44/25, "Convention on the Rights of the Child," November 20, 1989. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>